

HOUSTON CITY COUNCIL JOINT BFA/LABOR COMMITTEE

COLLECTIVE BARGAINING AGREEMENT AND FIREFIGHTER SETTLEMENT

*PATRICK M. "MARTY" LANCTON
PRESIDENT, HPFFA, LOCAL 341*



THREE KEY OBJECTIVES

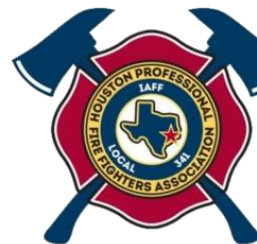
- RECRUIT AND RETAIN QUALIFIED FIREFIGHTERS, EMT'S, AND PARAMEDICS
- RESOLVE AND MITIGATE THE PENDING PAST LIABILITY
- COLLECTIVE BARGAINING AGREEMENT MOVING FORWARD

Introduction

How we got here

The legal realities

The benefits





BACKGROUND



- HPFFA was established in 1932
- We are the sole bargaining agent for and represent the classified firefighters, paramedics and EMTs of the Houston Fire Department
- Our mission is fair compensation, working conditions, grievance resolution and wellness



HOW WE GOT HERE

Key events from 2003-2023

- 2003 – Voters approve collective bargaining for Houston firefighters
- 2017 - Collective bargaining reaches an impasse
 - We asked for voluntary arbitration. The city said no, so we exercised our rights under state law to ask the courts to intervene.
- 2018 – The City lost in the district court and appealed.
- 2021 – The City lost at the 14th Court of Appeals and appealed to the Texas Supreme Court.
- 2023 – The city lost a third time before the Texas Supreme Court, sending the case back to the district court for trial, which was scheduled to begin on March 25th of this year.
- 2023 - Then-Senator John Whitmire wins legislative approval of mandatory binding arbitration bill.

Through the years, our repeated requests to resume negotiations were ignored.



THE CITY'S COURT CHALLENGE

The City's court challenge was based on three key components:

- 1) That the city has sovereign immunity
- 2) That the Private Sector Pay standard (40/hr week) was unconstitutional
- 3) That the Judicial Remedy for a contract impasse was Unconstitutional

THE LAW

- The State of Texas Collective Bargaining Law mandates a resolution to a contract impasse
- Firefighters are prohibited from striking. We would never want that, but it is prohibited by law.
- The mandate requiring contract resolution exists as a counter to the strike prohibition.



June 15, 2007.

SUBCHAPTER B. CONDITIONS OF EMPLOYMENT AND RIGHT TO ORGANIZE

Sec. 174.021. PREVAILING WAGE AND WORKING CONDITIONS REQUIRED. A political subdivision that employs fire fighters, police officers, or both, shall provide those employees with compensation and other conditions of employment that are:

<https://statutes.capitol.texas.gov/Docs/LG/htm/LG.174.htm>

3/16

12/18/2018

LOCAL GOVERNMENT CODE CHAPTER 174. FIRE AND POLICE EMPLOYEE RELATIONS

- (1) substantially equal to compensation and other conditions of employment that prevail in comparable employment in the private sector; and
- (2) based on prevailing private sector compensation and conditions of employment in the labor market area in other jobs that require the same or similar skills, ability, and training and may be performed under the same or similar conditions.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.022. CERTAIN PUBLIC EMPLOYERS CONSIDERED TO BE IN COMPLIANCE. (a) A public employer that has reached an agreement with an association on compensation or other conditions of employment as provided

... employment plans, rules or rules, conditions of employment, or other emoluments. This chapter is in addition to the benefits provided by existing statutes and ordinances.

Added by Acts 1993, 73rd Leg., ch. 269, Sec. 4, eff. Sept. 1, 1993.

Sec. 174.008. WAIVER OF IMMUNITY. This chapter is binding and enforceable against the employing public employer, and sovereign or governmental immunity from suit and liability is waived only to the extent necessary to enforce this chapter against that employer.

