

106TH CONGRESS  
1ST SESSION

# H. R. 1093

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

MARCH 11, 1999

Mr. KILDEE (for himself, Mr. NEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. BAIRD, Mr. BALDACCI, Mr. BARCIA, Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Mr. BOEHLERT, Mr. BONIOR, Mr. BORSKI, Mr. BOSWELL, Mr. BOYD, Mr. BRADY of Pennsylvania, Ms. BROWN of Florida, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. CAMPBELL, Mrs. CAPPS, Mr. CAPUANO, Mr. CLAY, Mrs. CLAYTON, Mr. COYNE, Mr. CRAMER, Mr. CROWLEY, Mr. DAVIS of Florida, Mr. DAVIS of Virginia, Mr. DEFazio, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. DICKS, Mr. DOYLE, Mr. DUNCAN, Mr. ENGEL, Mr. ENGLISH, Mr. FARR of California, Mr. FATTAH, Mr. FILNER, Mr. FOLEY, Mr. FORBES, Mr. FORD, Mr. FROST, Mr. GALLEGLY, Mr. GEJDENSON, Mr. GILMAN, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HINOJOSA, Mr. HOLDEN, Mr. HOYER, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KIND, Mr. KING, Mr. KLECZKA, Mr. KLINK, Mr. KUCINICH, Mr. LAMPSON, Mr. LANTOS, Mr. LATOURETTE, Ms. LEE, Mr. LEWIS of Georgia, Mr. LOBIONDO, Ms. LOFGREN, Mrs. LOWEY, Mr. LUTHER, Mr. McDERMOTT, Mr. MCGOVERN, Mr. MALONEY of Connecticut, Mr. MARTINEZ, Mr. MASCARA, Mrs. MEEK of Florida, Mr. METCALF, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAYNE, Mr. QUINN, Mr. RAHALL, Mr. RAMSTAD, Mr. REYES, Ms. RIVERS, Ms. ROS-LEHTINEN, Mr. ROTHMAN, Mrs. ROUKEMA, Mr. RUSH, Mr. SANDERS, Mr. SANDLIN, Mr. SAWYER, Mr. SHERMAN, Mr. SHOWS, Ms. SLAUGHTER, Mr. SNYDER, Ms. STABENOW, Mr. STARK, Mr. STRICKLAND, Mr. STUPAK, Mr. SUNUNU, Mrs. TAUSCHER, Mrs. THURMAN, Mr. TIERNEY, Mr. TOWNS, Mr. TRAFICANT, Mr. VENTO, Mr. WALSH, Mr. WAXMAN, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. WEYGAND, Mr. WEXLER, Ms. WOOLSEY, Mr. WYNN, and Mr.

YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Education and the Workforce

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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 are based on trust, mutual respect, open  
 11       communications, bilateral and consensual problem  
 12       solving, and shared accountability. Labor-manage-  
 13       ment cooperation fully utilizes the strengths of both  
 14       parties to best serve the interests of the public, oper-  
 15       ating as a team to carry out the public safety mis-  
 16       sion in a quality work environment. In many public  
 17       safety agencies it is the union that provides the in-  
 18       stitutional stability as elected leaders and appointees  
 19       come and go.

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

5           (3) The Federal Government needs to encour-  
6           age conciliation, mediation, and voluntary arbitra-  
7           tion to aid and encourage employers and the rep-  
8           resentatives of their employees to reach and main-  
9           tain agreements concerning rates of pay, hours, and  
10          working conditions, and to make all reasonable ef-  
11          forts through negotiations to settle their differences  
12          by mutual agreement reached through collective bar-  
13          gaining or by such methods as may be provided for  
14          in any applicable agreement for the settlement of  
15          disputes.

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

1 providing minimal standards for collective bar-  
2 gaining negotiations in the public safety industry  
3 will prevent industrial strife between labor and man-  
4 agement that interferes with the normal flow of com-  
5 merce.

6 **SEC. 3. DEFINITIONS.**

7 For purposes of this Act:

8 (1) The term “Authority” means the Federal  
9 Labor Relations Authority.

10 (2) The term “public safety officer” means an  
11 employee of a public safety agency who is a law en-  
12 forcement officer, a firefighter, or emergency med-  
13 ical services personnel. The term includes an indi-  
14 vidual who is temporarily transferred to a super-  
15 visory or administrative position, but does not in-  
16 clude a permanent management or supervisory em-  
17 ployee.

18 (3) The term “firefighter” means an individual  
19 employed by a fire department who—

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

22 (B) is responsible for the maintenance and  
23 use of firefighting apparatus and equipment,  
24 fire prevention and investigation, communica-  
25 tions and dispatch; or

1 (C) provides emergency medical care.

