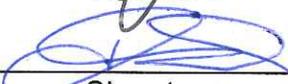
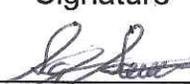


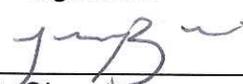
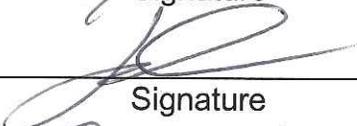
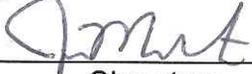
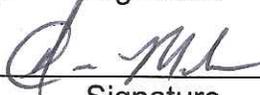
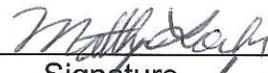
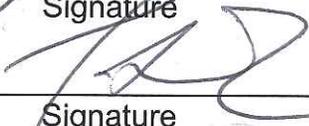
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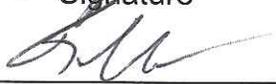
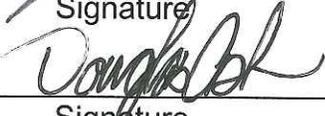
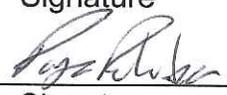
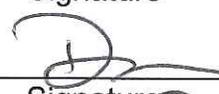
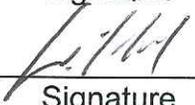
Petition Requesting Recognition

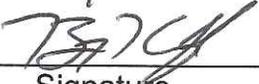
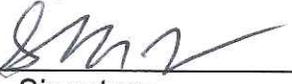
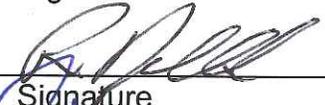
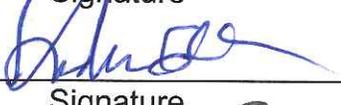
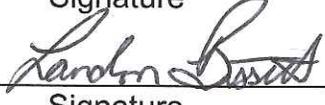
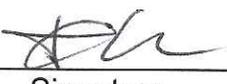
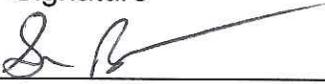
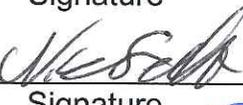
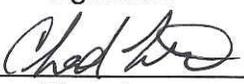
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CITY MANAGER'S OFFICE  
CITY OF BRYAN

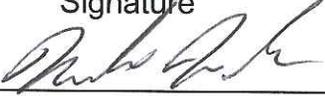
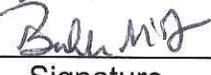
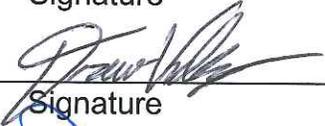
Pursuant to TEXAS LOCAL GOVERNMENT CODE §142.103, the undersigned non-exempt fire fighters employed by the City of Bryan Fire Department do hereby designate the Bryan Fire Fighters Association, Local 1204 of the International Association of Fire Fighters as the sole and exclusive bargaining agent for all the firefighters employed by the City of Bryan, excluding the head of the head of the fire department and the non-exempt employees of the Bryan Fire Department and request recognition as provided by the statute.

Daniel Buford 8445		8/24/16
Printed Name and Employee Number	Signature	Date
Todd Mack 3844		8/24/16
Printed Name and Employee Number	Signature	Date
Douglas "DJ" Capener 8620		8/27/16
Printed Name and Employee Number	Signature	Date
Jason Noz 3435		8/24/16
Printed Name and Employee Number	Signature	Date
Phillip McLain 5300		8/24/16
Printed Name and Employee Number	Signature	Date
Stephen Southern 7767		8/24/16
Printed Name and Employee Number	Signature	Date
Jeremy Riley 5558		8-24-16
Printed Name and Employee Number	Signature	Date
Ron Hendrix 2348		8/24/16
Printed Name and Employee Number	Signature	Date
Justin Barnett 2911		8/24/16
Printed Name and Employee Number	Signature	Date
Kavin Ferguson 6741		8/24/16
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Jason Gaas 5607		8-24-16
Printed Name and Employee Number	Signature	Date

