

107TH CONGRESS  
1ST SESSION

# H. R. 1475

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. KILDEE (for himself, Mr. NEY, Mr. SAWYER, Mr. SAXTON, Mr. SCOTT, Mr. SMITH of New Jersey, Mr. STARK, Mr. STRICKLAND, Mr. STUPAK, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. TRAFICANT, Mr. UDALL of New Mexico, Mr. WATT of North Carolina, Ms. WOOLSEY, Mr. KENNEDY of Minnesota, Ms. ROYBAL-ALLARD, Mr. LANGEVIN, Mr. RANGEL, Ms. SOLIS, Mr. MALONEY of Connecticut, Mr. BONIOR, Mr. SHAYS, Mr. PETERSON of Minnesota, Mr. BOSWELL, Mr. BORSKI, Ms. SCHAKOWSKY, Mr. CLEMENT, Mr. LATOURETTE, Mr. KUCINICH, Mr. SHIMKUS, Mr. BARCIA, Mr. BALDACCI, Mr. YOUNG of Alaska, Mr. CRAMER, Mr. WEXLER, Mr. ABERCROMBIE, Mr. ALLEN, Mr. BERMAN, Mr. BOYD, Mrs. APPS, Ms. CARSON of Indiana, Mr. CONYERS, Mr. COSTELLO, Mr. CROWLEY, Mr. DAVIS of Florida, Mr. TOM DAVIS of Virginia, Mr. DELAHUNT, Mr. DICKS, Mr. DUNCAN, Mr. FARR of California, Mr. FILNER, Mr. FLETCHER, Mr. FROST, Mr. GREEN of Texas, Mr. GREEN of Wisconsin, Mr. ANDREWS, Ms. BALDWIN, Mr. BARRETT, Ms. BERKLEY, Mr. GUTKNECHT, Mr. HALL of Ohio, Mr. HINCHEY, Mr. HOLT, Mr. HOYER, Mr. INSLEE, Mr. KANJORSKI, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. KING, Mr. KLECZKA, Mr. LAFALCE, Mr. LAHOOD, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. LoBIONDO, Ms. LOFGREN, Mrs. LOWEY, Mr. LUTHER, Mrs. MALONEY of New York, Mr. MARKEY, Mr. MATSUI, Mrs. McCARTHY of New York, Ms. McCARTHY of Missouri, Ms. MCCOLLUM, Mr. McGOVERN, Mr. MCHUGH, Ms. MCKINNEY, Mr. MCNULTY, Mrs. MEEK of Florida, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MOORE, Mr. MORAN of Virginia, Mrs. MORELLA, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. ORTIZ, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Mr. PAYNE, Ms. PELOSI, Mr. POMEROY, Mr. QUINN, Mr. RAHALL, Mr. RAMSTAD, Ms. RIVERS, Mr. RODRIGUEZ, Mrs. ROUKEMA, Mr. SABO, Ms. SANCHEZ, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Education and the Workforce

# 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 2001”.

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 are based on trust, mutual respect, open  
11       communication, bilateral consensual problem solving,  
12       and shared accountability. Labor-management co-  
13       operation fully utilizes the strengths of both parties  
14       to best serve the interests of the public, operating as  
15       a team, to carry out the public safety mission in a  
16       quality work environment. In many public safety  
17       agencies it is the union that provides the institu-  
18       tional stability as elected leaders and appointees  
19       come and go.

20               (2) The health and safety of the Nation and the  
21       best interests of public safety employers and employ-

ees can be best protected by the settlement of issues through the processes of collective bargaining.

14 (4) The absence of adequate cooperation be-  
15 tween public safety employers and employees has im-  
16 plications for the security of employees and can af-  
17 fect interstate and intrastate commerce. Addition-  
18 ally, the lack of such labor-management cooperation  
19 detrimentally impacts the upgrading of police and  
20 fire services of local communities, the health and  
21 well-being of public safety officers, and the morale of  
22 the fire and police departments. These factors could  
23 have significant commercial repercussions. Moreover,  
24 providing minimal standards for collective bar-  
25 gaining negotiations in the public safety sector will

1 prevent industrial strife between labor and manage-  
2 ment that interferes with the normal flow of com-  
3 merce.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) The term “Authority” means the Federal  
7 Labor Relations Authority.