Added by Acts 2007, 80th Leg., R.S., Ch. 1200 (H.B. 1473), Sec. 2, eff. June 15, 2007.

*TEXAS STATUTE TEXAS LOCAL
GOVERNMENT CODE 174
HPFFA MAJOR CONCESSION #1*

THE PRIVATE SECTOR STANDARD IMPACT

- Under Federal law, any private sector comparison must utilize a 40-hour work week NOT 46.7 hours a week.
- That means the city of Houston would have to compare on a cost-per-hour basis of 40 hours, which would create more financial liability for the city. Using that comparison, experts have pegged the wage disparity between 45% and 50%, dating back to 2017.
- Through this settlement, all past liability is resolved and captured in a box. HPFFA agreed to base FUTURE negotiations comparing ourselves to the SALARIES (not cost per hour) of Dallas, Austin, San Antonio, and Fort Worth.

20 Q Okay. 20 in
21 A Which is that I -- According to the statute, we are 21 at
22 not to compare them to other municipal fire departments. 22 ne
23 Rather, we are to compare these workers, these employees in 23 in
24 the Houston Fire Department, with those in the private-sector 24
25 of similar or comparable skills, ability, and training and 25

134

1 working under similar conditions. 1
2 Q Okay. And -- And that -- that charge, that -- that 2
3 purpose for which you were retained is what a lot of the work 3 be
4 that was done, relates to -- 4 ou
5 A Yes. 5 gi
6 Q -- and that we have been talking about so far. 6 th
7 A Yes. 7
8 Q Okay. And so have you reached an opinion about 8
9 where the Houston Fire Department lies, you know, vis-a-vis 9 ap
10 that statutory requirement? 10
11 A Yes, I have. 11 da
12 Q Okay. And what is that opinion? 12 ne
13 A My opinion is, is that they are, indeed, underpaid. 13 mi
14 Q Okay. 14
15 A And by how much? My analysis places more weight on 15
16 Texas private fire departments than it does on those outside 16 a
17 the State. Although, I do consider those. 17 to
18 In my opinion, Houston Firefighters are paid, 18
19 approximately, fifty percent less than comparable, 19
20 private-sector fire departments. I say "approximately," 20
21 because there's an awful lot of numbers in there and -- 21

Sec. 174.252. JUDICIAL ENFORCEMENT WHEN PUBLIC EMPLOYER DECLINES ARBITRATION. (a) If an association requests arbitration as provided Subchapter E and a public employer refuses to engage in arbitration, the application of the association, a district court for the judicial district in which a majority of affected employees reside may enforce requirements of Section 174.021 as to any unsettled issue relating to compensation or other conditions of employment of fire fighters, polic officers, or both.

(b) If the court finds that the public employer has violated Sec 174.021, the court shall:

(1) order the public employer to make the affected employees whole as to the employees' past losses;

(2) declare the compensation or other conditions of employe required by Section 174.021 for the period, not to exceed one year, as which the parties are bargaining; and

(3) award the association reasonable attorney's fees.

(c) The court costs of an action under this section, including co for a master if one is appointed, shall be taxed to the public employe:

To the Trial Court of Harris County, Greetings:

Before our Supreme Court on March 31, 2023, the Cause, upon petition for review, to revise or reverse your Judgment.

No. 21-0518 in the Supreme Court of Texas

No. 14-18-00976-CV; 14-18-00990-CV in the Fourteenth Court of Appeals

No. 2017-42885 in the 234th District Court of Harris County, Texas, was determined; and therein our said Supreme Court entered its judgment or order in these words:

THE SUPREME COURT OF TEXAS, having heard this cause on petition for review from the Court of Appeals for the Fourteenth District, and having considered the appellate record, briefs, and the arguments of counsel, concludes that the court of appeals' judgment should be affirmed.

IT IS THEREFORE ORDERED, in accordance with the Court's opinion, that:

- 1) The court of appeals' judgment is affirmed;
- 2) The cause is remanded to the trial court for further proceedings consistent with this Court's opinion; and
- 3) The Respondent shall recover, and the Petitioner shall pay, the costs incurred in this court and in the court of appeals.

