

110TH CONGRESS
1ST SESSION

H. R. 980

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2007

Mr. KILDEE (for himself and Mr. DUNCAN) introduced the following bill;
which was referred to the Committee on Education and Labor

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 2007”.

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

7 Congress finds the following:

8 (1) Labor-management relationships and part-
9 nerships are based on trust, mutual respect, open
10 communication, bilateral consensual problem solving,

1 and shared accountability. In many public safety
2 agencies it is the union that provides the institu-
3 tional stability as elected leaders and appointees
4 come and go.

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

19 (3) The health and safety of the Nation and the
20 best interests of public safety employers and employ-
21 ees can be best protected by the settlement of issues
22 through the processes of collective bargaining.

23 (4) The Federal Government needs to encour-
24 age conciliation, mediation, and voluntary arbitra-
25 tion to aid and encourage employers and the rep-

1 representatives of their employees to reach and main-
2 tain agreements concerning rates of pay, hours, and
3 working conditions, and to make all reasonable ef-
4 forts through negotiations to settle their differences
5 by mutual agreement reached through collective bar-
6 gaining or by such methods as may be provided for
7 in any applicable agreement for the settlement of
8 disputes.

9 (5) The absence of adequate cooperation be-
10 tween public safety employers and employees has im-
11 plications for the security of employees, impacts the
12 upgrading of police and fire services of local commu-
13 nities, the health and well-being of public safety offi-
14 cers, and the morale of the fire and police depart-
15 ments, and can affect interstate and intrastate com-
16 merce.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) The term “Authority” means the Federal
20 Labor Relations Authority.

21 (2) The term “public safety officer”—

22 (A) means an employee of a public safety
23 agency who is a law enforcement officer, a fire-
24 fighter, or emergency medical services per-
25 sonnel;

1 (B) includes an individual who is tempo-
2 rarily transferred to a supervisory or manage-
3 ment position; and

4 (C) does not include a permanent super-
5 visory or management employee.

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

10 (4) The term “emergency medical services per-
11 sonnel” means an individual who provides out-of-
12 hospital emergency medical care, including an emer-
13 gency medical technician, paramedic, or first re-
14 sponder.

15 (5) The term “law enforcement officer” has the
16 same meaning given such term in section 1204(5) of
17 the Omnibus Crime Control and Safe Streets Act of
18 1968 (42 U.S.C. 3796b(5)).

19 (6) The term “supervisory employee” has the
20 meaning given such term under applicable State law
21 on the date of enactment of this Act. In the absence
22 of such State law on the date of enactment of this
23 Act, the term means an individual, employed by a
24 public safety employer, who—

1 (A) has the authority in the interest of the
2 employer to hire, direct, assign, promote, re-
3 ward, transfer, furlough, lay off, recall, sus-
4 pend, discipline, or remove public safety offi-
5 cers, to adjust their grievances, or to effectively
6 recommend such action, if the exercise of the
7 authority is not merely routine or clerical in na-
8 ture but requires the consistent exercise of
9 independent judgment; and

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

12 (7) The term “management employee” has the
13 meaning given such term under applicable State law
14 in effect on the date of enactment of this Act. If no
15 such State law is in effect, the term means an indi-
16 vidual employed by a public safety employer in a po-
17 sition that requires or authorizes the individual to
18 formulate, determine, or influence the policies of the
19 employer.

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

1 (9) The term “labor organization” means an
 2 organization composed in whole or in part of em-
 3 ployees, in which employees participate, and the pur-
 4 pose of which is to represent such employees before
 5 public safety agencies concerning grievances, condi-
 6 tions of employment and related matters.

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

10 **SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBIL-**
 11 **ITIES.**

12 (a) DETERMINATION.—

13 (1) IN GENERAL.—Not later than 180 days
 14 after the date of enactment of this Act, the Author-
 15 ity shall make a determination as to whether a State
 16 substantially provides for the rights and responsibil-
 17 ities described in subsection (b). In making such de-
 18 terminations, the Authority shall consider and give
 19 weight, to the maximum extent practicable, to the
 20 opinion of affected employee organizations.

21 (2) SUBSEQUENT DETERMINATIONS.—(A) A
 22 determination made pursuant to paragraph (1) shall
 23 remain in effect unless and until the Authority
 24 issues a subsequent determination, in accordance
 25 with the procedures set forth in subparagraph (B).

1 (B) Upon establishing that a material change in
2 State law or its interpretation has occurred, an em-
3 ployer or a labor organization may submit a written
4 request for a subsequent determination. If satisfied
5 that a material change in State law or its interpreta-
6 tion has occurred, the Director shall issue a subse-
7 quent determination not later than 30 days after re-
8 ceipt of such request.

