

SUBJECT: Creating legislative leave-time accounts for Dallas police officers

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 6 ayes — Carter, Bailey, Burnam, Callegari, Ehrhardt, Najera

1 nay — Hill

2 absent — Edwards, E. Jones

WITNESSES: For — Thomas Glover, Texas Peace Officers Association, Dallas Chapter; Chris Jones, Combined Law Enforcement Associations of Texas; Glenn White, Dallas Police Association

Against — *Registered but did not testify*: Scott Henson, American Civil Liberties Union

BACKGROUND: Government Code, chapter 614 grants peace officers and fire fighters the right to legislative leave time to serve in, appear before, or petition a governmental body. To be eligible for leave, a peace officer or fire fighter must request the leave at least 30 days in advance and must either use vacation or compensatory time or reimburse the city for the employee's wages, including insurance and pension costs. The department may refuse the employee's request during an emergency or if granting the leave would result in an insufficient number of employees to carry out the department's duties.

Local Government Code, sec. 143.1261 requires a city with a population of 1.5 million or more (currently only Houston) to create legislative leave-time accounts into which fire fighters or police officers may donate accumulated vacation or compensatory time to their chosen employee organizations. These donated hours replace the reimbursement that the employee organization ordinarily would have to pay the city when one of its members takes time off work to appear before the Legislature. The city may determine the cash value of each hour donated and used and credit and debit the account accordingly, or may credit and debit the account on an hour-for-hour basis, regardless of the cash value of each hour. An employee organization may not use more than 4,000 donated hours in a year, and if more than one organization requests to use donated hours, each organization may use a

share of the 4,000 hours in proportion to the number of hours donated to each organization. An employee may not donate more than one hour per month to an employee organization.

Local Government Code, chapter 174 sets collective bargaining regulations for police and fire fighting employees of cities that have adopted the chapter. Of Texas cities with a population of one million or more (Houston, Dallas, and San Antonio), only San Antonio has adopted the chapter.

DIGEST:

HB 1113 would require a city with more than one million residents that has not adopted Local Government Code, chapter 174, and to which Local Government Code, sec. 143.1261 does not apply — currently only Dallas — to create legislative leave-time accounts into which police officers could donate accumulated vacation or compensatory time to their chosen employee organizations. The members of these organizations could use the donated hours for legislative leave, replacing the reimbursement that the employee organization ordinarily would have to pay the city when one of its members took time off work to appear before the Legislature. The bill would require the city to credit and debit the account on an hour-for-hour basis, regardless of the cash value of the time donated or used.

To use the legislative leave time in the employee organization's account, the organization would have to submit a written request by the president of the organization or equivalent officer. An organization could not use more than 4,000 hours from its legislative leave-time account in a calendar year, though it could accrue more than 4,000 hours. A police officer could donate up to two hours each month to an organization's legislative leave-time account by submitting a written form authorizing the transfer.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

HB 1113 would enhance the ability of police officer organizations in Dallas to serve in, appear before, or petition governmental bodies on behalf of their members by allowing them to use vacation or compensatory time donated by their members for legislative leave in lieu of reimbursing the city for that time. These organizations must reimburse the city when one of their members takes time off work for legislative leave or else use that member's vacation

or compensatory time. This bill would allow police officers to donate up to two hours a month in accrued vacation or compensatory time to their employee organizations to use for legislative leave, making it easier for these organizations to afford to send their members before governmental bodies to represent the interests of police officers.

The bill would not cost the city of Dallas or the state any additional money because the time used by the employee organizations from their legislative leave-time accounts would represent hours that the city already had agreed to pay its employees for earned vacation or compensatory hours. Rather than taking the hours themselves, the employees who had earned these hours simply would transfer their use to another employee who represented their interests through an employee organization. Thus, the bill would cost each officer who chose to donate time, rather than costing taxpayers.

The accounts would be credited and debited on an hour-for-hour basis regardless of the cash value donated or used, because any other method of determining the cash value of each hour would be substantially more difficult and costly for the city to implement. Although the hours donated and used might have different cash values, over the long run, the amounts would even out as the hours were used by different members of the organization, some of whom might have a higher hourly wage than that of the employee who donated the hour and some of whom might have a lower hourly wage. This is the same method used for state sick-leave pools into which employees may donate accrued compensatory or sick-leave time for use by employees who must take extended leave, and Houston uses this practice for its legislative leave-time accounts, even though the city has the option of determining the cash basis of each hour donated and used.

The bill would not result in understaffing of the police department. The police chief would retain authority to deny a request for leave under Local Government Code, sec. 614.007, if that leave would result in an insufficient number of employees to carry out the department's duties.

**OPPONENTS
SAY:**

HB 1113 would force taxpayers to finance the lobbying efforts of Dallas' police officers. City taxpayers pay for employee benefits such as vacation and compensatory time with the intention that those dollars go toward employee benefits, not lobbying. Allowing these hours to be transferred to employee organizations for lobbying purposes would result in the city

subsidizing the police officers' lobbying and using taxpayer funds for political purposes without the consent of the taxpayers.

The largest police employee organization in Dallas now spends about \$25,000 to reimburse the city for legislative leave time taken by its members. Under HB 1113, the organization could pay the city with its members' donated leave time, worth more than \$100,000, instead of cash. Thus, the bill would more than quadruple this organization's effective lobbying budget and would free up cash for the organization to use.

By requiring an hour-for-hour exchange, the bill would not account for the disparate cash values of those hours and the resulting potential cost to the city. Police officer organizations regularly send a handful of designated members to lobby on their behalf. These officers typically are veteran members of the force and earn higher wages than the average police officer who would be donating time under this bill's provisions. However, the police department would have to pay the veteran officer his regular salary while receiving as reimbursement an hour worth only the salary of an average officer. Thus, the department would have to absorb the difference between the cash values of the donated and used hours.

**OTHER
OPPONENTS
SAY:**

By singling out law enforcement unions for preferential treatment, HB 1113 would promote a specific ideology and therefore would implicate the First Amendment. Like all professional organizations, police officer employee organizations have a specific agenda and are based on a particular ideology, such as being "tough on crime." By making it easier for these organizations than for others to lobby the government, the state would favor a particular ideology and the speech that promoted that ideology, while relatively disfavoring all other ideologies. The bill's provisions should be extended to all employee organizations or to none at all.