

## Calendar No. 275

110TH CONGRESS  
1ST SESSION

# H. R. 980

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IN THE SENATE OF THE UNITED STATES

JULY 18 (legislative day, JULY 17), 2007

Received

JULY 20 (legislative day, JULY 19), 2007

Read the first time

JULY 20, 2007

Read the second time and placed on the calendar

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## 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,*

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:

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

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

20 (6) Many States and localities already provide  
21 public safety officers with collective bargaining  
22 rights comparable to or greater than the rights and  
23 responsibilities set forth in this Act, and such State  
24 laws should be respected.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) The term “Authority” means the Federal  
4 Labor Relations Authority.

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

6 (A) means an employee of a public safety  
7 agency who is a law enforcement officer, a fire-  
8 fighter, or emergency medical services per-  
9 sonnel;10 (B) includes an individual who is tempo-  
11 rarily transferred to a supervisory or manage-  
12 ment position; and13 (C) does not include a permanent super-  
14 visory or management employee.15 (3) The term “firefighter” has the same mean-  
16 ing given the term “employee in fire protection ac-  
17 tivities” defined in section 3 of the Fair Labor  
18 Standards Act (29 U.S.C. 203(y)).19 (4) The term “emergency medical services per-  
20 sonnel” means an individual who provides out-of-  
21 hospital emergency medical care, including an emer-  
22 gency medical technician, paramedic, or first re-  
23 sponder.24 (5) The term “law enforcement officer” has the  
25 same meaning given such term in section 1204(5) of

1 the Omnibus Crime Control and Safe Streets Act of  
2 1968 (42 U.S.C. 3796b(5)).

3 (6) The term “supervisory employee” has the  
4 meaning given such term, or a substantially equiva-  
5 lant term, under applicable State law on the date of  
6 enactment of this Act. In the absence of such State  
7 law on the date of enactment of this Act, the term  
8 means an individual, employed by a public safety  
9 employer, who—

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

19 (B) devotes a preponderance of employ-  
20 ment time exercising such authority.

21 (7) The term “management employee” has the  
22 meaning given such term, or a substantially equiva-  
23 lant term, under applicable State law in effect on the  
24 date of enactment of this Act. If no such State law  
25 is in effect, the term means an individual employed

1 by a public safety employer in a position that re-  
2 quires or authorizes the individual to formulate, de-  
3 termine, or influence the policies of the employer.

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

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

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

18 **SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBIL-  
19 ITIES.**

20 (a) DETERMINATION.—

21 (1) IN GENERAL.—Not later than 180 days  
22 after the date of enactment of this Act, the Author-  
23 ity shall make a determination as to whether a State  
24 substantially provides for the rights and responsibil-  
25 ities described in subsection (b). In making such de-

1 terminations, the Authority shall consider the opinion  
2 of affected employers and labor organizations.  
3 Where the Authority is notified by an employer and  
4 an affected labor organization that both parties  
5 agree that the law applicable to such employer and  
6 labor organization substantially provides for the  
7 rights and responsibilities described in subsection  
8 (b), the Authority shall give such agreement weight  
9 to the maximum extent practicable in making its de-  
10 termination under this subsection.

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

16 (B) An employer or a labor organization may  
17 submit a written request for a subsequent deter-  
18 mination, on the basis of a material change in State  
19 law or its interpretation. If the Authority determines  
20 that a material change in State law or its interpreta-  
21 tion has occurred, the Authority shall issue a subse-  
22 quent determination not later than 30 days after re-  
23 ceipt of such request.

24 (3) JUDICIAL REVIEW.—Any person aggrieved  
25 by a determination of the Authority under this sec-

1       tion may, during the 60-day period beginning on the  
2       date on which the determination was made, petition  
3       any United States Court of Appeals in the circuit in  
4       which the person resides or transacts business or in  
5       District of Columbia circuit, for judicial review. In  
6       any judicial review of a determination by the Au-  
7       thority, the procedures contained in section 7123(c)  
8       of title 5, United States Code, shall be followed.