Copies of this judgment are certified to the Court of Appeals for the Fourteenth District and to the 234th District Court of Harris County, Texas, for observance

Page 1 of 2

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging.

Time: _____
By Katrina Solomon
Deputy

FILED
Marlyn Burgess
District Clerk
MAY 11 2023

MAY-11-2023

*THE LAW WHEN ARBITRATION IS REJECTED
THE TEXAS SUPREME COURT MANDATE*

THE COURT
ORDER
MANDATING
RESOLUTION
OF ALL BACK
PAY FROM 2017
FORWARD

7/11/2023 3:53:35 PM
Marilyn Burgess - District Clerk
Harris County
Envelope No: 77413200
By: MEDLOCK, BRALYN
Filed: 7/11/2023 3:53:35 PM Pgs: 3
COTHX

CAUSE NO. 2017-42885

HOUSTON PROFESSIONAL FIRE FIGHTERS' ASSOCIATION, LOCAL 341,	§	IN THE DISTRICT COURT OF
Plaintiff	§	HARRIS COUNTY, TEXAS
vs.	§	
CITY OF HOUSTON, TEXAS,	§	234 th JUDICIAL DISTRICT
Defendant	§	

ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL CITY OF HOUSTON TO COLLECTIVELY BARGAIN

Came on for consideration Plaintiff's Motion to Compel City of Houston to Collectively Bargain. The Court, having considered the motion, response, evidence and argument of counsel, has determined the motion should be granted as stated herein.

It is **ORDERED, ADJUDGED and DECREED** that the City of Houston shall collectively bargain with the Plaintiff in accordance with Section 174.105 of the Texas Loc. Gov't Code with respect to the issues identified in Plaintiff's correspondence dated March 2, 2018 with respect to fiscal budget period July 1, 2018 to June 30, 2019,

It is **ORDERED, ADJUDGED and DECREED** that the City of Houston and the Plaintiff shall begin the collective bargaining process within 30 days

of the date of execution of this Order. If the collective bargaining process does not begin within such 30 day period the parties shall schedule a hearing with this Court to address the issue.

It is **ORDERED, ADJUDGED and DECREED** that once the collective bargaining process begins, the parties shall advise the Court within 62 days if impasse occurred or an agreement was reached.

It is **ORDERED, ADJUDGED and DECREED** that the City of Houston and the Fire Fighters, unless agreed otherwise, must collectively bargain each fiscal budget period for which the Fire Fighters have requested collective bargaining in the temporal order that the request for collective bargaining was made.

It is **ORDERED, ADJUDGED and DECREED** that the Plaintiff's Motion to Compel City of Houston to Collectively Bargain is hereby granted as stated herein.

SIGNED this ___ day of _____, 2023

Signed: *Sam Rader*
12/11/2023
DISTRICT JUDGE PRESIDING

2

*HFD
BRINGS IN
MORE
THAN
ENOUGH
\$\$\$ TO
FUND THIS*

HFD has brought in **\$422,178,449** million over the last four years.

HFD raised **over \$107** million last year in revenue.

This settlement costs **\$35-\$40-million-dollar** per year (***.0.64%** of city budget)

As additional personnel retention and recruitment is addressed **revenues should increase.**

The majority of these revenues are generated by EMS services, inspections, permits, and federal/state assistance reimbursements for deployments.

Several revenue sources are not currently utilized or fully realized by HFD.

THE IMPACT OF THE LAST EIGHT YEARS

- Depleted staffing
- Wasted training dollars on cadets who leave for other departments
- Higher response times
- Explosion in call volume and not enough staff to handle it
- Unprecedented low morale
- Firefighters feel disrespected and abandoned



THE IMPACT - CALL VOLUME

- The number of calls we respond continues to increase in the last decade, while our staffing has been declining.
- The department stopped posting response times six years ago when the times started increasing, reflecting the staffing deficiencies.