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

20 (b) RIGHTS AND RESPONSIBILITIES.—In making a
21 determination described in subsection (a), the Authority
22 shall consider whether State law substantially provides
23 rights and responsibilities comparable to or greater than
24 the following:

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

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

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

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

17 (5) Requiring enforcement through State courts
18 of—

19 (A) all rights, responsibilities, and protec-
20 tions provided by State law and enumerated in
21 this subsection; and

22 (B) any written contract or memorandum
23 of understanding.

24 (c) FAILURE TO MEET REQUIREMENTS.—

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

7 (2) EFFECTIVE DATE.—Paragraph (1) shall
8 take effect on the date that is 2 years after the date
9 of enactment of this Act.

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

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

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

23 (1) determine the appropriateness of units for
24 labor organization representation;

1 (2) supervise or conduct elections to determine
2 whether a labor organization has been selected as an
3 exclusive representative by a voting majority of the
4 employees in an appropriate unit;

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

7 (4) conduct hearings and resolve complaints of
8 unfair labor practices;

9 (5) resolve exceptions to the awards of arbitra-
10 tors; and

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

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

25 (c) ENFORCEMENT.—

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

14 (2) RIGHT OF ACTION.—Unless the Authority
15 has filed a petition for enforcement as provided in
16 paragraph (1), any interested party has the right to
17 file suit in a State court of competent jurisdiction to
18 enforce compliance with the regulations issued by
19 the Authority pursuant to subsection (b), and to en-
20 force compliance with any order issued by the Au-
21 thority pursuant to this section. The right provided
22 by this paragraph to bring a suit to enforce compli-
23 ance with any order issued by the Authority pursu-
24 ant to this section shall terminate upon the filing of

1 a petition seeking the same relief by the Authority
2 under paragraph (1).

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

4 Notwithstanding any rights or responsibilities pro-
5 vided under State law or under regulations issued by the
6 Authority under section 5, a public safety employer, offi-
7 cer, or labor organization may not engage in a lockout or
8 strike.

9 **SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND**
10 **AGREEMENTS.**

11 This Act and the regulations issued under this Act
12 shall not be construed to invalidate a certification, recogni-
13 tion, collective bargaining agreement or memorandum of
14 understanding which has been issued, approved, or ratified
15 by any public employee relations board or commission or
16 by any State or political subdivision or its agents (manage-
17 ment officials) in effect on the day before the date of en-
18 actment of this Act, or the results of any election held
19 before the date of enactment of this Act.

20 **SEC. 8. CONSTRUCTION, COMPLIANCE, AND ENFORCE-**
21 **MENT.**

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

24 (1) to preempt or limit the remedies, rights,
25 and procedures of any law of any State or political

1 subdivision of any State or jurisdiction that substan-
2 tially provides greater or comparable rights and re-
3 sponsibilities described in section 4(b);

4 (2) to prevent a State from enforcing a State
5 law which prohibits employers and labor organiza-
6 tions from negotiating provisions in a labor agree-
7 ment that require union membership or payment of
8 union fees as a condition of employment;

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

13 (A) such State law permits an employee to
14 appear in his or her own behalf with respect to
15 his or her employment relations with the public
16 safety agency involved;

17 (B) such State law excludes from its cov-
18 erage employees of a state militia or national
19 guard;

20 (C) such rights and responsibilities have
21 not been extended to other categories of em-
22 ployees covered by this Act. In such cir-
23 cumstances, the Authority shall only exercise
24 the powers provided in section 5 of this Act
25 with respect to those categories of employees

1 who have not been afforded the rights and re-
2 sponsibilities described in section 4(b); or

3 (D) such laws or ordinances provide that a
4 contract or memorandum of understanding be-
5 tween a public safety employer and a labor or-
6 ganization must be presented to a legislative
7 body as part of the process for approving such
8 contract or memorandum of understanding;

9 (4) to permit parties subject to the National
10 Labor Relations Act (29 U.S.C. 151 et seq.) and the
11 regulations under such Act to negotiate provisions
12 that would prohibit an employee from engaging in
13 part-time employment or volunteer activities during
14 off-duty hours;

15 (5) to prohibit a State from exempting from
16 coverage under this Act a political subdivision of the
17 State that has a population of less than 5,000 or
18 that employs fewer than 25 full time employees; or

19 (6) to require a State to rescind or preempt
20 laws or ordinances of any of its political subdivisions
21 if such laws substantially provide rights and respon-
22 sibilities for public safety officers that are com-
23 parable to or greater than the rights and responsibil-
24 ities enumerated in section 4(b) of this Act.

1 For purposes of paragraph (4), the term “employees” in-
2 cludes each individual employed by the political subdivi-
3 sion except any individual elected by popular vote or ap-
4 pointed to serve on a board or commission.

5 (b) ENFORCEMENT.—Not withstanding any other
6 provision of the Act, and in the absence of a waiver of
7 a States sovereign immunity, the Authority shall have the
8 exclusive power to enforce the provisions of this Act with
9 respect to State employees and employees of arms of a
10 State.

11 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as may be necessary to carry out the provisions of this
14 Act.

○