

## **BILL ANALYSIS**

Senate Research Center  
78R2820 ATP-D

S.B. 1448  
By: Whitmire  
Intergovernmental Relations  
4/4/2003  
As Filed

### **DIGEST AND PURPOSE**

Current firefighters and police officers of the City of Houston are covered by meet and confer legislation, but no provisions exist that cover the employment matters of the city's other municipal employees. As proposed, S.B. 1448 grants public employee associations of a municipality of 1.9 million or more the right to meet and confer with a public employer over issues such as wages, hours, working conditions, and all other terms and conditions of employment but prohibits strikes and work stoppages by employees who participate in these organizations.

### **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 143, Local Government Code, by adding Subchapter K, as follows:

#### **SUBCHAPTER K. LOCAL CONTROL OF MUNICIPAL EMPLOYMENT MATTERS IN MUNICIPALITIES WITH POPULATION OF 1.9 MILLION OR MORE**

Sec. 143.401. APPLICATION. (a) Provides that this subchapter applies only to a municipality with a population of 1.9 million or more.

(b) Provides that this subchapter does not apply to certain firefighters, police officers, or an employee association.

Sec. 143.402. DEFINITIONS. Defines "association," "covered employee," and "public employer."

Sec. 143.403. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) Prohibits a municipality from being denied local control over wages, salaries, rates of pay, hours of employment, other terms or conditions of employment, or other personnel issues on which the public employer and an association recognized as the sole and exclusive bargaining agent for all covered employees agree. Provides that a term on which the public employer and the association do not agree is governed by the applicable statutes, local ordinances, and civil service rules. Requires an agreement between the public employer and an association to be reduced to writing. Provides that this subchapter does not require or authorize certain acts.

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

(c) Prohibits a municipal employee from engaging in a strike or organized work stoppage against this state or a political subdivision of this state. Provides that an

employee who participates in a strike forfeits all civil service rights, reemployment rights, and other rights, benefits, or privileges the employee enjoys as a result of the employee's employment or previous employment with the municipality. Provides that this subsection does not affect the right of a person to cease employment if the person is not acting in concert with other employees.

Sec. 143.404. **RECOGNITION OF ASSOCIATION.** (a) Authorizes a public employer to recognize an association that submits a petition signed by a majority of the covered employees, excluding any department head and assistant department head in the rank or classification immediately below that of the department head, as the sole and exclusive bargaining agent for all of the covered employees.

(b) Authorizes an association to submit a petition requesting an election to determine whether an association is the sole and exclusive representative of the covered employees. Provides that if the petition is signed by 30 percent of the covered employees and the public employer certifies to the municipality the number of employees signing the petition, there is a question of whether an association is the sole and exclusive representative of the covered employees that must be resolved by a fair election conducted according to procedures on which the parties agree. Authorizes either party, if the parties are unable to agree on election procedures, to request the American Arbitration Association to conduct the election and to certify the results. Provides that the association that receives a majority of the votes cast at the election is the sole and exclusive representative of the covered employees. Provides that certification of the results of an election under this subsection resolves the question concerning representation. Requires the association that submits the petition to pay the costs of the election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit petitions signed by 30 percent or more of the covered employees, the associations shall share equally the costs of the election.

(c) Requires the municipality to designate a team to represent the public employer as its sole and exclusive bargaining agent.

Sec. 143.405. **OPEN RECORDS REQUIRED.** Provides that an agreement made under this subchapter is a public record for purposes of Chapter 552, Government Code. Provides that the agreement and any document prepared and used by the municipality in connection with the agreement are available to the public under the open records law, Chapter 552, Government Code, only after the agreement is ratified by the municipality's governing body. Provides that this section does not affect the application of Chapter 552C, Government Code, to a document prepared and used by the municipality in connection with the agreement.

Sec. 143.406. **ENFORCEABILITY OF AGREEMENT.** (a) Provides that a written agreement made under this subchapter between a public employer and an association is binding on the public employer, the association, and employees covered by the agreement if certain conditions exist.

(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 interpretation of the agreement.

(c) Provides that the district court of the judicial district in which the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an act or omission of the other party related to a right, duty, or obligation provided by a written agreement ratified as described by Subsection (a). Authorizes the court to issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including a contempt order, that is appropriate to enforce the agreement.

Sec. 143.407. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) Provides that an agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of employment, or other terms or conditions of employment, other than pension and pension-related matters, to the extent of any conflict with the statute.

(b) Provides that an agreement under this subchapter preempts any contrary statute, executive order, local ordinance, or rule adopted by the state or a political subdivision or agent of the state, including a personnel board, a civil service commission, or a home-rule municipality, other than a statute, order, ordinance, or rule regarding pension or pension-related matters.

(c) Prohibits an agreement under this subchapter from diminishing or qualifying any right, benefit, or privilege of an employee under this subchapter or other law unless approved by a majority vote by secret ballot of the members of the association recognized as a sole and exclusive bargaining agent.

Sec. 143.408. REPEAL OF AGREEMENT BY ELECTORATE. Authorizes a petition signed by at least ten percent of the registered voters of the municipality to be presented to the municipal secretary calling an election for the repeal of the agreement, not later than the 45th day after the date an agreement is ratified by both the municipality and the association. Requires the governing body, on receipt of the petition by the municipal secretary, to reconsider the agreement and either repeal the agreement or call an election of the qualified voters to determine if they desire to repeal the agreement. Requires the election to be called for the next municipal election or a special election called by the governing body for that purpose. Provides that if at the election a majority of the votes are cast in favor of the repeal of the adoption of the agreement, the agreement is void. Requires the ballot to be printed to permit voting for or against the proposition: "Repeal of the adoption of the agreement ratified by the municipality and the \_\_\_\_\_ (municipal employee) association concerning wages, salaries, rates of pay, hours of employment, and other terms and conditions of employment."

Sec. 143.409. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. Prohibits an agreement from interfering with the right of a member of an association 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 Equal Employment Opportunity Commission or to pursue affirmative action litigation.

SECTION 2. Effective date: September 1, 2003.