

- SUBJECT:** Meet and confer for Austin city employees
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 4 ayes — Bailey, Menendez, Latham, Mallory Caraway
0 nays
3 absent — Murphy, Cohen, Martinez Fischer
- SENATE VOTE:** On final passage, May 8 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** (*On companion bill, HB 2184 by Dukes:*)
For — Mike Martinez, City of Austin; Dee Simpson, AFSCME Local 1624; (*Registered, but did not testify:* Rick Levy, Texas AFL-CIO; Gregg Powell, AFSCME Local 1624; Charley Wilkinson, Combined Law Enforcement Associations of Texas)

Against — None
- BACKGROUND:** Under Government Code, sec. 617.002, a city official may not enter into a collective bargaining contract with a labor organization regarding the wages, hours, or conditions of employment of public employees. Any contract so reached is void. A city official also may not recognize a labor organization as the bargaining agent for a group of public employees. Existing statutory provisions exempt police officers and fire fighters from these prohibitions.

Local Government Code, chs. 142 and 143 allow certain municipalities to recognize police officer or firefighter committees. These cities can elect to “meet and confer” with the committees to reach agreements on compensation and other conditions. Provisions governing meet and confer procedures and establishing the scope of applicability of such agreements vary by municipality.
- DIGEST:** SB 1183 would create Local Government Code, chap. 147 specifying conditions for meet and confer agreements between city employees and a municipality with a population greater than 650,000 that

operated under a city manager form of government (Austin). It would not apply to municipal employees, firefighters, emergency medical services personnel, or police officers who already were covered by meet and confer or collective bargaining agreements, a municipality over one million that had adopted a collective bargaining agreement or had not adopted a civil service agreement, or employee associations that represented employees taking part in such agreements. The bill would apply to city of Austin non-civil service employees, excluding appointed employees, executive level staff, and certain city attorneys.

Establishing meet and confer. City employees would be represented in meet and confer negotiations by an employee association that would be the exclusive bargaining agent. Within 30 days of receipt of a petition requesting recognition of an employee association as the employees' exclusive bargaining agent and signed by the majority of the city's employees, the city's governing board would have to grant recognition of the association, defer recognition and allow the city's voters to decide at the next general election whether a public employer could meet and confer, or order a certification election to determine whether the association represented a majority of covered employees. A city that ordered a certification election subsequently could choose to order an election of the city's voters.

A municipality and a recognized association could agree to partition a bargaining unit into two or more separate bargaining units to facilitate negotiations and to safeguard the rights of employees to effective representation. If a bargaining agent had been recognized by the governing body, any partitioning would not alter the recognition of a bargaining agent.

Modifying or changing meet and confer. The recognition of one bargaining association to represent city employees in meet and confer agreements could be modified or changed by filing with the city a petition signed by a majority of city employees. Upon receipt of the petition, the city could recognize the change or could order a certification election. The city could withdraw recognition of a bargaining association with 90 days' written notice or, if more than two years had passed since the association had been recognized, could order an election to determine whether the public employer could continue to meet and confer.

Agreements. The bill explicitly would not require a public employer or a recognized employees' bargaining association to meet and confer on any issue or reach an agreement on any issue. Any documents used in connection with a proposed agreement would be available to the public as open records after the agreement was ratified. Deliberations relating to a proposed meet and confer agreement would have to be open to the public and comply with state law. An agreement reached by the employee bargaining agent and the city would be binding if ratified by a majority vote of the city's governing body and a majority vote by secret ballot of the city employees in the association recognized as the employee bargaining agent. An agreement could establish a procedure by which the parties agreed to resolve disputes, including binding arbitration. The bill would give jurisdiction to the local district court to hear and resolve a dispute over a ratified agreement. The court could order restraining orders or injunctions to enforce the agreement.

Upon receipt of a public petition signed by 10 percent of the city's qualified voters within 45 days of the ratification of an agreement, the city's governing body would have to repeal the agreement or allow voters to decide whether to repeal the agreement in the next general election.

Additional provisions. A ratified meet and confer agreement would supersede contrary state statutes, local ordinances, and other provisions, except those regarding pensions. Strikes or work stoppages would be prohibited. A meet and confer agreement would not interfere with the right of a member to pursue allegations of discrimination. For the purpose of any disciplinary or individual grievance proceeding, a member of the bargaining unit would be entitled to representation by any person of the member's choice or by the recognized employee association.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

SB 1183 would allow the city of Austin and its employees, excluding police and fire fighters, to resolve their issues locally by granting these parties the right to meet and confer to negotiate agreements. The meet and confer process, already granted to Austin police and fire fighters, enables these parties to negotiate agreements that are acceptable to both groups.

Cities that engage in meet and confer negotiations avoid the mandates and other formalities required under collective bargaining, yet gain the chance to finalize a comprehensive employment contract with a large number of

city employees. The process would compel neither party — the municipality nor the employee’s bargaining association — to reach any agreement, nor would it require city personnel to appoint an exclusive bargaining agent. The bill appropriately would give the city of Austin another option for efficient communication with its employees in reaching agreements on employment matters, should it so choose. The option to divide a bargaining agent into two or more units would increase the efficiency of the negotiation process for the many thousands of employees it would affect.

SB 1183 would establish a meet and confer process for Austin employees similar to processes currently in effect for Austin police and fire and for Houston municipal personnel, which occurred in 2005 when the 79th Legislature enacted HB 2866 by Bailey. The bill also would include ample protections for Austin’s public and governing bodies. All documents related to an agreement would be accessible following ratification, and the public could petition to repeal any agreement reached. The city of Austin passed a resolution in support of the extension of the meet and confer agreement and historically has had much success in similar negotiations with its police and fire employees. An association could not be recognized as the employee bargaining agent unless a majority of the city employees who voted in the election supported the association’s bid to become the bargaining agent, and the association could be removed as the bargaining agent if the city employees were unhappy with the association’s negotiations. Improvements in wages and benefits negotiated on behalf of the association’s members also would benefit nonmembers.

**OPPONENTS
SAY:**

SB 1183 would not allow employees who were not members of the association designated as the bargaining agent from voting on whether to accept negotiated agreements. The employee association could represent only a small percentage of the city’s employees. Consequently, a vote by the association’s members to ratify an agreement might not represent the will of a majority of the city’s workers, regardless of how many employees initially approved the association as the bargaining agent. All employees should be able to vote on agreements that would affect their wages and other benefits.

The bill also could prevent participation in the negotiation process by city employee groups other than the recognized bargaining agent by designating a single employee association as the sole and exclusive bargaining agent for the employees. Future circumstances could lead to the

creation of additional associations. By failing to include a provision for these associations to provide input into the negotiations, the bill could exclude any future employee groups.

NOTES:

The companion bill, HB 2184 by Dukes, passed the House by 116-24 on May 11 and has been referred to the Senate Intergovernmental Relations Committee.

A related bill establishing a meet and confer agreement for certain municipal employees in San Antonio, HB 2099 by Bailey et al., passed the House by 109-26 on May 11 and was reported favorably, without amendment, by the Senate Intergovernmental Relations Committee on May 18 and recommended for the Local and Uncontested Calendar. SB 1104 by Watson, which would extend meet and confer to city of Austin emergency medical services personnel, has passed both house and was sent to the governor on May 14.