

SUBJECT: Arbitration involving El Paso County firefighters or police officers

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 6 ayes — Dutton, Alvarado, Anchia, Elkins, J. Rodriguez, Sanford
0 nays
1 absent — Leach

WITNESSES: For — Mike Higgins, El Paso County

Against — (*Registered, but did not testify:* Melinda Griffith, Deputy Sheriffs Association of Bexar County; Chris Jones, El Paso County Sheriffs Officers Association)

On — (*Registered, but did not testify:* Donald Lee, Texas Conference of Urban Counties)

BACKGROUND: The Fire and Police Employee Relations Act, governed by Local Government Code, ch. 174, provides for collective bargaining by fire fighters and police officers.

DIGEST: CSHB 1329 would require the arbitration board in a proceeding involving a public employer in the county described by the bill (El Paso County), on request by a party to the arbitration or a designee of a party, to:

- administer oaths; and
- issue subpoenas and subpoenas duces tecum for the attendance of witnesses and the production of books, records, documents, papers, accounts, and other evidence relevant and material to an issue presented to the board for determination.

The bill would create a misdemeanor offense punishable by a fine up to \$1,000, confinement in the county jail for up to 30 days, or both if the person who was subpoenaed under the bill failed to appear as required by the subpoena.

Requests for oaths or subpoenas under the bill would have to be made by

the 15th day before the date the arbitration hearing was scheduled to start.

A person who was actively representing a party to the arbitration and the notes and other documents that they had prepared for the arbitration would not be subject to subpoena under the bill.

An oath administered under the bill would have the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity. Under the bill, a response to a subpoena duces tecum in this process would be considered to have been made under oath.

The bill would supersede any conflicting provision in a collective bargaining agreement negotiated under The Fire and Police Employee Relations Act only if the agreement was inconsistent with the bill. Negotiated provisions of a collective bargaining agreement that were not inconsistent with the bill would remain in full force and effect.

This 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, 2013.

**SUPPORTERS
SAY:**

CSHB 1329 would provide a framework for an arbitrator to subpoena documents and witnesses as needed at the request of either party relating to a disciplinary appeal. Without subpoena power, the arbitration could leave out important information relevant to the appeal. The bill would affect all parties in the arbitration equally and would not benefit a specific party. The bill would not interfere with provisions in a collective bargaining agreement that already included a subpoena process.

**OPPONENTS
SAY:**

CSHB 1329 could override collective bargaining agreements that had already been decided between the County of El Paso and their peace officers. It also could interfere with the efficiency, lower cost, and informality of arbitration. By requiring subpoenas punishable by a fine up to \$1,000 or 30 days in jail and oaths for arbitration, the bill could prevent the county and peace officers from negotiating in good faith. The bill would turn the arbitration process into a trial, which is already available under law.