Year	Total calls Fire/EMS	Average Response Time
2023	395,871	Not Available
2022	384,229	Not Available
2021	383,889	Not Available
2020	344,381	Not Available
2019	347,662	Not Available
2018	340,306	Not Available
2017	341,166	6.03 Minutes
2016	335,967	5.98 Minutes
2015	332,963	5.97 Minutes
2014	318,627	5.95 Minutes
2013	299,171	5.85 Minutes

THE IMPACT - STAFFING

WHY WE HAVE A STAFFING SHORTAGE



Fiscal Years	Hiring Goal	Hired	Graduated	%
FY21	350	243	140	58
FY22	280	276	210	87
FY23	350	267	163	61

*HFD's own numbers presented to City Council's Public Safety Committee 9/21/23

• HIRES NEEDED TO MAINTAIN STAFFING OVER THE LAST THREE YEARS

980

• HOW MANY HIRED?

786

• HOW MANY GRADUATED?

513

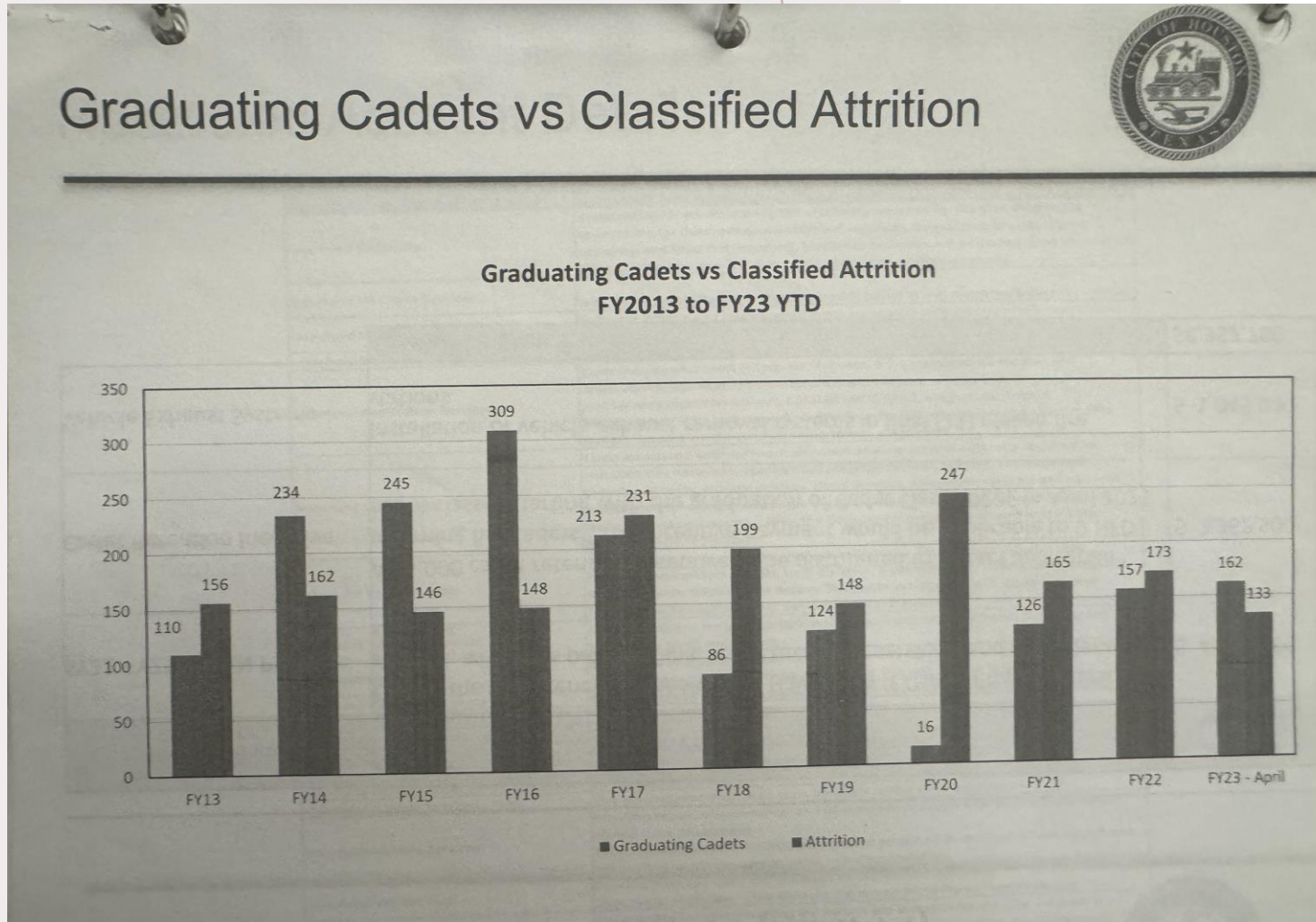
-467

WHAT'S MISSING?

The number of graduates who left over the last three years for other departments.

