

BILL ANALYSIS

Senate Research Center
76R5897 BDH-F

S.B. 553
By: Gallegos
Intergovernmental Relations
3/23/1999
As Filed

DIGEST

Currently, in Texas, no formalized process to facilitate change or improvements in working conditions for fire fighters exists, short of adoption of Chapter 174, Local Government Code. This bill sets forth certain conditions of employment and provides for local control of fire fighter employment matters.

PURPOSE

As proposed, S.B. 553 sets forth conditions of employment and provides for the local control of fire fighter employment matters.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 5C, Local Government Code, by adding Chapter 176, as follows:

CHAPTER 176. LOCAL CONTROL OF FIRE FIGHTER EMPLOYMENT MATTERS

Sec. 176.001. **APPLICABILITY.** Provides that this chapter does not apply to certain political subdivisions.

Sec. 176.002. **DEFINITIONS.** Defines “fire fighters association” and “public employer.”

Sec. 176.003. **GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES.** Prohibits a political subdivision from being denied local control over the wages, salaries, rates of pay, hours of work, diversity programs, and other terms of employment, or other personnel issues, to the extent the public employer and the fire fighters association recognized as the sole and exclusive meet and confer agent (agent) for the fire fighters employed by the political subdivision come to a mutual agreement on any of the terms of employment. Provides that if an agreement is not reached, the local ordinances and civil service rules remain unaffected. Authorizes a public employer to meet and confer only if the fire fighters association recognized as the sole and exclusive agent does not advocate the illegal right to strike by public employees. Prohibits the fire fighters of a political subdivision from engaging in strikes or organized work stoppages against this state or a political subdivision of this state. Provides that a fire fighter who participates in a strike forfeits all civil service rights, reemployment rights, and any other rights, benefits, or privileges the firefighter enjoys as a result of employment or prior employment, except that the right of an individual to cease work may not be abridged if the individual is not acting in concert with others in an organized work stoppage.

Sec. 176.004. **RECOGNITION OF FIRE FIGHTERS ASSOCIATION.** Provides that, in a political subdivision that chooses to meet and confer under this chapter, a fire fighters association (association) submitting a petition signed by a majority of fire fighters employed by the political subdivision, excluding certain fire department heads, shall be recognized by the public employer as the sole and exclusive agent for all the fire fighters employed by the political subdivision, excluding certain fire department heads, until recognition of the association is withdrawn by a majority of those fire fighters. Provides that, whether a fire fighters association represents a majority of the covered fire fighters shall be resolved by a fair election conducted according to procedures agreeable to the parties. Authorizes either party to request the Federal Mediation and

Conciliation Service to conduct the election and certify the results, if the parties are unable to agree on procedures. Provides that certification of the election results resolves the question concerning representation. Provides that the association is liable for the election expenses, except that if two or more associations seeking recognition as the confer agents submit petitions signed by a majority of the eligible fire fighters, the associations are required to share equally the election costs.

Sec. 176.005. OPEN MEETINGS REQUIRED. Requires all deliberations relating to an agreement between an association and a public employer to be open to the public and held in compliance with any applicable state statutes.

Sec. 176.006. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. Provides that a written agreement made under this chapter between a public employer and a association recognized as the sole and exclusive agent is enforceable and binding on the public employer, the association recognized as the sole and exclusive agent, and fire fighters covered by the agreement under certain circumstances. Provides that a state district court of the judicial district in which a majority of the population of the political subdivision is located has full authority and jurisdiction on the application of either party aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by any written agreement ratified under Subsection (a). Authorizes the court to issue proper restraining orders, temporary and permanent injunctions, and any other writ, order, or process that are appropriate to enforcing the written agreement ratified under Subsection (a).

Sec. 176.007. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. Provides that a written agreement between a public employer and the association recognized as the sole and exclusive agent supersedes, during the term of the agreement, a previous statute concerning certain employment issues and certain employment and affirmative action programs to the extent of any conflict with the previous statute. Provides that a written agreement preempts all contrary local ordinances, executive orders, civil service provisions, or rules adopted by a political subdivision or a division or agent of a political subdivision. Prohibits an agreement from diminishing or qualifying any right, benefit, or privilege of an employee under a civil service statute or other state law unless approved by a majority of votes received in the secret ballot election on the agreement by the members of the association recognized as the sole and exclusive agent. Provides that a matter not covered by an agreement ratified under Section 176.006 remains covered by any applicable agreement or any applicable statute, civil service provision, or other state or local law.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.