

SUBJECT: Requiring voter approval of Fort Worth police and fire fighter negotiations

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 7 ayes — Carter, Bailey, Burnam, Callegari, Edwards, Hill, E. Jones

0 nays

2 absent — Ehrhardt, Najera

WITNESSES: For — Mayor Kenneth Barr, Fort Worth City Council; John Kerr, Fort Worth Police Officers' Association; *Registered but did not testify:* Ray Hendricks, Austin African American Fire Fighters Association; James R. Tate, Fort Worth Black Fire Fighters/Texas Coalition of African American Fire Fighters

Against — None

On — Charley Wilkison, Combined Law Enforcement Associations of Texas; *Registered but did not testify:* Stephen Sanders, Texas State Lodge Fraternal Order of Police

BACKGROUND: Police officers and fire fighters in Texas may organize into employee associations but may not strike. Local Government Code, sec. 174.051 allows municipalities to hold local option elections to authorize collective bargaining of labor contracts between city officials and police and fire fighter associations. Forty Texas cities allow collective bargaining, including San Antonio, El Paso, and Corpus Christi.

A less restrictive, more informal type of negotiation, known as “meet and confer,” is allowed based solely on population (secs. 143.201 and 143.301). This currently is in effect in Houston and Austin. Under “meet and confer,” the governing bodies of eligible municipalities may recognize police and fire fighter associations as sole bargaining agents upon presentation of valid petitions by the associations. Cities must designate representatives to participate in any negotiations. Any agreements made must be in writing and are legally binding.

Labor relations with police and fire fighters in about 70 Texas cities are governed by the municipal civil service statutes; the remaining cities use municipal ordinances.

Election Code, ch. 41 sets forth guidelines for uniform election dates and hours for voting.

DIGEST:

CSHB 2384 would add Local Government Code, sec. 143.3015, requiring voter approval to adopt the “meet and confer” arrangement for any municipality with less than 560,000 population that has not done so already before September 1, 2001. An election could be called by a majority vote of the city council or by voter petition.

The petition would have to contain valid signatures from a number of qualified voters equal to at least 10 percent of votes cast in the most recent mayoral election. City officials would have 40 days from presentation of the petition to verify it. The election would have to be held on the first authorized uniform election date prescribed by Election Code, ch. 41 occurring after the petition was filed. Only a favorable majority vote would allow the municipality to operate under the “meet and confer” statute.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 2384 would represent a workable compromise for maintaining constructive labor relations between the city of Fort Worth and its police officers and fire fighters.

In the past, Fort Worth voters have rejected police and fire fighter associations as the exclusive bargaining agents for their members. But because the U.S. Census Bureau estimated Fort Worth’s 2000 population at about 535,000, Fort Worth city officials were faced with the likelihood that local police and fire fighter associations would seek official recognition for “meet and confer” status under sec. 143.301, a threshold originally set for Austin. Instead of raising the population threshold to reflect Austin’s growth, or allowing Fort Worth to qualify by default, the involved parties agreed to leave the threshold at 460,000 but add a 560,000 population cap that would

exclude all cities except Fort Worth. The bill also would require an election to change the labor relations status of police and fire fighters from civil service to “meet and confer.”

This compromise would be preferable to making a significant policy change by what amounts to legislative decree using a law intended for another city. That would be unfair to the citizens of Fort Worth and their elected representatives, who did not seek help from the Legislature to change the city’s labor relations status with its police and fire fighters. By the same token, it would have been unfair to do an end run around the unions by using a law against them that was not intended to hinder organized labor. They would stand to gain more by putting the issue before the voters than attaining their goal by default.

If Fort Worth were allowed to become eligible for “meet and confer” status automatically, the city also would have to follow stricter procedures for investigating alleged misconduct by police officers and fire fighters as provided in secs. 143.312 and 143.313.

OPPONENTS
SAY:

CSHB 2384 is unnecessary and would place mandatory restrictions on an optional labor relations policy. Even if Fort Worth became eligible for “meet and confer” status by virtue of population growth, the law would be permissive and would not require city officials to recognize the unions. All negotiations among the parties are discretionary. It would be unfair to make the associations go through the effort and expense of an election to gain negotiating power that was non-binding and much less restrictive than collective bargaining rights, which rightfully require voter approval.

This bill would create a hybrid legislative solution to what was essentially a local municipal labor dispute. The population bracket created for Austin should reflect the 2000 Census regardless of the consequences. The procedure for attaining “meet and confer” status should be the same for all cities.

The provisions regarding internal investigations are not onerous and exist to protect police and fire fighters’ constitutional rights and guard against “witch hunts” and scapegoating.

OTHER
OPPONENTS
SAY:

Carving out legislative exceptions with “bracket bills” is a bad precedent. In this case, population is an artifice that has no bearing on the issue of municipal labor relations. CSHB 2384 is an example of how one exception unintentionally can lead to another. If the Legislature is going to use population brackets to shape public policy, it should abide by them. It would make more sense to allow “meet and confer” status regardless of population, given its discretionary nature, or else require every city to hold a binding referendum. Regardless, the Legislature should not meddle in local political affairs.

Chapter 143’s designation of sole and exclusive bargaining agents for police and fire fighters relegates other unions, such as ethnic minority associations, to second-class status and dilutes their input.

NOTES:

The bill as filed did not have the 560,000 population cap. It would have required the election petition to be in a form prescribed by the city council and would have set a valid signature threshold at 5 percent of the votes cast in the most recent gubernatorial election. It would not have required that the election be held on the next available authorized uniform election date after the petition is filed.