

**SUBJECT:** Meet-and-confer for certain San Antonio peace officers

**COMMITTEE:** Urban Affairs — committee substitute recommended

**VOTE:** 5 ayes — Bailey, Murphy, Menendez, Latham, Mallory Caraway  
0 nays  
2 absent — Cohen, Martinez Fischer

**SENATE VOTE:** On final passage, April 27 — 29-2 (Harris, Nelson)

**WITNESSES:** For — (*Registered, but did not testify:* Andrew Smith, City of San Antonio)  
  
(*On committee substitute:*)  
For — (*Registered, but did not testify:* Chris W. Jones, Combined Law Enforcement Association 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 firefighters 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 establishing the scope of applicability of such agreements vary by municipality.

DIGEST:

CSSB 772 would add Local Government Code, sec. 142.069 specifying conditions for meet-and-confer agreements between a municipality and peace officers employed by a department other than a police department. The bill would not apply to peace officers covered by a collective bargaining agreement or a municipality that had a population greater than 1 million that was not covered by a civil service agreement. The bill would apply to city of San Antonio peace officers that met these conditions.

**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 eligible peace officers, the city's governing board would have to either 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 grant recognition to the association or choose to order an election of the city's voters. A separate petition would have to be submitted for each department employing eligible peace officers.

The bill would provide that existing statutory provisions codified in ch. 142, subch. B would apply to a municipality, peace officers association, and employing department that ratified a meet-and-confer agreement as authorized. Existing statutes regulate the details of meet-and-confer agreements, establish procedures for modifying such agreements, and contain language specifying that meet-and-confer agreements adopted supersede any preexisting arrangements. Existing provisions referenced in the bill are included below.

**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 60 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.

A municipality that adopted a meet-and-confer agreement under CSSB 772 would not be permitted to accept petitions relating to the adoption of a municipal civil service agreement or a collective bargaining agreement.

The bill would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSSB 772 would allow non-police peace officers employed by the city of San Antonio to resolve their issues locally by granting these parties the right to meet and confer to negotiate agreements. Legislation enacted by the 79th Legislature in 2005 sanctioned meet-and-confer agreements for all cities that had adopted civil service agreements for firefighters and police officers and all other cities with populations greater than 50,000. The legislation excluded municipalities that had adopted collective bargaining agreements, and in so doing inadvertently excluded San

Antonio peace officers who were not employed by the police department. Such officers unfairly were excluded from the same bargaining privileges offered to other police officers and firefighters in San Antonio and dozens of municipalities in Texas.

Peace officers authorized to take part 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 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 San Antonio another option for efficient communication with its employees in reaching agreements on employment matters, should it so choose.

CSSB 772 would establish a meet-and-confer process for certain San Antonio peace officers with ample protections for San Antonio's public and governing bodies. The city of San Antonio historically has had much success in similar negotiations with its police and fire employees. The bill would enable an agreement providing that an 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. Meet-and-confer agreements adopted by municipalities should contain explicit provisions that protect key rights, such as the unbridled ability to pursue charges of discrimination, and should contain explicit provisions calling for deliberations and documents to be available to the public. CSSB 772 contains provisions that satisfy these important principles of meet-and-confer agreements.

**OPPONENTS  
SAY:**

CSSB 772 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.

OTHER  
OPPONENTS  
SAY:

CSSB 772 would introduce language that could have significant unintended consequences on existing collective bargaining and meet-and-confer agreements in San Antonio. The committee substitute added language providing that “while a meet and confer agreement authorized by the bill is in effect, the public employer may not accept a petition requesting an election to adopt a municipal civil service or collective bargaining agreement.” This provision could be interpreted to limit the city’s ability to renew existing collective bargaining agreements while an authorized meet-and-confer agreement was in effect. This provision should be amended to clarify that it only precludes adoption of collective bargaining or civil service agreements for officers already covered by meet-and-confer processes.

CSSB 772 would not provide enough latitude for the city of San Antonio to establish a meet-and-confer process for its employees. Meet-and-confer processes should grant sufficient flexibility to be crafted in accordance with local needs and concerns. CSSB 772 would provide a relatively specific process that could preclude the city of San Antonio from negotiating an agreement that enjoyed majority support from the governing body and the public. A governing body is under no obligation to enter into a meet-and-confer agreement with an employee association, and an agreement that does not enjoy municipal support will not be ratified. A meet-and-confer process for San Antonio non-departmental peace officers should be constructed with sufficient flexibility to earn the support of the governing body.

NOTES:

The committee substitute differs from the Senate-passed version in that CSSB 772 would stipulate that a municipality that adopted a meet-and-confer agreement under the bill could not accept petitions relating to the adoption of a municipal civil service agreement or a collective bargaining agreement. The Senate-passed version contained provisions that would have prohibited a meet-and-confer agreement authorized by the bill from conferring a benefit on the recognized police officers association as an entity, any other police officers or peace officers association, any person by virtue of the person’s relation to the association, and any person by virtue of the person’s status as a member of the negotiation or bargaining team. The substitute also would apply existing statutory provisions codified in ch. 142, subch. B to a municipality, peace officers association, and employing department that ratified a meet-and-confer agreement as authorized.

The identical companion, HB 1636 by Menendez, was reported favorably,

as substituted, by the House Urban Affairs Committee on March 14.