

110TH CONGRESS
1ST SESSION

H. R. 980

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Public Safety Em-
3 ployer-Employee Cooperation Act of 2007”.

4 **SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.**

5 Congress finds the following:

6 (1) Labor-management relationships and part-
7 nerships are based on trust, mutual respect, open
8 communication, bilateral consensual problem solving,
9 and shared accountability. In many public safety
10 agencies it is the union that provides the institu-
11 tional stability as elected leaders and appointees
12 come and go.

13 (2) State and local public safety officers play an
14 essential role in the efforts of the United States to
15 detect, prevent, and respond to terrorist attacks, and
16 to respond to natural disasters, hazardous materials,
17 and other mass casualty incidents. As the first to ar-
18 rive on scene, State and local public safety officers
19 must be prepared to protect life and property and to
20 preserve scarce and vital Federal resources, avoid
21 substantial and debilitating interference with inter-
22 state and foreign commerce, and to protect the na-
23 tional security of the United States. Public safety
24 employer-employee cooperation is essential in meet-
25 ing these needs and is, therefore, in the National in-
26 terest.

1 (3) The health and safety of the Nation and the
2 best interests of public safety employers and employ-
3 ees may be furthered by the settlement of issues
4 through the processes of collective bargaining.

5 (4) The Federal Government is in the position
6 to encourage conciliation, mediation, and voluntary
7 arbitration to aid and encourage employers and the
8 representatives of their employees to reach and
9 maintain agreements concerning rates of pay, hours,
10 and working conditions, and to make all reasonable
11 efforts through negotiations to settle their dif-
12 ferences by mutual agreement reached through col-
13 lective bargaining or by such methods as may be
14 provided for in any applicable agreement for the set-
15 tlement of disputes.

16 (5) The potential absence of adequate coopera-
17 tion between public safety employers and employees
18 has implications for the security of employees, im-
19 pacts the upgrading of police and fire services of
20 local communities, the health and well-being of pub-
21 lic safety officers, and the morale of the fire and po-
22 lice departments, and can affect interstate and
23 intrastate commerce.

24 (6) Many States and localities already provide
25 public safety officers with collective bargaining

1 rights comparable to or greater than the rights and
2 responsibilities set forth in this Act, and such State
3 laws should be respected.

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 in fire protection ac-
20 tivities” defined in section 3 of the Fair Labor
21 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 agency 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, or a substantially equiva-
9 lent term, under applicable State law on the date of
10 enactment of this Act. In the absence of such State
11 law on the date of enactment of this Act, the term
12 means an individual, employed by a public safety
13 employer, who—

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

23 (B) devotes a preponderance of employ-
24 ment time exercising such authority.

1 (7) The term “management employee” has the
2 meaning given such term, or a substantially equiva-
3 lent term, under applicable State law in effect on the
4 date of enactment of this Act. If no such State law
5 is in effect, the term means an individual employed
6 by a public safety employer in a position that re-
7 quires or authorizes the individual to formulate, de-
8 termine, or influence the policies of the employer.

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

14 (9) The term “labor organization” means an
15 organization composed in whole or in part of em-
16 ployees, in which employees participate, and the pur-
17 pose of which is to represent such employees before
18 public safety agencies concerning grievances, condi-
19 tions of employment and related matters.

20 (10) The term “substantially provides” means
21 substantial compliance with the rights and respon-
22 sibilities described in section 4(b).

23 **SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBIL-**
24 **ITIES.**

25 (a) DETERMINATION.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Author-
3 ity shall make a determination as to whether a State
4 substantially provides for the rights and responsibil-
5 ities described in subsection (b). In making such de-
6 terminations, the Authority shall consider the opin-
7 ion of affected employers and labor organizations.
8 Where the Authority is notified by an employer and
9 an affected labor organization that both parties
10 agree that the law applicable to such employer and
11 labor organization substantially provides for the
12 rights and responsibilities described in subsection
13 (b), the Authority shall give such agreement weight
14 to the maximum extent practicable in making its de-
15 termination under this subsection.

16 (2) SUBSEQUENT DETERMINATIONS.—(A) A
17 determination made pursuant to paragraph (1) shall
18 remain in effect unless and until the Authority
19 issues a subsequent determination, in accordance
20 with the procedures set forth in subparagraph (B).

21 (B) An employer or a labor organization may
22 submit a written request for a subsequent deter-
23 mination, on the basis of a material change in State
24 law or its interpretation. If the Authority determines
25 that a material change in State law or its interpreta-

1 tion has occurred, the Authority shall issue a subse-
2 quent determination not later than 30 days after re-
3 ceipt of such request.