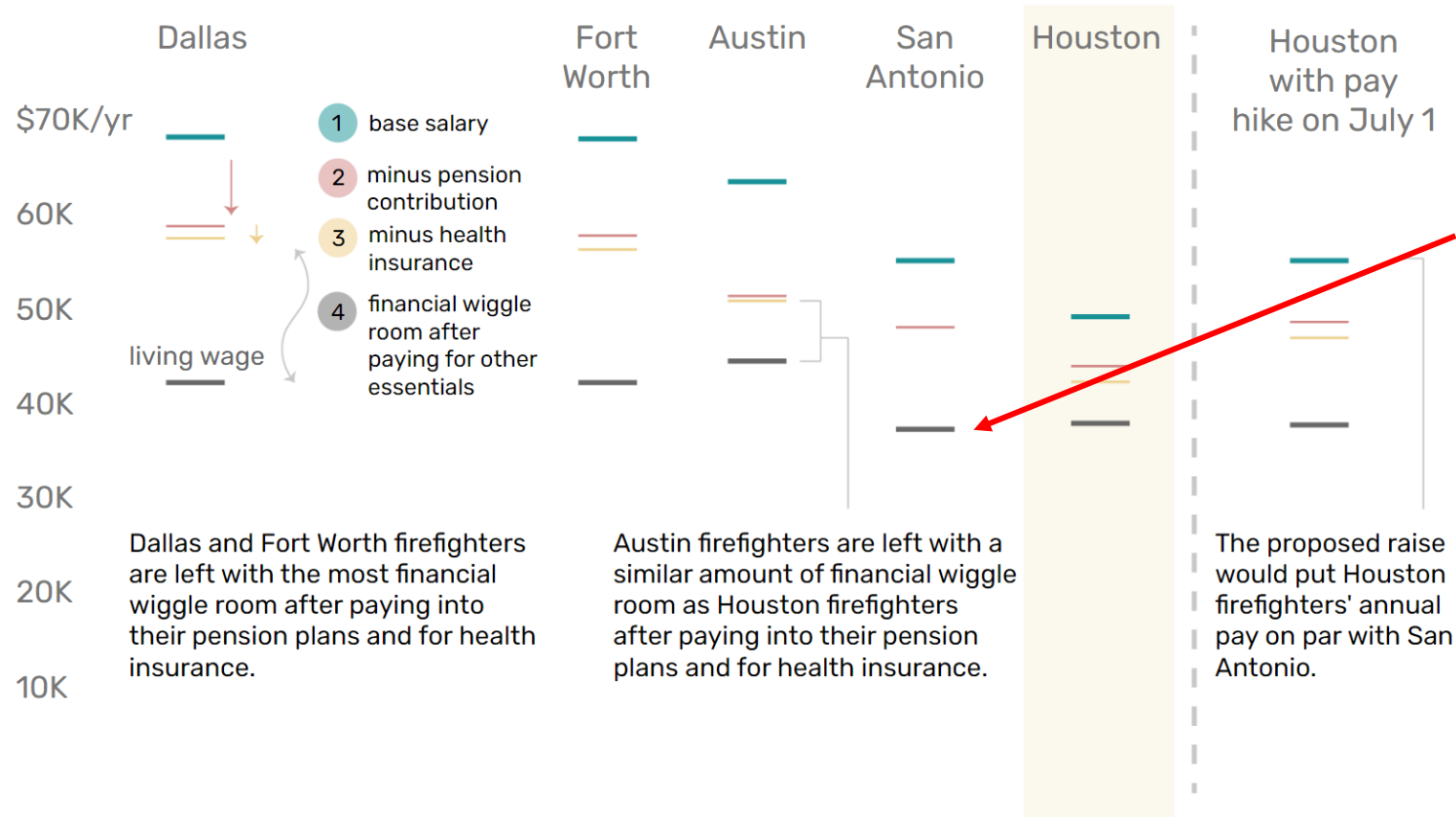
WE HAVE MISSED THE MARK BY HUNDREDS

THE IMPACT - STAFFING



THE IMPACT – COMPENSATION CONT.

First-year Houston firefighters make less annually than their counterparts in other Texas cities



San Antonio is guaranteed pay raises of a minimum of 21%. That is the city's starting point in negotiations.

THE IMPACT – MENTAL HEALTH

- HFD has experienced a significant increase in PTSD
- Demand for treatments and support services has soared to an all-time high
- Members are reaching out daily and utilizing resources including the Employee Assistance Program (EAP) and clinicians provided by Local 341 and HFD.
- Typically, 2 to 5 members are undergoing inpatient treatment for PTSD and related conditions at any given time.



HFD OPERATIONS AND OTHER DIVISIONS

- Houston is legally bound to a 46.7-hour work week. Operations schedule is a result of a settlement in a lawsuit regarding disparate impact and minority promotions within the department.
- Houston Fire Department is the largest and busiest Fire, EMS, and Rescue Department in the state and one of the busiest in the nation.
- Fort Worth and Austin do not operate the EMS
- [Ft. Worth EMS Issues](#)
- [Staffing Model Recommendations](#)



THE SETTLEMENT/CONTRACT



- Resolves all outstanding pay issues dating back to 2017.
- Brings Houston firefighter salaries closer to what is paid in other large Texas cities.
- Incentives to improve recruitment and retention.
- New provisions to facilitate the transfer of firefighters from other area departments.
- Ensures fiscal responsibility
- A balanced compromise between the city and the HPFFA.
- There was give and take by both sides.

THE BENEFITS



- Management's rights are clearly defined
