

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 379  
By: Gallegos  
Intergovernmental Relations  
4/11/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Since 1947, Texas peace officer associations have not legally been able to “meet and confer,” or reach agreements with their employers on issues concerning staffing, pay benefits, equipment, or training. “Meet and confer” practices have been successful because they are interest-based negotiations in which neither the employer nor the employee is mandated to meet or come to an agreement, unlike the sometimes confrontational, argumentative process of collective bargaining. “Meet and confer” rights have been granted by the legislature to the Houston Fire Department (1993), Austin Police and Fire Departments (1995), and the Houston Police Department (1997). C.S.S.B. 379 allows for an agreed-to association representing peace officers, employed by the Houston Metropolitan Transit Authority, to be recognized as the sole and exclusive bargaining agent for peace officers to “meet and confer” concerning wage and employment conditions. This bill also: sets up the structure for how a particular association is chosen as the arbiter of employment issues; prohibits officers covered under this agreement from striking; and provides no punitive orders punishing either side of the negotiations if an agreement cannot be reached or if the employer refuses to meet.

### **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 Chapter 451, Transportation Code, by adding Subchapter P, as follows:

#### **SUBCHAPTER P. LOCAL CONTROL OF PEACE OFFICER EMPLOYMENT MATTERS IN CERTAIN AUTHORITIES**

Sec. 451.751. **APPLICABILITY.** Provides that this subchapter applies only to a rapid transit authority (authority) in which the principal municipality has a population of more than 1.5 million.

Sec. 451.752. **DEFINITIONS.** Defines “association” and “public employer.”

Sec. 451.753. **GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES.** (a) Prohibits an authority from being denied local control over certain terms and conditions of employment to the extent the public employer and the association recognized as the sole and exclusive bargaining agent under Section 451.754 agree as provided by this subchapter. Provides that applicable local rules and regulations apply to an issue not governed by the agreement.

(b) Requires an agreement under this subchapter to be written.

(c) Provides that this subchapter does not require a public employer or a recognized association to meet and confer on any issue or reach an agreement.

(d) Authorizes a public employer and the recognized association to meet and confer only if the association does not advocate the illegal right to strike by public employees.

(e) Prohibits a peace officer of an authority from engaging in a strike or organized work stoppage against this state or a political subdivision of this state. Provides that a peace officer who participates in a strike forfeits certain rights, benefits, and privileges the peace officer may have as a result of the person's employment or prior employment with the authority. Provides that this subsection does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

(f) Requires the public employer's chief executive officer (CEO) or the CEO's designee to select a group of persons to represent the public employer as its sole and exclusive bargaining agent for issues related to the employment of peace officers by the authority.

Sec. 451.754. RECOGNITION OF PEACE OFFICER ASSOCIATION. (a) Requires the public employer, in an authority that chooses to meet and confer under this subchapter, to recognize an association submitting a petition for recognition signed by a majority of the peace officers employed by the authority, excluding the head of the peace officer department of the authority and the assistant department heads in the rank or classification immediately below that of the department head, as the sole and exclusive bargaining agent for all of the peace officers employed by the authority, excluding the department head and assistant department heads, until recognition of the association is withdrawn by a majority of the peace officers eligible to sign a petition for recognition.

(b) Requires that whether an association represents a majority of the covered peace officers be resolved by a fair election conducted according to procedures agreeable to the parties. Authorizes either party, if the parties are unable to agree on election procedures, to request the American Arbitration Association to conduct the election and certify the results. Provides that certification of the results of an election under this subsection resolves the question concerning representation. Provides that the association is liable for the expenses of the election unless two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the peace officers eligible to sign the petition, in which case the associations are required to share equally the costs of the election.

Sec. 451.755. OPEN RECORDS. Provides that a proposed agreement and a document prepared and used by the authority in connection with a proposed agreement are available to the public under Chapter 552 (Public Information), Government Code, only after the agreement is ratified by the governing body of the authority. Provides that this section does not affect the application of Subchapter C (Information Excepted from Required Disclosure), Chapter 552, Government Code, to a document prepared and used by the authority in connection with the agreement.

Sec. 451.756. RATIFICATION AND ENFORCEABILITY OF AGREEMENT.

(a) Provides that an agreement under this subchapter is enforceable and binding on the public employer, the recognized association, and the peace officers covered by the agreement only if certain conditions are met.

(b) Authorizes an agreement ratified as described by Subsection A to establish a procedure by which the parties agree to resolve disputes related to a right, duty, or

obligation provided by the agreement, including binding arbitration on a question involving interpretation of an agreement.

(c) Provides that a state district court of a judicial district in which the majority of the territory within the corporate limits of the principal municipality in the authority is located has jurisdiction to hear and resolve a dispute under the ratified agreement on the application of a party to the agreement 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 the agreement. Authorizes the court to issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Sec. 451.757. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) Provides that a written agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the state, by the authority or other political subdivision or by a division or agent of the authority or other political subdivision.

(b) Prohibits an agreement ratified under this subchapter from interfering with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Sec. 451.758. ELECTION TO REPEAL AGREEMENT. Requires a certain petition, not later than a certain date, to be presented to the county clerk of that county calling for the repeal of the agreement. Requires the authority, if the petition is presented to the county clerk under this section, to perform certain functions. Sets forth guidelines regarding an election to determine whether to repeal the agreement.

SECTION 2. Effective date: September 1, 2001.

### **SUMMARY OF COMMITTEE CHANGES**

Amends As Filed S.B. 379 as follows:

SECTION 1. Amends Section 451.757, Transportation Code, to add the text “the state.” Adds Section 451.758, as follows:

Sec. 451.758. ELECTION TO REPEAL AGREEMENT. Requires a certain petition, not later than a certain date, to be presented to the county clerk of that county calling for the repeal of the agreement. Requires the authority, if the petition is presented to the county clerk under this section, to perform certain functions. Sets forth guidelines regarding an election to determine whether to repeal the agreement.

SECTION 2. No changes in text.