

SUBJECT: Meet and confer for Austin city employees

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 10 ayes — Y. Davis, C. Howard, Alvarado, Fletcher, Gutierrez, Kent, Miklos, Pierson, C. Turner, Walle

0 nays

1 absent — Mallory Caraway

SENATE VOTE: On final passage, April 2 — 31-0 on Local and Uncontested

WITNESSES: *(On House companion bill, HB 1173)*
For — Bruce Mills, City of Austin; Gregory Powell, AFSCME Local 1624 (*Registered, but did not testify*: Rick Levy, AFSCME Local 1624, TX AFL-CIO; Dee Simpson, American Federation of State County & Municipal Employees ATL)

Against — (*Registered, but did not testify*: Bill Hammond, Texas Association of Business)

On — (*Registered, but did not testify*: Deven Desai, City of Austin Law Department)

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, 143, and 146 allow certain municipalities to recognize police officer or firefighter associations. These cities can elect to “meet and confer” with the association 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 764 would specify 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 in which the municipality's governing body was elected at large, and that recognized exclusive bargaining agents for firefighters and police officers before September 1, 2005 (Austin). It would not apply to firefighters, emergency medical services personnel, or police officers who already were covered by meet and confer or collective bargaining agreements. The bill would apply to city of Austin non-civil service employees, excluding appointed employees and executive level staff.

Establishing meet and confer. City employees would be represented in meet and confer negotiations by an employee association that was 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.

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's 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 could not interfere with the right of a member to pursue allegations of discrimination. The governing body of a municipality could submit to interest arbitration any issues that were negotiated by the municipality and the employee association. A decision made by an arbiter would not be binding until it was adopted by the municipality's governing body.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

SB 764 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.

SB 764 would establish a meet and confer process for Austin employees similar to processes currently in effect for Austin police and firefighters 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 after 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 764 would not allow employees who were not members of the association designated as the bargaining agent to vote 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 means for these associations to provide input into the negotiations, the bill could exclude future employee groups.

The bill would set a dangerous precedent by expanding meet and confer agreements beyond the traditional range of police, fire, and emergency

medical services. Expanding meet and confer in Austin could set a precedent for similar action in other cities in the state. Meet and confer agreements for such large workforces could be costly for taxpayers who had to pay the foot the bill of any additional benefits secured by a bargaining agent. Any measure that could directly or indirectly raise taxes should be taken only as a matter of absolute necessity, especially in the midst of a recession.

NOTES:

The House companion bill, HB 1173 by Dukes, was heard and left pending in the Urban Affairs Committee on April 21.