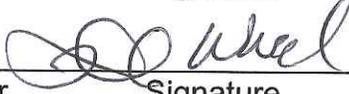
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Jeffrey Bondi 8920		8-24-16
Bryan Cole 0217		8-24-16
Michael Talbot 0947		8-24-16
Nathan Gawlik 4225		8-24-16
James Stewart 4930		8-24-16
JACOB SHEPHERD 6447		8-24-16
Jason Merritt 3599		8-24-16
Kenny Benfer 4674		8-24-16
Justin Mack 8954		8-24-16
Aaron Malove 0918		8-24-16
Tyler Vitek 0286		8-24-16
Matthew Lochr 2239		8-24-16
Justin Cook 9921		8/24/16
Chris Lewis 1970		8/24/16
Michael Land 5513		8/24/16

PRIHODA, ZAK 8396		8-24-16
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KERN, DEVIN 7728		8-24-16
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Barrentine, Blake 3318		24 Aug 2016
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Noel, Walter 9061		8/24/16
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Brad Moring 2327		24 Aug 2016
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Taylor, Ty 6683		8/24/16
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Trevor LaRoche 9132		8/25/16
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Matthew Ford 2790		8/25/16
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James Rosier 4046		8/25/16
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DOUGLAS OSBURN 5752		8/25/16
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Allen Linton 8248		8/25/16
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Rayse Richardson 1089		8/25/16
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DANIEL WILLIAMS 6804		8/25/16
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JASON SIGMUND 6486		8-25-16
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WILSON CASSEL 2126		8/25/16
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Jon Weatherly 3991		08/25/2016
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CHASE HUGHES 6403		8/25/2016
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Billy Huggins 1104		8-25-16
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Bryce Campbell 8713		8-25-16
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Guy Moses 4924		8/25/16
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RANDY RYCHLIK 4491		8/25/16
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Andrew S. Davis 9874		8/25/16
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Landon Bissett 1987		8/25/16
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Heath Nash 4292		8/25/16
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Adam Schroeder 2662		8/25/16
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Sean Burch 1200		8/25/16
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Nicholas Scovello 7025		8/25/16
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BRIAN CASTO 6920		8/25/16
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Blake Pearson 8733		8/25/16
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Chad Lester 6433		8/25/16
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Scott Fought	611556		8-24-16
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Justin Calandra	611556		8/26/16
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Blake Wilfong	WB4280		8/26/16
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Jonas Brooks	BJS5234		8/26/16
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Jon Strickland	SJS330		8-26-16
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NATHANIEL ANIELLO	NA44092		8-26-2016
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Michael Wodach	NM7029		8/26/2016
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Cody May	MC9022		8/26/2016
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Justin Oter	055396		8/26/2016
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Michael Vickers	3763		8-26-16
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Sam Johnson	4746		8/26/16
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Jesse Prihoda	2935		8/26/16
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Bubba McGovern	4466		8-26-16
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Draw Valdez	6908		8-27-16
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Heath Dancer	6047		8-27-16
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Marc Murchison 5531  8-28-16  
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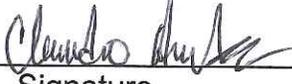
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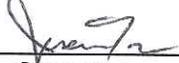
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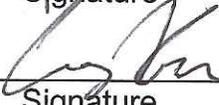
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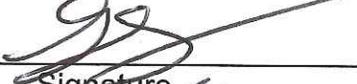
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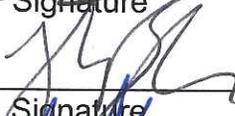
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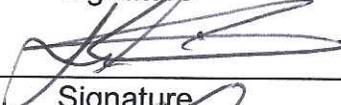
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Cory Kruse KC4875  8/30/16  
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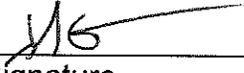
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John Miller MJ2309  8/30-16  
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Kevin Seebler SK6004  8/30/16  
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John Lubanski 3568  8/30/16  
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Daniel Goodnow 3563  8/30/16  
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JOSH GILMORE 615532  8/30/16  
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Dustin Nash ND5821  8/30/16  
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SUBCHAPTER C. LOCAL CONTROL OF FIREFIGHTER EMPLOYMENT

MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.101. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies only to a municipality:

- (1) with a population of 50,000 or more; or
- (2) that has adopted Chapter 143.