8 (2) The term “public safety officer”—  
9 (A) means an employee of a public safety  
10 agency who is a law enforcement officer, a fire-  
11 fighter, or emergency medical services per-  
12 sonnel;

13 (B) includes an individual who is tempo-  
14 rarily transferred to a supervisory or manage-  
15 ment position; and

16 (C) does not include a permanent super-  
17 visory or management employee.

18 (3) The term “firefighter” has the same mean-  
19 ing given the term “employee engaged in fire protec-  
20 tion activities” defined in section 3 of the Fair  
21 Labor Standards Act (29 U.S.C. 203(y)).

22 (4) The term “emergency medical services per-  
23 sonnel” means an individual who provides out-of-  
24 hospital emergency medical care, including an emer-

1       gency medical technician, paramedic, or first re-  
2       sponder.

3                   (5) The term “law enforcement officer” has the  
4        same meaning given such term in section 1204(5) of  
5        the Omnibus Crime Control and Safe Streets Act of  
6        1968 (42 U.S.C. 3796b(5)).

7                   (6) The term “supervisory employee” has the  
8        meaning given such term under applicable State law  
9        in effect on the date of enactment of this Act. If no  
10       such State law is in effect, the term means an indi-  
11       vidual, employed by a public safety employer, who—

12                       (A) has the authority in the interest of the  
13        employer to hire, direct, assign, promote, re-  
14        ward, transfer, furlough, lay off, recall, sus-  
15        pend, discipline, or remove public safety offi-  
16        cers, to adjust their grievances, or to effectively  
17        recommend such action, if the exercise of the  
18        authority is not merely routine or clerical in na-  
19        ture but requires the consistent exercise of  
20        independent judgment; and

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

23                   (7) The term “management employee” has the  
24        meaning given such term under applicable State law  
25        in effect on the date of enactment of this Act. If no

1 such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

6 (8) The terms “employer” and “public safety agency” mean any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

11 (9) The term “labor organization” means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

17 (10) The term “substantially provides” means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

## 1 SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBIL-

2 **ITIES.**

## 3 (a) DETERMINATION.—

4 (1) IN GENERAL.—Not later than 180 days  
5 after the date of enactment of this Act, the Authority  
6 shall make a determination as to whether a State  
7 substantially provides for the rights and responsibil-  
8 ities described in subsection (b).

9 (2) SUBSEQUENT DETERMINATIONS.—(A) A  
10 determination made pursuant to paragraph (1) shall  
11 remain in effect unless and until the Authority  
12 issues a subsequent determination, in accordance  
13 with the procedures set forth in subparagraph (B).

14 (B) Upon establishing that a material change in  
15 State law or its interpretation has occurred, an em-  
16 ployer or a labor organization may submit a written  
17 request for a subsequent determination. If satisfied  
18 that a material change in State law or its interpreta-  
19 tion has occurred, the Director shall issue a subse-  
20 quent determination not later than 30 days after re-  
21 ceipt of such request.

22 (3) JUDICIAL REVIEW.—Any person aggrieved  
23 by a determination of the Authority under this sec-  
24 tion may, during the 60 day period beginning on the  
25 date on which the determination was made, petition  
26 any United States Court of Appeals in the circuit in

1 which the person resides or transacts business or in  
2 District of Columbia circuit, for judicial review. In  
3 any judicial review of a determination by the Au-  
4 thority, the procedures contained in section 7123(c)  
5 and (d) of title 5, United States Code, shall be fol-  
6 lowed, except that any final determination of the Au-  
7 thority with respect to questions of fact or law shall  
8 be found to be conclusive unless the court deter-  
9 mines that the Authority's decision was arbitrary  
10 and capricious.

11 (b) RIGHTS AND RESPONSIBILITIES.—In making a  
12 determination described in subsection (a), the Authority  
13 shall consider whether State law provides rights and re-  
14 sponsibilities comparable to or greater than the following:

15 (1) Granting public safety officers the right to  
16 form and join a labor organization, which may ex-  
17 clude management and supervisory employees, that  
18 is, or seeks to be, recognized as the exclusive bar-  
19 gaining representative of such employees.

20 (2) Requiring public safety employers to recog-  
21 nize the employees' labor organization (freely chosen  
22 by a majority of the employees), to agree to bargain  
23 with the labor organization, and to commit any  
24 agreements to writing in a contract or memorandum  
25 of understanding.

