

106TH CONGRESS  
1ST SESSION

# S. 1016

To provide collective bargaining rights for public safety officers employed  
by States or their political subdivisions.

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## IN THE SENATE OF THE UNITED STATES

MAY 12, 1999

Mr. DEWINE (for himself, Mr. GREGG, Mr. WELLSTONE, and Mrs. MURRAY)  
introduced the following bill; which was read twice and referred to the  
Committee on Health, Education, Labor, and Pensions

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## A BILL

To provide collective bargaining rights for public safety  
officers employed by States or their political subdivisions.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Public Safety Em-  
5   ployer-Employee Cooperation Act of 1999”.

### 6   **SEC. 2. DECLARATION OF PURPOSE AND POLICY.**

7       The Congress declares that the following is the policy  
8   of the United States:

9               (1) Labor-management relationships and part-  
10   nerships should be based on trust, mutual respect,

1 open communications, consensual problem solving,  
2 and shared accountability.

3 (2) To promote and assure these relationships  
4 in the public safety industry, to ensure the most ef-  
5 fective delivery of emergency services, and to main-  
6 tain the normal flow of commerce the public safety  
7 industry requires minimal standards for collective  
8 bargaining.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) **AUTHORITY.**—The term “Authority” means  
12 the Federal Labor Relations Authority.

13 (2) **FIREFIGHTER.**—The term “firefighter”  
14 means an individual employed by a fire department  
15 who—

16 (A) primarily performs work directly re-  
17 lated to the control and extinguishment of fires;

18 (B) is responsible for maintaining and  
19 using firefighting equipment, preventing and in-  
20 vestigating fires, and communicating with and  
21 dispatching public safety officers; or

22 (C) provides emergency medical care.

23 (3) **EMERGENCY MEDICAL SERVICES PER-**  
24 **SONNEL.**—The term “emergency medical services  
25 personnel” means an individual who provides out-of-

1 hospital emergency medical care, including an emer-  
2 gency medical technician, paramedic, or first re-  
3 sponder.

4 (4) EMPLOYER.—The terms “employer” and  
5 “public safety employer” mean any State, political  
6 subdivision of a State, the District of Columbia, or  
7 any territory or possession of the United States.

8 (5) LAW ENFORCEMENT AGENCY.—The term  
9 “law enforcement agency” means a State or local  
10 public agency that is charged by law with the duty  
11 to prevent or investigate crimes or apprehend or  
12 hold in custody persons charged with or convicted of  
13 crimes.

14 (6) LAW ENFORCEMENT OFFICER.—The term  
15 “law enforcement officer” has the meaning given in  
16 section 1204, title I of Public Law 90–351 (as  
17 amended) (42 U.S.C. 3796b(5)).

18 (7) MANAGEMENT EMPLOYEE.—The term  
19 “management employee” means an individual em-  
20 ployed by a public safety employer in a position that  
21 requires or authorizes the individual to formulate,  
22 determine, or influence the policies of the employer.

23 (8) PUBLIC SAFETY OFFICER.—The term “pub-  
24 lic safety officer” means an employee of a public  
25 safety agency who is a law enforcement officer, a

1 firefighter, or emergency medical services personnel.

2 The term includes an individual who is temporarily  
3 transferred to a supervisory or administrative posi-  
4 tion, but does not include a permanent management  
5 or supervisory employee.

6 (9) SUPERVISORY EMPLOYEE.—The term “su-  
7 pervisory employee” means an individual employed  
8 by a public safety employer who—

9 (A) has the authority in the interest of the  
10 employer to hire, direct, assign, promote, re-  
11 ward, transfer, furlough, layoff, recall, suspend,  
12 discipline, or remove public safety officers, to  
13 adjust their grievances or to effectively rec-  
14 ommend such action, if the exercise of the au-  
15 thority is not merely routine or clerical in na-  
16 ture but requires the consistent exercise of  
17 independent judgment; and

18 (B) devotes a majority of time at work ex-  
19 ercising such authority.

20 **SEC. 4. RIGHT OF PUBLIC SAFETY OFFICERS TO ORGANIZE**  
21 **AND BARGAIN COLLECTIVELY.**

22 (a) DETERMINATION.—

23 (1) IN GENERAL.—Not later than 180 days  
24 after the date of enactment of this Act, the Author-  
25 ity shall issue a determination as to whether a State

1 substantially complies with the rights and respon-  
2 sibilities described in subsection (b). In making such  
3 a determination, the Authority shall not find that a  
4 State law enacted prior to 1985 is not in substantial  
5 compliance solely because it does not apply to polit-  
6 ical jurisdictions with populations of 5,000 or less.