- Joint labor-management committee
- Wellness initiatives to reduce accidents and keep insurance costs down
- Incentives to encourage increased education among firefighters
- Mechanisms to reduce use of sick leave
- An amended and expedited hiring process to speed improvements in recruitment and retention.



Cost savings in the long term through reduced legal and arbitration expenses.



Improved firefighter morale and retention.



With more firefighters we can begin work to reduce response times.



Annual budgetary certainty.



Stronger relationships between the city, firefighters and the community.

FOCUS CENTERED ON MENTAL HEALTH



- Under the collective bargaining agreement, drug testing is not being eliminated; it will continue for:
 - Pre-employment
 - "For cause"
 - Pre-promotions
 - After absences exceeding 30 days
 - Following accidents involving injuries

Local 341 is committed to fostering a safe and accountable workplace through proactive behavioral health and safety measures.

EXPANDED MENTAL HEALTH TREATMENT OPTIONS

- Changes in the collective bargaining agreement put in place new policies that will allow our firefighters to utilize effective and safe alternative treatment methods that are becoming the standard in the U.S. Fire Service.
- These treatments can involve individualized non-impairing, low-dose cannabinoid prescriptions.
- All alternative treatment options are in compliance with existing state law, require monitoring by a medical doctor and supervised plans to ensure safety.
- Other agencies that have adopted these policies in their collective bargaining agreements include: The Woodlands, Conroe, Phoenix and Austin fire departments, the Montgomery County Hospital District, several emergency services districts.