(b) This subchapter does not apply to a municipality that:

- (1) has adopted Chapter 174;
- (2) is covered by Subchapter H, I, or J, Chapter 143;

or

(3) has a population of one million or more and has not adopted Chapter 143.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.102. DEFINITIONS. In this subchapter:

(1) "Firefighter" means a person who is defined as fire protection personnel under Section 419.021, Government Code, and who is employed by a municipality.

(2) "Firefighters association" means an employee organization in which firefighters employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting firefighters.

(3) "Public employer" means a municipality or the fire department of the municipality that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of firefighters employed by the municipality.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.103. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from a firefighters association a petition signed by the majority of all firefighters, excluding the head of the fire department for the municipality and excluding the employees exempt under Section 142.108(b), that requests recognition of the association as the sole and exclusive bargaining agent for all the firefighters employed by the municipality, excluding the head of the fire department for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and determine by majority vote regarding whether a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.105;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.105 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 142.104 to determine whether the association represents a majority of the affected firefighters.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected firefighters of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.105; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.105 regarding whether a public employer may meet and confer under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.104. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 142.103(a)(3) to determine whether a firefighters association represents a majority of the covered firefighters shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the firefighters eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.105. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 142.103 may order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to allow voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.103 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.106. CHANGE OR MODIFICATION OF RECOGNITION. (a) The firefighters may modify or change the recognition of the association granted under this subchapter by filing with the governing body of the municipality a petition signed by a majority of all covered firefighters.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the petition; or

(2) order a certification election in accordance with Section 142.104 regarding whether to do so.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.107. STRIKES PROHIBITED. (a) A firefighter employed by a municipality may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A firefighter who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the firefighter may have as a result of the person's employment or prior employment with the municipality.

(c) This section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.108. RECOGNITION OF FIREFIGHTERS ASSOCIATION.

(a) A public employer in a municipality that chooses to meet and confer under this subchapter shall recognize an association that is recognized under Section 142.103 or 142.104 as the sole and exclusive bargaining agent for the covered firefighters described in the petition for recognition, excluding the head of the fire department and excluding the employees exempt under Subsection (b), in accordance with this subchapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are the employees appointed by the head of the fire department of the municipality under Section 143.014 or that are exempt by

the mutual agreement of the recognized firefighters association and the public employer.

(c) The public employer shall recognize the firefighters association until recognition of the association is withdrawn, in accordance with Section [142.106](#), by a majority of the firefighters eligible to sign a petition for recognition.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. [2892](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.109. GENERAL PROVISIONS RELATING TO AGREEMENTS.

(a) A municipality acting under this subchapter may not be denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent the public employer and the firefighters association recognized as the sole and exclusive bargaining agent under this subchapter agree as provided by this subchapter, if the agreement is ratified and not withdrawn in accordance with this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the meet and confer agreement.

(b) A meet and confer agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a recognized firefighters association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized firefighters association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) While a meet and confer agreement under this subchapter between the public employer and the recognized firefighters association is in effect, the public employer may not accept a petition, with regard to the firefighters of the municipality requesting an election to adopt:

- (1) municipal civil service under Chapter [143](#); or
- (2) collective bargaining under Chapter [174](#).

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. [2892](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.110. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of firefighters by the municipality.

(b) A firefighters association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the firefighters of the municipality who are not the head of the fire department or exempt under Section [142.108](#)(b).

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. [2892](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.111. PROTECTED RIGHTS OF FIREFIGHTER. (a) For any disciplinary appeal, a member of the municipality's bargaining unit may be represented by the firefighters association or by any person the member selects.

(b) A meet and confer agreement ratified under this subchapter may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. [2892](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.112. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.113. OPEN DELIBERATIONS. (a) A deliberation relating to meeting and conferring between a public employer and a firefighters association, a deliberation relating to an agreement or proposed agreement under this subchapter by a quorum of a firefighters association authorized to meet and confer, or a deliberation by a quorum of the sole and exclusive bargaining agent of the public employer authorized to meet and confer must be open to the public and comply with state law.