4 (3) JUDICIAL REVIEW.—Any person aggrieved
5 by a determination of the Authority under this sec-
6 tion may, during the 60-day period beginning on the
7 date on which the determination was made, petition
8 any United States Court of Appeals in the circuit in
9 which the person resides or transacts business or in
10 District of Columbia circuit, for judicial review. In
11 any judicial review of a determination by the Au-
12 thority, the procedures contained in section 7123(c)
13 of title 5, United States Code, shall be followed.

14 (b) RIGHTS AND RESPONSIBILITIES.—In making a
15 determination described in subsection (a), the Authority
16 shall consider a State’s law to provide adequate rights and
17 responsibilities unless such law fails to substantially pro-
18 vide rights and responsibilities comparable to or greater
19 than each of the following:

20 (1) Granting public safety officers the right to
21 form and join a labor organization, which may ex-
22 clude management and supervisory employees, that
23 is, or seeks to be, recognized as the exclusive bar-
24 gaining representative of such employees.

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

7 (3) Providing for bargaining over hours, wages,
8 and terms and conditions of employment.

9 (4) Making available an interest impasse resolu-
10 tion mechanism, such as fact-finding, mediation, ar-
11 bitration, or comparable procedures.

12 (5) Requiring enforcement through State courts
13 of—

14 (A) all rights, responsibilities, and protec-
15 tions provided by State law and enumerated in
16 this subsection; and

17 (B) any written contract or memorandum
18 of understanding.

19 (c) FAILURE TO MEET REQUIREMENTS.—

20 (1) IN GENERAL.—If the Authority determines,
21 acting pursuant to its authority under subsection
22 (a), that a State does not substantially provide for
23 the rights and responsibilities described in sub-
24 section (b), such State shall be subject to the regula-
25 tions and procedures described in section 5.

1 (2) EFFECTIVE DATE.—Paragraph (1) shall
2 apply in each State on the later of—

3 (A) 2 years after the date of enactment of
4 this Act; or

5 (B) the date of the end of the first regular
6 session of the legislature of that State that be-
7 gins after the date of the enactment of this Act.

8 **SEC. 5. ROLE OF THE AUTHORITY.**

9 (a) IN GENERAL.—Not later than 1 year after the
10 date of the enactment of this Act, the Authority shall issue
11 regulations establishing procedures which provide the
12 rights and responsibilities described in section 4(b) for
13 public safety employers and officers in States which the
14 Authority has determined, acting pursuant to its authority
15 under section 4(a), do not substantially provide for such
16 rights and responsibilities.

17 (b) ROLE OF THE FEDERAL LABOR RELATIONS AU-
18 THORITY.—The Authority, to the extent provided in this
19 Act and in accordance with regulations prescribed by the
20 Authority, shall—

21 (1) determine the appropriateness of units for
22 labor organization representation;

23 (2) supervise and conduct elections to deter-
24 mine whether a labor organization has been selected

1 as an exclusive representative by a voting majority
2 of the employees in an appropriate unit;

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

5 (4) conduct hearings and resolve complaints of
6 unfair labor practices;

7 (5) resolve exceptions to the awards of arbitra-
8 tors;

9 (6) protect the right of each employee to form,
10 join, or assist any labor organization, or to refrain
11 from any such activity, freely and without fear of
12 penalty or reprisal, and protect each employee in the
13 exercise of such right;

14 (7) if the Authority finds that any State is not
15 in compliance with the regulations prescribed under
16 subsection (a), direct compliance by such State by
17 order; and

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

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

3 (c) ENFORCEMENT.—

4 (1) PETITION BY AUTHORITY.—If a State fails
5 to comply with a final order issued by the Authority,
6 the Authority shall petition any United States Court
7 of Appeals with jurisdiction over the parties or the
8 United States Court of Appeals for the District of
9 Columbia Circuit to enforce any final orders under
10 this section, and for appropriate temporary relief or
11 a restraining order. Any petition under this section
12 shall be conducted in accordance with section
13 7123(e) and (d) of title 5, United States Code, ex-
14 cept that any final order of the Authority with re-
15 spect to questions of fact shall be found to be con-
16 clusive unless the court determines that the
17 Authority's decision was arbitrary and capricious.

