

**SUBJECT:** Granting meet-and-confer authority to city fire fighter employees

**COMMITTEE:** Urban Affairs — committee substitute recommended

**VOTE:** 6 ayes — Bailey, Burnam, Callegari, Edwards, Ehrhardt, Najera  
3 nays — Carter, Hill, E. Jones

**WITNESSES:** For — Ken Bailey, Texas State Association of Fire Fighters; Hector Nunez, Tyler Professional Fire Fighters Association; *Registered but did not testify:* Kenneth Boozer, Irving Professional Fire Fighters Association; Mitchell Butler, Arlington Professional Fire Fighters Association; Jim Fleming, Abilene Professional Fire Fighters, Local 1044; David Gibson, Dallas Fire Department, Local 58; Larry Keith, Texas State Association of Fire Fighters; Mark Lacey, Mesquite Fire Fighters Association; Ernest Mass, International Association of Fire Fighters; David Phillips, Victoria; John Sherwood, Grapevine Fire Fighters Association; Joe Singer, Waco Professional Fire Fighters Association, Local 478; George Suther, San Antonio Professional Fire Fighters, Local 624; Carlos Torres, Corpus Christi Fire Fighters Association; Rafael Torres, El Paso Association of Fire Fighters; Scott Toupin, Austin Fire Fighters Association; Charley Wilkison, Combined Law Enforcement Associations of Texas; James Williams, Amarillo Fire Fighters Association; Bob York, Wichita Falls Fire Fighters Association

Against — Omniah Ebeid, Texas Municipal League; Mary Kay Fischer, City of Killeen; Ricky Frye; *Registered but did not testify:* Lynn Bizzell, Texas Fire Chiefs Association

**BACKGROUND:** Local Government Code, ch. 174 sets procedures for collective bargaining between a city and its fire fighter or police employees for cities that have adopted the chapter.

Local Government Code, subchapters H and J grant the city of Houston authority to “meet and confer” with the city’s fire fighters and police officers to negotiate agreements on wages, benefits, and other city policies affecting these employees. Subchapter I grants similar authority to cities with populations greater than 460,000 that have not adopted ch. 174.

DIGEST:

CSHB 320 would authorize any municipality that had adopted ch. 143 to meet and confer with its fire fighter employees to negotiate agreements on wages, benefits, and other policies affecting employees. The bill would not apply to cities that have adopted ch. 174 or cities that are covered by Local Government Code, ch. 143, subchapters G, H, I, or J. The bill would not require the authority or its employees to meet and confer on any issue or to reach an agreement.

A fire fighters' employee association would be recognized as the sole and exclusive bargaining agent for all fire fighters employed by the city, excluding the head of the fire department and assistant heads, in their negotiations with the city upon submission to the city of a written petition signed by a majority of the fire fighters employed by the city. In case of a question as to which association represented a majority of the fire fighters, an election would have to be held according to procedures agreeable to the associations. If the associations could not agree on election procedures, either party could ask the Federal Mediation and Conciliation Service to conduct the election and certify the results. The association or associations that submitted a petition for recognition as the bargaining agent would be liable for the costs of the election. The city's chief executive officer would have to select a group of people to represent the authority as its sole and exclusive bargaining agent.

An agreement reached by the employee bargaining agent and the city would be binding if ratified by a majority vote of the city's governing board and a majority vote by secret ballot of the fire fighters in the association recognized as the employee bargaining agent. Courts would have the authority to enforce any agreement.

Residents of the authority's service area could call an election to repeal any agreement ratified by the authority and the association by presenting a written petition to the county clerk within 60 days of the ratification of the agreement with the signatures of 10 percent of the number of people who voted in the city's most recent mayoral election. Upon presentation of such a petition, the city either would have to repeal the agreement or call an election to determine whether to repeal the agreement.

All deliberations relating to an agreement between a fire fighters association

and a city would be open to the public.

CSHB 320 would include standard meet-and confer language regarding local control of wage and benefit issues, written agreements, and labor strike prohibitions.