9       (b) RIGHTS AND RESPONSIBILITIES.—In making a  
10      determination described in subsection (a), the Authority  
11      shall consider a State's law to provide adequate rights and  
12      responsibilities unless such law fails to substantially pro-  
13      vide rights and responsibilities comparable to or greater  
14      than each of 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.—

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

22 (A) 2 years after the date of enactment of  
23 this Act; or

(B) the date of the end of the first regular session of the legislature of that State that begins after the date of the enactment of this Act.

#### 4 SEC. 5. ROLE OF THE AUTHORITY.

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

13 (b) ROLE OF THE FEDERAL LABOR RELATIONS AU-  
14 THORITY.—The Authority, to the extent provided in this  
15 Act and in accordance with regulations prescribed by the  
16 Authority, shall—

17 (1) determine the appropriateness of units for  
18 labor organization representation;

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

1 (4) conduct hearings and resolve complaints of  
2 unfair labor practices;

23 (c) ENFORCEMENT.—

24 (1) PETITION BY AUTHORITY.—If a State fails  
25 to comply with a final order issued by the Authority,

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

13 (2) RIGHT OF ACTION.—Unless the Authority  
14 has filed a petition for enforcement as provided in  
15 paragraph (1), any interested party shall have the  
16 right to file suit against any political subdivision of  
17 a State, or, if the State has waived its sovereign im-  
18 munity, against the State itself, in any district court  
19 of the United States of competent jurisdiction to en-  
20 force compliance with the regulations issued by the  
21 Authority pursuant to subsection (b), to enforce  
22 compliance with any order issued by the Authority  
23 pursuant to this section, or to enforce section 6 of  
24 this Act. The right provided by this paragraph to  
25 bring a suit to enforce compliance with any order

1 issued by the Authority pursuant to this section  
2 shall terminate upon the filing of a petition seeking  
3 the same relief by the Authority under paragraph  
4 (1).

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

6 Notwithstanding any rights or responsibilities pro-  
7 vided under State law or under regulations issued by the  
8 Authority under section 5—

9 (1) a public safety employer may not engage in  
10 a lockout of public safety officers;

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

13 (3) a labor organization may not call for a  
14 strike by public safety officers against their public  
15 safety employer.

**16 SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND  
17 AGREEMENTS.**

18 This Act and the regulations issued under this Act  
19 shall not be construed to invalidate a certification, recogni-  
20 tion, collective bargaining agreement, or memorandum of  
21 understanding which has been issued, approved, or ratified  
22 by any public employee relations board or commission or  
23 by any State or political subdivision or its agents (manage-  
24 ment officials) in effect on the day before the date of en-

1 actment of this Act, or the results of any election held  
2 before the date of enactment of this Act.

3 **SEC. 8. CONSTRUCTION, COMPLIANCE, AND ENFORCE-  
4 MENT.**

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

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

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

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

21 (A) such State law permits an employee to  
22 appear in his or her own behalf with respect to  
23 his or her employment relations with the public  
24 safety agency involved;

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

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

24 (5) to require a State to rescind or preempt  
25 laws or ordinances of any of its political subdivisions

1       if such laws substantially provide rights and respon-  
2       sibilities for public safety officers that are com-  
3       parable to or greater than the rights and responsibil-  
4       ties enumerated in section 4(b) of this Act; or

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

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

19               (c) ENFORCEMENT.—Notwithstanding any other pro-  
20       vision of the Act, and in the absence of a waiver of a  
21       State’s sovereign immunity, the Authority shall have the  
22       exclusive power to enforce the provisions of this Act with  
23       respect to public safety officers employed by a State.

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.

Passed the House of Representatives July 17, 2007.

Attest:                    LORRAINE C. MILLER,

*Clerk.*

**Calendar No. 275**

110<sup>th</sup> CONGRESS  
1<sup>st</sup> SESSION  
**H. R. 980**

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