18 (2) RIGHT OF ACTION.—Unless the Authority
19 has filed a petition for enforcement as provided in
20 paragraph (1), any interested party shall have the
21 right to file suit against any political subdivision of
22 a State, or, if the State has waived its sovereign im-
23 munity, against the State itself, in any district court
24 of the United States of competent jurisdiction to en-
25 force compliance with the regulations issued by the

1 Authority pursuant to subsection (b), to enforce
2 compliance with any order issued by the Authority
3 pursuant to this section, or to enforce section 6 of
4 this Act. The right provided by this paragraph to
5 bring a suit to enforce compliance with any order
6 issued by the Authority pursuant to this section
7 shall terminate upon the filing of a petition seeking
8 the same relief by the Authority under paragraph
9 (1).

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

11 Notwithstanding any rights or responsibilities pro-
12 vided under State law or under regulations issued by the
13 Authority under section 5—

14 (1) a public safety employer may not engage in
15 a lockout of public safety officers;

16 (2) public safety officers may not engage in a
17 strike against such public safety employer; and

18 (3) a labor organization may not call for a
19 strike by public safety officers against their public
20 safety employer.

21 **SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND**
22 **AGREEMENTS.**

23 This Act and the regulations issued under this Act
24 shall not be construed to invalidate a certification, recogni-
25 tion, collective bargaining agreement, or memorandum of

1 understanding which has been issued, approved, or ratified
2 by any public employee relations board or commission or
3 by any State or political subdivision or its agents (manage-
4 ment officials) in effect on the day before the date of en-
5 actment of this Act, or the results of any election held
6 before the date of enactment of this Act.

7 **SEC. 8. CONSTRUCTION, COMPLIANCE, AND ENFORCE-**
8 **MENT.**

9 (a) CONSTRUCTION.—Nothing in this Act or the reg-
10 ulations issued under this Act shall be construed—

11 (1) to preempt or limit the remedies, rights,
12 and procedures of any law of any State or political
13 subdivision of any State or jurisdiction that substan-
14 tially provides greater or comparable rights and re-
15 sponsibilities described in section 4(b);

16 (2) to prevent a State from enforcing a State
17 law which prohibits employers and labor organiza-
18 tions from negotiating provisions in a labor agree-
19 ment that require union membership or payment of
20 union fees as a condition of employment;

21 (3) to preempt any State law in effect on the
22 date of enactment of this Act that substantially pro-
23 vides for the rights and responsibilities described in
24 section 4(b) solely because—

1 (A) such State law permits an employee to
2 appear in his or her own behalf with respect to
3 his or her employment relations with the public
4 safety agency involved;

5 (B) such State law excludes from its cov-
6 erage employees of a state militia or national
7 guard;

8 (C) such rights and responsibilities have
9 not been extended to other categories of em-
10 ployees covered by this Act, in which case the
11 Authority shall only exercise the powers pro-
12 vided in section 5 of this Act with respect to
13 those categories of employees who have not
14 been afforded the rights and responsibilities de-
15 scribed in section 4(b); or

16 (D) such laws or ordinances provide that a
17 contract or memorandum of understanding be-
18 tween a public safety employer and a labor or-
19 ganization must be presented to a legislative
20 body as part of the process for approving such
21 contract or memorandum of understanding;

22 (4) to permit parties subject to the National
23 Labor Relations Act (29 U.S.C. 151 et seq.) and the
24 regulations under such Act to negotiate provisions
25 that would prohibit an employee from engaging in

1 part-time employment or volunteer activities during
2 off-duty hours;

3 (5) to require a State to rescind or preempt
4 laws or ordinances of any of its political subdivisions
5 if such laws substantially provide rights and respon-
6 sibilities for public safety officers that are com-
7 parable to or greater than the rights and responsibil-
8 ities enumerated in section 4(b) of this Act; or

9 (6) preempt any State law that substantially
10 provides for the rights and responsibilities described
11 in section 4(b) solely because such law does not re-
12 quire bargaining with respect to pension and retire-
13 ment benefits.

14 (b) PARTIAL EXEMPTION.—A State may exempt
15 from its State law, or from the requirements established
16 under this Act, a political subdivision of the State that
17 has a population of less than 5,000 or that employs fewer
18 than 25 full time employees. For purposes of this sub-
19 section, the term “employees” includes each individual em-
20 ployed by the political subdivision except any individual
21 elected by popular vote or appointed to serve on a board
22 or commission.

23 (c) ENFORCEMENT.—Notwithstanding any other pro-
24 vision of the Act, and in the absence of a waiver of a
25 State’s sovereign immunity, the Authority shall have the

1 exclusive power to enforce the provisions of this Act with
2 respect to public safety officers employed by a State.

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

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

Passed the House of Representatives July 17, 2007.

Attest:

Clerk.

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