7 (2) SUBSEQUENT DETERMINATIONS.—After the  
8 expiration of the 180-day period referred to in para-  
9 graph (1), an employer or labor organization may  
10 request the Authority to determine whether the  
11 State substantially complies with the rights and re-  
12 sponsibilities described in subsection (b). The Direc-  
13 tor shall issue such a determination not later than  
14 30 days after written receipt of such a request.

15 (3) FAILURE TO MEET REQUIREMENTS.—A  
16 State that does not substantially comply with the  
17 rights and responsibilities described in subsection (b)  
18 shall be subject to the regulations and procedures  
19 described in section 5.

20 (b) RIGHTS AND RESPONSIBILITIES.—In making a  
21 determination described in subsection (a), the Authority  
22 shall consider whether State law—

23 (1) grants public safety officers the right to  
24 form and join a labor organization that does not in-  
25 clude management and supervisory employees and

1       that is, or seeks to be, recognized as the exclusive  
2       bargaining agent of such employees;

3           (2) requires public safety employers to recog-  
4       nize the employees' labor organization (freely chosen  
5       by a majority of the employees), to agree to bargain  
6       with the labor organization, and to commit any  
7       agreements to writing in a contract or memorandum  
8       of understanding;

9           (3) allows bargaining over hours, wages, terms,  
10      and conditions of employment;

11          (4) prohibits bargaining over issues which are  
12      traditional and customary management functions;

13          (5) protects all existing collective bargaining  
14      agreements, memoranda of understanding, certifi-  
15      cations, recognitions, and elections;

16          (6) requires fact finding in the event of an in-  
17      terest impasse;

18          (7) allows the parties voluntarily to agree to  
19      submit disagreements to arbitration;

20          (8) requires enforcement through State courts  
21      of all rights, responsibilities, and protections pro-  
22      vided in this section and of any written contract or  
23      memorandum of understanding; and

24          (9) prohibits strikes and lockouts.

1 **SEC. 5. RIGHTS TO ORGANIZE AND BARGAIN COLLEC-**  
2 **TIVELY.**

3 (a) IN GENERAL.—Not later than 1 year after the  
4 date of the enactment of this Act, the Authority shall issue  
5 regulations in accordance with the provisions described in  
6 section 4(a) establishing collective bargaining procedures  
7 for public safety employers and officers in States that are  
8 not in compliance with the rights and responsibilities  
9 under section 4(b).

10 (b) ROLE OF FAIR LABOR RELATIONS AUTHOR-  
11 ITY.—The Authority shall, to the extent provided in this  
12 Act and in accordance with regulations prescribed by the  
13 Authority—

14 (1) determine the appropriateness of units for  
15 labor organization representation;

16 (2) supervise or conduct elections to determine  
17 whether a labor organization has been selected as an  
18 exclusive representative by a majority of the employ-  
19 ees in an appropriate unit;

20 (3) resolve issues relating to the duty to bar-  
21 gain in good faith;

22 (4) conduct hearings and resolve complaints of  
23 unfair labor practices;

24 (5) resolve exceptions to arbitrator's awards;  
25 and

1           (6) take such other actions as are necessary  
2           and appropriate to effectively administer the provi-  
3           sions of this Act.

4           (c) ENFORCEMENT.—A public safety employer, offi-  
5           cer, and labor organization each shall have the right to  
6           seek enforcement of this section through appropriate State  
7           courts.

8           **SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.**

9           A public safety employer, officer, or labor organiza-  
10          tion may not engage in lockouts or strikes.

11          **SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND**  
12                                   **AGREEMENTS.**

13          A certification, recognition, election-held, collective  
14          bargaining agreement or memorandum of understanding  
15          which has been issued, approved, or ratified by any public  
16          employee relations board or commission or by any State  
17          or political subdivision or its agents (management offi-  
18          cials) in effect on the day before the date of enactment  
19          of this Act shall not be invalidated by the enactment of  
20          this Act.

21          **SEC. 8. CONSTRUCTION AND COMPLIANCE.**

22          (a) CONSTRUCTION.—Nothing in this Act shall be  
23          construed to invalidate or limit the remedies, rights, and  
24          procedures of any law of any State or political subdivision



1 of any State or jurisdiction that provides greater or equal  
2 collective bargaining rights for public safety employees.

3 (b) COMPLIANCE.—No State shall preempt laws or  
4 ordinances of any of its political subdivisions which pro-  
5 vide greater or equal collective bargaining rights for public  
6 safety employees in order to comply with this Act.

7 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated such sums  
9 as may be necessary to carry out this Act.

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