

- SUBJECT:** Selection and removal of Houston police officers' bargaining agent
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 7 ayes — Carter, Bailey, Burnam, Callegari, Ehrhardt, E. Jones, Najera  
1 nay — Hill  
1 absent — Edwards
- WITNESSES:** For — Craig Ferrell, City of Houston and Houston Police Department; Hans Marticheck, Houston Police Officers Union; Ronny Martin, Houston Police Officers Union  
  
Against — Stephen Sanders, Houston Police Patrolmen's Union
- BACKGROUND:** In 1998, the Houston Police Officers Union was elected with 80 percent of the vote as the majority bargaining agent for the city's police officers in their negotiations with the city under the provisions of Local Government Code, sec. 143.355, which applies to cities with a population of 1.5 million or more.  
  
Local Government Code, sec. 143.356 requires the formation of a bargaining team, containing members of all the police employee groups, to advise and give direction to the majority bargaining agent in its negotiations with the city. The team also reviews agreements reached by the majority bargaining agent and the city, and a majority of the team must approve the agreement before an election on the agreement can be held by the police officers. Under sec. 143.360, the team also must agree unanimously on the procedures for the election to ratify an agreement, or if it is unable to do so, any member of the team may request that the American Arbitration Association conduct the election and certify the results. All employee groups represented on the bargaining team share the expense of the election.
- DIGEST:** HB 2972 would amend Local Government Code, sec. 143.354 to allow a city's police department to recognize a police employee group as the sole and exclusive bargaining agent for all of the police officers in the municipality, excluding the department head and assistant department heads, in negotiations with the city. The designation could be revoked through an

election by the city's police officers, which would be called upon the written petition of 40 percent of the number of police officers who voted in the last election under sec. 143.360, or 40 percent of the city's police officers if an election under that section had not been held. The petition would have to include the name of the police employee group circulating the petition, as well as the name, payroll number, and date of signature of each police officer who signed the petition, and would have to be submitted no later than the 60th day after the first signature on the petition. The police employee group that brought the petition would be responsible for the costs of the election.

The bill also would repeal sec. 143.356, which requires that a bargaining team composed of all of the police employee groups advise the majority bargaining agent in its negotiations with the city and review all agreements reached by the agent with the city, and would remove all references to the team in the subchapter. The bill would amend sec. 143.360 to require the bargaining agent to establish procedures for an election to ratify an agreement reached by the agent with the city and would strike the language allowing any member of the bargaining team to request that the election be conducted by the American Arbitration Association.

The bill also would:

- ! revise various sections of the code to specify that the department head and assistant department heads were not represented by the bargaining agent and did not participate in elections to ratify agreements reached by the bargaining agent and the city;
- ! revise various sections of the code to specify that pension benefits may not be altered by an agreement under the subchapter;
- ! repeal sec. 143.355, which governed the procedure for electing a majority bargaining agent if the police employee groups could not unanimously agree on an agent by January 31, 1998.

The bill would take effect September 1, 2001, and would not affect the validity of an election held, agreement made, or action taken before the effective date of the act. A police employee group that is the majority bargaining agent immediately before the effective date would continue in that capacity until another sole and exclusive bargaining agent was recognized under the terms of this bill.

SUPPORTERS  
SAY:

HB 2972 would revise the bargaining procedures for negotiations between the Houston police department and its employees to reflect current practices. It would add a procedure for removing the employee bargaining agent that was missing from the original legislation that authorized the negotiation process.

Although current statute authorizes the creation of a bargaining team, the team in Houston was dissolved by its members in 1998 when they refused to share the costs of the negotiation process. Since then, the Houston Police Officers Union, whose membership includes 91 percent of the police officers, has been negotiating with the department on its own and has shouldered the entire employee share of the costs of these negotiations. The bill would enable the department to recognize the union's current role as the sole and exclusive bargaining agent of police employees and would repeal the section relating to the bargaining team, since no team currently exists. Employee associations that have refused to contribute to the cost of negotiating with the city should not be able to participate in the negotiations; if their members or other officers have a problem with the agreements negotiated, they can vote against those agreements in the elections required to ratify them.

The bill would not prevent other employee organizations from approaching the chief of police to discuss their concerns about any negotiation. The chief has an open door policy and regularly meets with representatives of all the employee groups. This bill would not limit other employee organizations' access to the chief. These groups would continue to have the right to discuss any topic that concerns them.

The bill also would provide for the removal of the current bargaining agent and authorize an election for a new bargaining agent. Police officers currently would have no way of removing the Houston Police Officers Association as the majority bargaining agent if they no longer believed that the association adequately represented their interests. This bill would require an election to select a bargaining agent upon the written petition of at least 40 percent of the city's police officers. The 40 percent threshold would ensure that calls for an election had broad support and were likely to result in the selection of a new bargaining agent. An employee organization representing only a small percentage of the city's police officers should not be able to bring forth numerous frivolous petitions requiring an election unless there was some

likelihood that they could win an election. By placing the threshold at 40 percent, this bill would limit elections to those times when there was widespread support for selecting a new bargaining agent. The bill also would require the petitioning organization to pay the costs of the election since it requested the election. Other employee organizations should not have to pay for an election that they did not want or request.

OPPONENTS  
SAY:

HB 2972 unfairly would remove police officer employee groups other than the designated bargaining agent from the negotiation process by repealing the section requiring the creation of a bargaining team. The team was dissolved by its members in 1998 because the majority bargaining agent refused to include the team in decisions that resulted in negotiating costs, yet the agent demanded payment for these costs. Dissolving the team was the only way the associations could protest their exclusion from the decision-making process. Instead of repealing the team, the team should be strengthened to protect the participation of these organizations and ensure that their desires cannot be ignored. As representatives of the city's police officers, these associations have the right and the responsibility to participate in these negotiations.

The bill also could prevent other employee organizations from being able to take their concerns to the chief of police. By designating a single organization as the sole and exclusive bargaining agent, the bill would remove the authority of other employee organizations to petition the chief on policies they would like changed.

The bill also would create an unfair process for removing a bargaining agent and selecting a new one. The bill would set an inappropriately high threshold to call an election to select a bargaining agent by requiring an organization to collect almost as many signatures to call the election as votes that would be required to select a new bargaining agent. Collecting this many signatures, especially in a large police department like Houston with more than 5,000 officers, would be a time consuming process that would discourage legitimate calls for a new election, particularly as the bill would allow only 60 days for collecting these signatures. The election costs also should be split between the organizations, as the process of electing a bargaining agent is a democratic process that concerns all of the organizations. The entire procedure should be simplified to ensure that a police employee organization is able, as a practical matter, to petition for an election to select a new bargaining agent.

The bill also would allow the bargaining agent to set the procedures for any election held to ratify an agreement it had reached with the city. The association responsible for making the agreement should not be able to influence the results of the election through a potentially unfair election process. The election should be conducted and certified by an impartial organization, such as the American Arbitration Association.

OTHER  
OPPONENTS  
SAY:

HB 2972 could allow the city to designate any police officers employee association as the bargaining agent, as the bill would not require the city to designate the currently elected majority bargaining agent as the sole and exclusive bargaining agent.

NOTES:

The companion bill, SB 1693 by Gallegos, was referred to the Senate Committee on Intergovernmental Relations.

A similar bill, SB 1539 by Gallegos, passed the Senate during the 76th Legislature but died in the House Calendars Committee.