(b) Subsection (a) may not be construed to prohibit the representative of the public employer or the representatives of the firefighters association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.114. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized firefighters association, and the firefighters covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized firefighters association ratified the agreement by conducting a secret ballot election at which only the firefighters of the municipality in the association were eligible to vote, and a majority of the votes cast at the election favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may 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 a question involving interpretation of the agreement.

(c) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. [2892](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.115. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of a firefighters association under Section [142.103](#) without conducting an election under Section [142.105](#) may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association; and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of a firefighters association after conducting an election under Section 142.105 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.105.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.103 before the second anniversary of the date of the election.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.116. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized firefighters association, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

- (1) repeal the meet and confer agreement; or
- (2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on \_\_\_\_\_ (date agreement was ratified) by the \_\_\_\_\_ (name of the governing body of the municipality) and the firefighters employed by the City of \_\_\_\_\_ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. 2892), Sec. 2, eff. September 1, 2005.

Sec. 142.117. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. A written meet and confer agreement ratified under this

subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the fire department or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. [2892](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.118. PREEMPTION OF OTHER LAW. (a) This subchapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by a municipality.

(b) Section [617.002](#), Government Code, does not apply to an agreement made or an action taken under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. [2892](#)), Sec. 2, eff. September 1, 2005.

Sec. 142.119. EFFECT ON EXISTING BENEFITS. This subchapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning firefighters' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments, except as expressly provided in a ratified meet and confer agreement. This subchapter is in addition to the benefits provided by existing statutes and ordinances.

Added by Acts 2005, 79th Leg., Ch. 262 (H.B. [2892](#)), Sec. 2, eff. September 1, 2005.

**RESOLUTION NO. 3494**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, ADOPTING THE BRYAN FIRE DEPARTMENT MINIMUM STAFFING GOALS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council recognizes public safety as a top priority;

**WHEREAS**, the Bryan Fire Department is tasked with protecting the lives and property of the citizens of Bryan;

**WHEREAS**, many studies have shown that increasing firefighter staffing levels has a positive impact on safety, efficiency, and morale during fire department operations;

**WHEREAS**, while many fire departments are unable to reach this goal, increasing Bryan Fire Department staffing levels to this standard over a ten-year period should have positive impacts on firefighter safety and overall effectiveness of fire companies, and may position the Bryan Fire Department to be considered one of the premiere staffed departments in the State; and

**WHEREAS**, this resolution does not commit future City Councils to fund new Fire Department positions but does state the preference for future staffing levels.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:**

The City Council hereby adopts the Bryan Fire Department staffing goals, as defined below, as the preferred minimum staffing requirement of the Bryan Fire Department and hereby directs the City Manager to strive to implement this standard.

**BE IT FURTHER RESOLVED BY THE CITY COUNCIL THAT:**

In October 2013, the City of Bryan may begin implementation of these minimum staffing goals for the Bryan Fire Department and that ideally the staffing model may be completed by 2023 or sooner, if at all possible and depending on available annual funding; and

The Bryan Fire Department staffing goals are defined as follows:

- Each Engine and Ladder company staffed with four firefighters;
- Each Battalion Chief staffed with an Aide.

The Bryan Fire Department may attain the staffing levels described above over a multi-year period with the goal of averaging 3.5 firefighters per year. Minimum daily staffing requirements may be updated as staffing changes during this period.

To meet the Bryan Fire Department Staffing Standards, the Bryan Fire Department may pay overtime when appropriate.

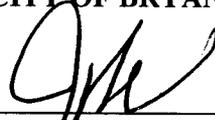
This resolution shall be effective immediately upon adoption by the Bryan City Council.