6 (5) Requiring enforcement through State courts  
7 of—

11 (B) any written contract or memorandum  
12 of understanding.

13 (c) FAILURE TO MEET REQUIREMENTS.—If the Au-  
14 thority determines, acting pursuant to its authority under  
15 subsection (a), that a State that does not substantially  
16 provide for the rights and responsibilities described in sub-  
17 section (b) such State shall be subject to the regulations  
18 and procedures described in section 5.

## 19 SEC. 5. ROLE OF FLRA AUTHORITY.

20 (a) IN GENERAL.—Not later than one year after the  
21 date of the enactment of this Act, the Authority shall issue  
22 regulations in accordance with the rights and responsibil-  
23 ities described in section 4(b) establishing collective bar-  
24 gaining procedures for public safety employers and officers  
25 in States which the Authority has determined, acting pur-

1 suant to its authority under section 4(a), do not substan-  
2 tially provide for such rights and responsibilities.

3 (b) ROLE OF THE FEDERAL LABOR RELATIONS AU-  
4 THORITY.—The Authority, to the extent provided in this  
5 Act and in accordance with regulations prescribed by the  
6 Authority, shall—

7 (1) determine the appropriateness of units for  
8 labor organization representation;

9 (2) supervise or conduct elections to determine  
10 whether a labor organization has been selected as an  
11 exclusive representative by a majority of the employ-  
12 ees in an appropriate unit;

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

15 (4) conduct hearings and resolve complaints of  
16 unfair labor practices;

17 (5) resolve exceptions to the awards of arbitra-  
18 tors; and

19 (6) take such other actions as are necessary  
20 and appropriate to effectively administer this Act,  
21 including issuing subpoenas requiring the attendance  
22 and testimony of witnesses and the production of  
23 documentary or other evidence from any place in the  
24 United States, and administering oaths, taking or  
25 ordering the taking of depositions, ordering re-

1       sponses to written interrogatories, and receiving and  
2       examining witnesses.

3       (c) ENFORCEMENT.—(1) The Authority may petition  
4       any United States Court of Appeals with jurisdiction over  
5       the parties or the United States Court of Appeals for the  
6       District of Columbia Circuit to enforce any final orders  
7       under this section, and for appropriate temporary relief  
8       or a restraining order. Any petition under this section  
9       shall be conducted in accordance with section 7123(c) and  
10      (d) of title 5, United States Code, except that any final  
11      order of the Authority with respect to questions of fact  
12      or law shall be found to be conclusive unless the court  
13      determines that the Authority's decision was arbitrary and  
14      capricious.

15       (2) Unless the Authority has filed a petition for en-  
16       forcement as provided in paragraph (1), any party has the  
17       right to file suit in a State court of competent jurisdiction  
18       to enforce compliance with the regulations issued by the  
19       Authority pursuant to subsection (b), and to enforce com-  
20       pliance with any order issued by the Authority pursuant  
21       to this section. The right provided by this subsection to  
22       bring a suit to enforce compliance with any order issued  
23       by the Authority pursuant to this section shall terminate  
24       upon the filing of a petition seeking the same relief by  
25       the Authority.

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

2       A public safety employer, officer, or labor organiza-  
3 tion may not engage in a lockout or strike.

4 **SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND**  
5 **AGREEMENTS.**

6       A certification, recognition, election-held, collective  
7 bargaining agreement or memorandum of understanding  
8 which has been issued, approved, or ratified by any public  
9 employee relations board or commission or by any State  
10 or political subdivision or its agents (management offi-  
11 cials) in effect on the day before the date of enactment  
12 of this Act shall not be invalidated by the enactment of  
13 this Act.

14 **SEC. 8. CONSTRUCTION AND COMPLIANCE.**

15       (a) CONSTRUCTION.—Nothing in this Act shall be  
16 construed to invalidate or limit the remedies, rights, and  
17 procedures of any law of any State or political subdivision  
18 of any State or jurisdiction that provides greater or equal  
19 collective bargaining rights for public safety officers.

20       (b) COMPLIANCE.—No State shall preempt laws or  
21 ordinances of any of its political subdivisions which pro-  
22 vide greater or equal collective bargaining rights for public  
23 safety officers.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2        There are authorized to be appropriated such sums  
3 as may be necessary to carry out the provisions of this  
4 Act.