**OUR PRIMARY OBJECTIVE IS TO PROVIDE HOUSTON FIREFIGHTERS ACCESS TO ALL
TREATMENT OPTIONS FOR OCCUPATIONAL INJURIES LIKE PTSD.**

IMPACT OF CITY'S LITIGATION AND IMPACT TO VOTERS

- The voters expressed their stance in 2003 when they granted Houston firefighters the right to collectively bargain for pay, benefits, and working conditions and in the overwhelming passage of Prop. B.
- The Texas Supreme Court upheld our voter-approved CB rights in 2023.
- The city fought the will of the voters in the courts and lost. The court decides judgment.
- The Texas Supreme Court ruling legally binds the city to make good on the back pay it owes firefighters.
- There are only two options for doing this:
 - Implement the negotiated settlement
 - Implement judgment rendered by the court





JUDICIAL ENFORCEMENT/TRIAL VS SETTLEMENT

- A negotiated settlement offers a not-to-be-missed opportunity to rectify the past neglect/ provide financial certainty.
- The cost of a decision reached in arbitration is unknown and payable immediately.
- Fiscal analysts estimate the unknown cost could be \$1.5 billion or higher + pension liabilities.
- Financing the back pay with bonds spread over 30 years is more manageable and minimizes the budget strain.

HOUSTON CITY CHARTER

- The City Charter prohibits City Council from engaging in employee pay and benefits negotiations.
- An attempt to do this previously was ruled out of order. We have provided a link to that discussion. Several of you were there for it.
- Contract negotiations are the sole responsibility of the HPFFA and the administration.



WORKING TOGETHER



Acknowledging the disparity in compensation and working conditions that have existed for firefighters for eight years is important.



While firefighters were forced to fight the city in the courts, this city council approved contracts for other city employee groups.



This settlement is a reminder of the importance of equitable treatment for all essential public servants.



We will stand in support of our brothers and sisters in other city departments as they prepare to negotiate their own new contracts.

NEXT STEPS?

- Texas AG review in progress/Court
- City Council approval
- City moves to sell judgment bonds
- New collective bargaining agreement goes into effect on July 1, 2024





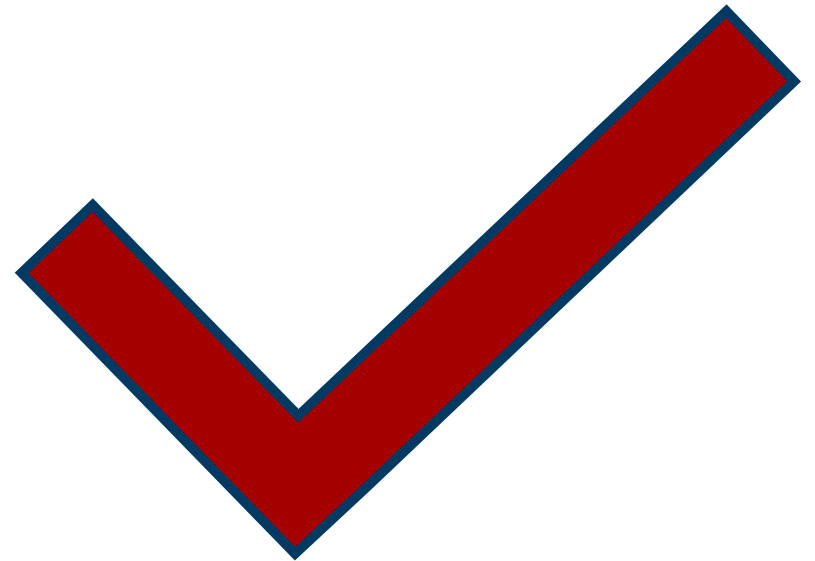
SUPPORT FROM FIREFIGHTERS

Houston
firefighters are
ready to move
forward.

The proposed
settlement won an
unprecedented 94%
approval rating
from our rank and
file.

SUMMARY

- Financial certainty
- Resolution of past issues
- A plan for recruitment and retention
- Clear commitment to support Houston firefighters





QUESTIONS?