**APPROVED AND ADOPTED** this 9<sup>th</sup> day of July, 2013, by the Bryan City Council.

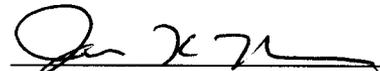
**ATTEST:**

**CITY OF BRYAN**

  
\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

  
\_\_\_\_\_  
Jason F. Bienski, Mayor

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Janis K. Hampton, City Attorney

SUBJECT: Authorizing meet and confer for firefighters in certain cities

COMMITTEE: Urban Affairs — favorable, with amendment

VOTE: 5 ayes — Talton, Wong, A. Allen, Blake, Rodriguez

0 nays

2 absent — Bailey, Menendez

WITNESSES: For — Mike Higgins, Texas State Association of Fire Fighters; Walter Hinojosa, Texas AFL-CIO

Against — None

BACKGROUND: Under Government Code, sec. 617.002, a city official may not enter into a collective bargaining contract with a labor organization regarding wages, hours, or conditions of employment of public employees. Violation of the prohibition voids the contract. Also, a city official may not recognize a labor organization as the bargaining agent for a group of public employees. Statutes exempt police officers and fire fighters from these prohibitions.

Under the Fire and Police Employee Relations Act, Local Government Code, chap. 174, fire fighters and police officers may organize and bargain collectively with their public employers regarding compensation, hours, and other conditions of employment. Municipalities may adopt this act to make this authority effective — 34 municipalities have done so.

The Municipal Civil Service Law, chap. 143, contains provisions allowing cities to recognize police officer or fire fighter committees. These cities can elect to “meet and confer” with the committees to reach agreements regarding compensation and other conditions — 58 cities have chosen to do so.

In addition, three cities have meet-and-confer rights specially granted by the Legislature under chap. 143, subchaps. H, I, and J: Houston (firefighters in 1993, police in 1997, metro police in 2001), Austin (both in 1995), and Fort Worth (2001).

Texas has 14 cities with populations between 50,000 and 1 million that have not chosen to adopt the Municipal Civil Service Law: Arlington, College Station, Flower Mound, Lewisville, Longview, McKinney, Midland, Missouri City, North Richland Hills, Odessa, Richardson, Round Rock, Sugar Land, and Victoria.

There are 102 cities in Texas with populations between 10,000 and 50,000 that have not chosen to adopt the Municipal Civil Service Law.

**DIGEST:**

HB 2892 as amended would create Local Government Code, chap. 142, subchapter C, specifying conditions for meet-and-confer agreements between cities and firefighters and applying only to municipalities with populations greater than 50,000 that have adopted chap. 143. It would not apply to municipalities that have adopted chap. 174, to municipalities with a population greater than 1 million that have not adopted chap. 143, or to the three municipalities covered by chap. 143, subchaps. H, I, and J.

**Establishing meet and confer.** Firefighters would be represented in meet-and-confer negotiations by an association that would be the exclusive bargaining agent. A bargaining association would be recognized by the governing body of the municipality within 30 days of receipt of a petition signed by the majority of firefighters, excluding the heads of the law enforcement agency.

If the bargaining association were not recognized, the governing body could defer and order an election by voters in the municipality held the next authorized uniform election date (currently, the first Saturday in February, the first Saturday in May; the second Saturday in September, or the first Tuesday after the first Monday in November). The authority for a public employer to meet and confer would carry with a majority vote in the election. If an election were held, another petition for recognition could not be submitted for at least two years following the election.

The governing body also could order a certification election to determine that the petition represented the majority of the affected firefighters. The terms of the certification election would have to be agreeable to both the governing body and the association, or either party could request that it be conducted by the American Arbitration Association. The expense of a certification election would be borne by the association. If the petition were certified, then the governing body would have 30 days to either recognize the association or order an election by voters.

**Modifying or withdrawing meet and confer.** The recognition of one bargaining association to represent firefighters in meet-and-confer agreements could be modified or withdrawn by filing with the municipality a petition signed by a majority of firefighters. Upon receipt of the petition, the municipality could recognize the change or withdrawal or could order a certification election. The municipality could withdraw recognition of a bargaining association with 90 days' written notice or, if the association were initially recognized by the municipality more than two years' before, could order an election to determine whether the public employer could continue to meet and confer.

