

SUBJECT: Allowing meet-and-confer negotiations for city peace officers

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 4 ayes — Talton, Van Arsdale, Bailey, Menendez

1 nay — Wong

2 absent — Edwards, Hunter

WITNESSES: For — Ron DeLord, Combined Law Enforcement Associations of Texas,
Houston Police Officers Union

Against — None

BACKGROUND: Under Government Code, sec. 617.002, a city official may not enter into a collective bargaining contract with a labor organization in regard to wages, hours, or conditions of employment of public employees. Violation of the prohibition voids the contract. Nor may a city official recognize a labor organization as the bargaining agent for a group of public employees. Statutes exempt police officers and fire fighters from these prohibitions.

Under the Fire and Police Employee Relations Act, Local Government Code, ch. 174, fire fighters and police officers may organize and bargain collectively with their public employers regarding compensation, hours, and other conditions of employment. Municipalities may adopt this act to make this authority effective — 12 municipalities have done so.

The Municipal Civil Service Law, ch. 143, contains provisions allowing Austin, Houston, and Fort Worth to recognize police officer or firefighter committees. These cities can elect to “meet and confer” with the committees to reach agreements regarding compensation and other conditions.

DIGEST: CSHB 1643 would create ch. 145 of the Local Government Code, applying only to municipalities with populations greater than 10,000 that have adopted ch. 143 but have not adopted collective bargaining under ch. 174 or the meet-

and-confer authorization of ch. 143. (The bill currently would apply to 57 municipalities.)

Officers' committee. CSHB 1643 would allow a “peace officer’s bargaining committee” composed of peace officers employed by the city. The officers’ committee could meet and confer with the municipality about officer grievances, labor disputes, wages, rates of pay, hours of work, or working conditions.

A petition for recognition, signed by a majority of peace officers employed by the municipality, would designate a minimum of five officers to serve on the officers’ bargaining committee. The committee would represent all officers as the sole bargaining agent for peace officers. CSHB 1643 would require the city to recognize the selected peace officers’ bargaining committee, unless a majority of peace officers withdrew it.

Peace officer’s bargaining committee membership would reflect the cultural and ethnic diversity of the law enforcement agency. The bill would require the officers’ committee to include other police organizations’ members, if those organizations represented racial minority peace officers and included at least 30 percent of the minority peace officers employed by the municipality.

Agreements. The bill explicitly would not require a public employer or a recognized peace officer’s bargaining committee to meet and confer on any issue or reach any agreement. Any agreement between a city and officer’s bargaining committee would be enforceable and binding on the city, committee, and peace officers if:

- the governing body of the municipality ratified the agreement by majority vote; and
- the recognized peace officer’s bargaining committee ratified the agreement by conducting a secret ballot election of the peace officers of the municipality.

The bill would give jurisdiction to district court to hear and resolve a dispute over a ratified agreement. The court could order remedies to enforce the agreement. By public petition, the governing body of a municipality could vote to repeal the agreement. If the governing body chose not to repeal the

agreement, voters would decide whether to repeal it in the next general election or at a special election called by the municipality's governing body.

CSHB 1643 would require that a ratified agreement include a review and oversight process by the public; a policy for racial profiling; a competitive and fair promotion process; a hiring process designed to encourage recruitment of women and minorities; and a prohibition against interfering with a bargaining committee member's right to pursue allege discrimination to the Equal Employment Opportunity Commission or to pursue affirmative action litigation. The bill would authorize the peace officer's bargaining committee to meet and confer only if the committee did not advocate an illegal strike by public employees.

A public employer's bargaining committee that met and conferred would have to be representative of the municipality and recognize the officers' bargaining committee. An agreement would preempt, during the term of the agreement, all contrary state statutes, local ordinances, executive orders, civil service provisions, and rules adopted by the municipality or its agencies.

The bill would prohibit denying a municipality control over employment terms and conditions, including wages and salaries, unless agreed to by the parties.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 1643 would extend to many more municipalities a workable system that allowed peace officers to negotiate collectively with municipalities and form contracts covering wages, hours, and other conditions of employment. Cities that employ meet-and-confer negotiations avoid the mandates and formalities required under collective bargaining yet gain the chance to finalize a comprehensive employment contract with a large number of city employees. Importantly, the process does not compel either party — the municipality or peace officer's bargaining committee — to reach any agreement. Nor would it even require peace officers to form any committee. The bill merely would permit efficient communication between cities and police officers in reaching agreement on employment matters should they so choose.

The bill also would require ample protections to ensure that city peace officers and the municipality received fair treatment under any collective negotiation that occurred. The public could review any agreement reached, city voters could veto an agreement by petition, and participants in the negotiating committees would be ethnically diverse. Cities that have adopted collective bargaining or meet-and-confer negotiations for police officers and fire fighters have not reported complaints from other city employees or suffered any drop in services provided by officers protecting the safety and welfare of citizens.

**OPPONENTS
SAY:**

CSHB 1643 would erode state law prohibiting collective negotiation by public employees, which exists to help ensure the health, safety, and welfare of communities. By giving specific groups of employees a privilege to bargain collectively for wages and other demands, cities increasingly will have to satisfy these groups through concessions at the expense of other municipal employees and the services they provide city residents. In addition, CSHB 1643 could be regarded as giving unequal treatment to certain classes of civil servants.

State legislation should not aim to affect the local affairs of home rule municipalities, unless it is absolutely necessary to do so. Employment relations between the governing body of municipalities and city employees is precisely such a local affair.

NOTES:

The committee substitute differs from the bill as introduced by creating a “peace officer’s bargaining committee” under Ch. 145 instead of an “association” of peace officers under ch. 176, and would reorder sections from the original bill.

The companion bill, SB 562 by Gallegos, was reported favorably, as substituted, by the Senate Intergovernmental Relations Committee on May 2.