2 (4) The term “emergency medical services per-  
3 sonnel” means an individual who provides out-of-  
4 hospital emergency medical care, including an emer-  
5 gency medical technician, paramedic, or first re-  
6 sponder.

7 (5) The term “law enforcement officer” has the  
8 same meaning given such term in section 1204(5) of  
9 the Omnibus Crime Control and Safe Streets Act of  
10 1968 (42 U.S.C. 3796b(5)).

11 (6) The term “law enforcement agency” means  
12 a State or local public agency that is charged by law  
13 with the duty to prevent or investigate crimes or ap-  
14 prehend or hold in custody persons charged with or  
15 convicted of crimes.

16 (7) The term “supervisory employee” means an  
17 individual employed by a public safety employer  
18 who—

19 (A) has the authority in the interest of the  
20 employer to hire, direct, assign, promote, re-  
21 ward, transfer, furlough, layoff, recall, suspend,  
22 discipline, or remove public safety, officers, to  
23 adjust their grievances or to effectively rec-  
24 ommend such action, if the exercise of the au-  
25 thority is not merely routine or clerical in na-

1           ture but requires the consistent exercise of  
2           independent judgment; and

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

5           (8) The term “management employee” means  
6           an individual employed by a public safety employer  
7           in a position that requires or authorizes the indi-  
8           vidual to formulate, determine, or influence the poli-  
9           cies of the employer.

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

15 **SEC. 4. RIGHTS AND RESPONSIBILITIES; DETERMINATION.**

16          (a) RIGHTS AND RESPONSIBILITIES.—In making a  
17          determination described in subsection (b), the Authority  
18          shall consider whether State law provides rights and re-  
19          sponsibilities that include—

20               (1) granting public safety officers the right to  
21               form and join a labor organization that does not in-  
22               clude management and supervisory employees and  
23               that is, or seeks to be, recognized as the exclusive  
24               bargaining agent 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) allowing bargaining over hours, wages,  
8           terms, and conditions of employment;

9           (4) prohibiting bargaining over issues which are  
10          traditional and customary management functions;

11          (5) protecting all existing collective bargaining  
12          agreements, memoranda of understanding, certifi-  
13          cations, recognitions, and elections;

14          (6) requiring fact finding in the event of an in-  
15          terest impasse;

16          (7) allowing the parties voluntarily to agree to  
17          submit disagreements to arbitration;

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

22          (9) prohibiting strikes and lockouts.

23          (b) DETERMINATION.—

24                (1) IN GENERAL.—Not later than 180 days  
25          after the date of enactment of this Act, the Author-

1        ity shall issue a determination as to whether a State  
2        substantially provides for the rights and responsibil-  
3        ities described in subsection (a).

4            (2) SUBSEQUENT DETERMINATIONS.—A deter-  
5        mination issued pursuant to paragraph (1) shall re-  
6        main in effect until an employer or labor organiza-  
7        tion submits a written request to the Authority to  
8        issue a subsequent such determination. The Director  
9        shall issue the determination not later than 30 days  
10       after receipt of such a request.

11       (c) FAILURE TO MEET REQUIREMENTS.—A State  
12       that does not substantially provide for the rights and re-  
13       sponsibilities described in subsection (a) shall be subject  
14       to the regulations and procedures described in section 5  
15       until a subsequent determination is made.

16    **SEC. 5. ROLE OF AUTHORITY.**

17       (a) IN GENERAL.—Not later than one year after the  
18       date of the enactment of this Act, the Authority shall issue  
19       regulations in accordance with the rights and responsibil-  
20       ities described in section 4(a) establishing collective bar-  
21       gaining procedures for public safety employers and officers  
22       in States that do not substantially provide for the rights  
23       and responsibilities described in section 4(a).

24       (b) ROLE OF THE FEDERAL LABOR RELATIONS AU-  
25       THORITY.—The Authority shall, to the extent provided in



1 this Act and in accordance with regulations prescribed by  
2 the Authority—

3 (1) determine the appropriateness of units for  
4 labor organization representation;

5 (2) supervise or conduct elections to determine  
6 whether a labor organization has been selected as an  
7 exclusive representative by a majority of the employ-  
8 ees in an appropriate unit;

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

11 (4) conduct hearings and resolve complaints of  
12 unfair labor practices;

13 (5) resolve exceptions to arbitrator's awards;  
14 and

15 (6) take such other actions as are necessary  
16 and appropriate to effectively administer the provi-  
17 sions of this Act.

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

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

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

1 **SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND**  
2 **AGREEMENTS.**

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

11 **SEC. 8. CONSTRUCTION AND COMPLIANCE.**

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

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

21 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated such sums  
23 as may be necessary to carry out the provisions of this  
24 Act.

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