

## **BILL ANALYSIS**

Senate Research Center  
83R6047 SCL-F

S.B. 1691  
By: Rodríguez  
Intergovernmental Relations  
4/15/2013  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Fire and Police Employee Relations Act (Chapter 174, Local Government Code) was enacted in 1973, and it pre-empts the general prohibition concerning collective bargaining by public employees found in Section 617.002 (Collective Bargaining by Public Employees Prohibited), Government Code.

The Act applies to a county which has adopted the provisions of the Act applicable to police officers. The voters of a county adopt the statute in a referendum election held for that purpose. Under the provisions of the Act there are only two requirements: the parties hold meetings for the purpose of the negotiation of wages and other conditions of employment, and the parties negotiate in good faith.

S.B. 1691 amends Chapter 174 of the Local Government Code as it applies to counties and provides a framework for an arbitrator to subpoena documents and witnesses at the request of either party, relating to a disciplinary appeal or the resolution of a grievance under an agreement created pursuant to the Act. If a collective bargaining agreement provides a subpoena process, the agreement supersedes the statutory provision created by this legislation to the extent the statute conflicts with the contract.

As proposed, S.B. 1691 amends current law relating to the administration of oaths and issuance of subpoenas in an arbitration proceeding involving county firefighters or police officers and creates an offense.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter E, Chapter 174, Local Government Code, by adding Section 174.1575, as follows:

Sec. 174.1575. OATHS AND SUBPOENAS IN COUNTY ARBITRATION. (a) Requires an arbitration board (board) in a proceeding involving a county public employer, on request by a party to the arbitration or a designee of a party, to administer oaths and issue subpoenas duces tecum for the attendance of witnesses and the production of books, records, documents, papers, accounts, and other evidence relevant and material to an issue presented to the board for determination.

(b) Requires that a request under Subsection (a), except for good cause shown, be made not later than the 15th day before the date the arbitration hearing is scheduled to commence.

(c) Provides that the following are not subject to a subpoena under this section:

(1) a person who is actively engaged in providing representation to a party to the arbitration; and

(2) notes and other documents prepared by a person described by Subdivision (1) in the scope of the person's representation.

(d) Provides that an oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(e) Provides that a response to a subpoena duces tecum under this section is considered to have been made under oath.

(f) Provides that a person who is subpoenaed under this section commits an offense if the person fails to appear as required by the subpoena. Provides that an offense under this section is a misdemeanor punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

(g) Provides that this section supersedes any conflicting provision in a collective bargaining agreement negotiated under this chapter only to the extent that the agreement is inconsistent with this section. Provides that negotiated provisions of a collective bargaining agreement that are not inconsistent with this section remain in full force and effect.

SECTION 2. Effective date: upon passage or September 1, 2013.