**Agreements.** The bill explicitly would not require a public employer or a recognized firefighters' bargaining association to meet and confer on any issue or reach any agreement or memorandum of understanding. A proposed meet-and-confer agreement would be available to the public when it was ready to be ratified by the governing body of the municipality. Deliberations over a proposed meet-and-confer agreement would be conducted in a forum open to the public and in compliance with state law. A meet-and-confer agreement could include a procedure by which the parties agreed to resolve disputes, including binding arbitration.

Any agreement between a city and firefighters' bargaining association would be enforceable and binding on the city and firefighters only if:

- the bargaining association had not advocated an illegal strike;
- the governing body of the municipality ratified the agreement by majority vote; and
- the recognized firefighters' bargaining association ratified the agreement by conducting a secret ballot election of the firefighters of the municipality.

The bill would give jurisdiction to the local district court to hear and resolve a dispute over a ratified agreement. The court could order restraining orders or injunctions to enforce the agreement.

By public petition signed by a number of local registered voters equaling at least 10 percent of the votes cast in the most recent general election, the governing body of a municipality could repeal the agreement as soon as 60 days after ratification. If the governing body chose not to repeal the agreement, voters would decide whether to repeal it in the next general election.

**Applicability.** A ratified meet-and-confer agreement would supersede all contrary state statutes, local ordinances, and other provisions. It would not have any effect on existing benefits. Strikes or work stoppages would be prohibited.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

HB 2892 would extend to municipalities a workable system that would allow firefighters to negotiate collectively with municipalities and form contracts covering wages, hours, and other conditions of employment. This is the same authority that would be permitted for police officers under HB 304 by Talton, which was approved by the House on March 3.

Cities that employ meet-and-confer negotiations avoid the mandates and formalities required under collective bargaining yet gain the chance to finalize a comprehensive employment contract with a large number of city employees. The process does not compel either party — the municipality or firefighters' bargaining association — to reach any agreement, nor does it require firefighters to form any association. The bill merely would give cities another option for efficient communication with their firefighters in reaching agreements on employment matters, should they so choose.

The bill also would include ample protections for municipalities. The public could review any agreement reached, negotiations would be held in a public forum, and city voters could veto an agreement by petition or election. Cities that have adopted collective bargaining or meet-and-confer negotiations for police officers and fire fighters have not reported complaints from other city employees or suffered any drop in services provided by officers protecting the safety and welfare of citizens.

A new procedure for establishing meet and confer is needed because existing statutory authority under Government Code, chap. 174, can set up an adversarial relationship between parties. Existing law requires that parties collectively bargain in good faith for 60 days and sets up statutory impasse procedures, both of which compel cities toward an agreement. HB 2892 only would establish a method for coming to terms on issues that are of mutual interest. If an issue were not of mutual interest, neither side would be compelled to meet.

OPPONENTS  
SAY:

HB 2892 would erode state law prohibiting collective negotiation by public employees, which exists to help ensure the health, safety, and welfare of communities. Although the bill would prohibit strikes and would authorize only meet and confer, it would be a philosophical step in the wrong direction. Cities should retain flexibility in their procedures for negotiating employment contracts, not be constricted by meet and confer.

By giving specific groups of employees a privilege to bargain collectively for wages and other demands, cities increasingly would have to satisfy these groups through concessions at the expense of other municipal employees and the services they provide city residents. HB 2892 could give unequal, preferential treatment to certain classes of civil servants.

OTHER  
OPPONENTS  
SAY:

This bill is unnecessary. Cities already have a way to engage in this type of negotiation. Under chaps. 174 and 143 of the Local Government Code, fire fighters and police officers may organize and bargain collectively with their public employers. In fact, many municipalities already have done so.

NOTES:

The committee amendment would add a process for withdrawal of authority to meet and confer, extend the period following an election to determine authorization before another could be petitioned, prohibit acceptance of a petition for Municipal Civil Service Law or collective bargaining while the authorized meet and confer was in force, and make various technical changes.

The companion bill, SB 1417 by Gallegos, was reported favorably, as substituted, by the Senate Intergovernmental Relations Committee on April 12 and recommended for the Local and Consent Calendar.

A similar bill that would apply to police officers, HB 304 by Talton, passed the House on March 3 and has been referred to the Senate Intergovernmental Relations Committee and was scheduled for a public hearing on April 21.