

BILL ANALYSIS

Senate Research Center
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S.B. 378
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DIGEST AND PURPOSE

Currently, there is a need for the recognition of certain fire fighters associations as the sole “meet and confer” agents in employment issues with municipalities. As proposed, S.B. 378 sets parameters for a recognized fire fighters association to serve as the agent for fire fighters in such negotiations.

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 Title 5C, Local Government Code, to add 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 a political subdivision that has adopted Chapter 174 or to which Chapter 143H or I applies.

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

Sec. 176.003. **GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES.** (a) 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 for the fire fighters employed by the political subdivision come to a mutual agreement on any of the terms of employment. Provides that if no agreement is reached, the local ordinances and civil service rules remain unaffected. Requires all agreements to be written. Provides that nothing in this chapter requires either party to meet and confer on any issue or reach an agreement.

(b) Authorizes a public employer to meet and confer only if the fire fighters association recognized under this chapter as the sole and exclusive meet and confer agent does not advocate the illegal right to strike by public employees.

(c) Prohibits 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 fire fighter 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.** (a) Requires a

public employer in a political subdivision that chooses to meet and confer under this chapter to recognize a fire fighters association submitting a petition signed by a majority of the fire fighters employed by the political subdivision, excluding certain ranking fire fighters, as the sole and exclusive meet and confer agent for all of the fire fighters employed by the political subdivision, excluding certain ranking fire fighters, until recognition of the association is withdrawn by a majority of those fire fighters.

(b) Requires the resolution of the issue of whether a fire fighters association represents a majority of the covered fire fighters by a fair election conducted according to procedures agreeable to the parties. If the parties are unable to agree, either party is authorized to request the Federal Mediation and Conciliation Service to conduct the election and to certify the results. Provides that certification of the results of an election resolves the question concerning representation. Makes the fire fighters association liable for the expenses of the election, except when two or more associations seeking recognition as the meet and confer agent submit petitions signed by a majority of eligible fire fighters, in which case the associations are required to share equally the costs of the election.

Sec. 176.005. OPEN MEETINGS REQUIRED. Requires all deliberations relating to an agreement between a fire fighters 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. (a) Provides that a written agreement made under this chapter between a public employer and a fire fighters association recognized as the sole and exclusive meet and confer agent is enforceable and binding on the public employer, the fire fighters association, and the fire fighters, if certain conditions are met.

(b) 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, including contempt orders, that are appropriate to enforcing the written agreement ratified under Subsection (a).

Sec. 176.007. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) Provides that a written agreement under this chapter between a public employer and the fire fighters association recognized as the sole and exclusive meet and confer agent supersedes, during the term of the agreement, a previous statute concerning wages, salaries, rates of pay, hours of work, and other terms of employment and affirmative action programs to the extent of any conflict with the previous statute.

(b) Provides that a written agreement under this chapter 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, such as a personnel board or a civil service commission.

(c) Prohibits an agreement under this chapter 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 the votes received in the secret ballot election on the agreement by the members of the fire fighters association recognized as the sole and exclusive meet and confer agent.

(d) Provides that a matter that is 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, 2001.