The bill would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

CSHB 320 would allow a city that had adopted the civil service act and its fire fighter employees to resolve their issues locally by granting these parties the right to meet and confer to negotiate agreements. The meet-and-confer process, already granted to several large cities, creates a forum for discussion of employer-employee differences and improves employer-employee relations by enabling these parties to negotiate agreements that are acceptable to both groups. By enabling a city to work out its employee issues locally, the bill also would reduce the need for cities to bring these local issues to the Legislature.

CSHB 320's provisions would be nearly identical to the meet-and-confer process granted to other cities. The bill would designate a single association as the sole and exclusive bargaining agent for employees. However, nothing in the bill would prohibit the association from including members of other organizations on a bargaining team, as Austin's employee bargaining agent now does under the same provision. Agreements approved by the association's members represent the will of the city's fire fighter employees because these employees chose the association to represent them and have the ability to remove an association as the bargaining agent if they are unhappy with the agreements reached. They also could organize a petition to repeal an agreement if they disapproved of it. Improvements in wages and benefits negotiated on behalf of the association's members also would benefit nonmembers.

The bill would not prevent other employee organizations or fire fighter employees from approaching the city manager or other officials to discuss their concerns about any negotiation. The bill does not contain any provisions that would limit any organization from sharing its concerns about a negotiation, only from the actual negotiation process. These groups would continue to have the right to discuss any topic that concerns them.

A city would not be required to meet and confer with its fire fighter employees. If a city chose to exercise this option, however, a city's voters would have the ultimate authority over the meet and confer process because they could repeal any negotiated agreement with which they disagreed. Voters therefore would have an opportunity to evaluate each negotiated agreement on its merits and decide whether to keep it. The author intends to offer a floor amendment removing the 60-day limit for repeal petitions to be submitted, and instead allow voters to repeal a negotiated agreement at any time. This provision thus would give voters an opportunity to evaluate the effect of a negotiated agreement and call an election for repeal of that agreement if at any time they decided it were not in the city's best interests.

OPPONENTS  
SAY:

CSHB 320 would authorize cities to meet and confer with their fire fighter employees without an election by the voters to approve that authority, since many cities already have held a vote to adopt the chapter in which these provisions would be placed. Although voters would have the authority to repeal an agreement, this would place the burden on voters to call an election on each agreement they disagreed with, rather than having the ability to prohibit these negotiations entirely. Voters also would have only 60 days to decide whether to call an election, an inadequate amount of time to evaluate the effect of an agreement. Voters should have a more reasonable length of time allowing them to see the full implementation and effects of a negotiated agreement before the option to repeal the agreement ends.

The bill could increase tensions between cities and their fire fighters in many cities that have indicated that they have no desire to meet and confer with their employees. Although the bill would grant them the right to refuse to meet and confer, doing so would create increased antagonism between the city and its employees. The meet and confer process also increases tension between a city and its fire fighter employees by pitting workers against management in a union-led confrontation.

The bill unfairly would prevent fire fighter employees who were not members of the association designated as the bargaining agent from voting on whether to accept negotiated agreements. A vote by an association's members to ratify an agreement would represent only the will of the association's members, not all of the city's fire fighters, regardless of how many employees initially approved the association. All employees ought to

be able to vote on agreements that would affect their wages and other benefits.

The bill also would prevent participation in the negotiation process by fire fighter employee groups or employees other than the recognized bargaining agent by designating a single union as the sole and exclusive bargaining agent for the employees. Many city managers have open door policies by which employees or employee associations may express their concerns on any issue, including budget issues that would affect employee benefits. This bill could limit their participation by authorizing the city only to negotiate on these issues with the sole and exclusive bargaining agent, requiring employees to go through a union representative in order to speak with management. All employees and employee associations ought to have input into these agreements without having to go through a union official.

NOTES:

The committee substitute added provisions regulating the appeal of an agreement by a city's voters. The substitute also removed the term "political subdivision" from the definition of "public employer."

A similar bill, HB 1358 by Tillery, was introduced in the 76th Legislature and left pending in the House Urban Affairs Committee.