

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE DRH70407-MG-81 (04/23)

Short Title: Public Safety Employer-Employee Cooperation.

(Public)

Sponsors: Representative Blue.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH A PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION  
3 ACT AND TO ESTABLISH THE PUBLIC SAFETY EMPLOYEE RELATIONS  
4 COMMISSION WITHIN THE NORTH CAROLINA DEPARTMENT OF LABOR.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 95-98 reads as rewritten:

7 "**§ 95-98. Contracts between units of government and labor unions, trade unions or labor**  
8 **organizations concerning public employees declared to be illegal.**

9 ~~Any~~ Except as provided in Chapter 17F of the General Statutes, any agreement, or contract,  
10 between the governing authority of any city, town, county, or other municipality, or between  
11 any agency, unit, or instrumentality thereof, or between any agency, instrumentality, or  
12 institution of the State of North Carolina, and any labor union, trade union, or labor  
13 organization, as bargaining agent for any public employees of such city, town, county or other  
14 municipality, or agency or instrumentality of government, is hereby declared to be against the  
15 public policy of the State, illegal, unlawful, void and of no effect."

16 **SECTION 2.** G.S. 135-18.8 reads as rewritten:

17 "**§ 135-18.8. Deduction for payments to certain employees' or retirees' associations**  
18 **allowed.**

19 Any beneficiary who is a member of a domiciled employees' or retirees' association that has  
20 at least 2,000 members, the majority of whom are active or retired employees of the State or  
21 public school employees, may authorize, in writing, the periodic deduction from the  
22 beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees'  
23 association. The authorization shall remain in effect until revoked by the beneficiary. ~~A~~ Except  
24 for deductions authorized under Chapter 17F of the General Statutes, a plan of deductions  
25 pursuant to this section shall become void if the employees' or retirees' association engages in  
26 collective bargaining with the State, any political subdivision of the State, or any local school  
27 administrative unit."

28 **SECTION 3.** G.S. 143B-426.40A(g) reads as rewritten:

29 "(g) Payroll Deduction for Payments to Certain Employees' Associations Allowed. – An  
30 employee of the State or any of its political subdivisions, institutions, departments, bureaus,  
31 agencies or commissions, or any of its local boards of education or community colleges, who is  
32 a member of a domiciled employees' association that has at least 2,000 members, 500 of whom  
33 are employees of the State, a political subdivision of the State, or public school employees, may  
34 authorize, in writing, the periodic deduction each payroll period from the employee's salary or  
35 wages a designated lump sum to be paid to the employees' association. A political subdivision



1 may also allow periodic deductions for a domiciled employees' association that does not  
2 otherwise meet the minimum membership requirements set forth in this paragraph.

3 An employee of any local board of education who is a member of a domiciled employees'  
4 association that has at least 40,000 members, the majority of whom are public school teachers,  
5 may authorize in writing the periodic deduction each payroll period from the employee's salary  
6 or wages a designated lump sum or sums to be paid for dues and voluntary contributions for the  
7 employees' association.

8 An authorization under this subsection shall remain in effect until revoked by the employee.  
9 ~~A-Except for deductions authorized under Chapter 17F of the General Statutes, a plan of~~  
10 payroll deductions pursuant to this subsection for employees of the State and other association  
11 members shall become void if the employees' association engages in collective bargaining with  
12 the State, any political subdivision of the State, or any local school administrative unit. This  
13 subsection does not apply to county or municipal governments or any local governmental unit,  
14 except for local boards of education."

15 **SECTION 4.** The General Statutes are amended by adding a new Chapter to read:

16 **"Chapter 17F.**

17 **"Public Safety Employer-Employee Cooperation Act.**

18 **"§ 17F-1. Definitions.**

19 The following definitions apply in this Chapter:

- 20 (1) Arbitrator. – An individual appointed to render a decision in a controversy  
21 that is subject to an agreement to arbitrate.
- 22 (2) Commission. – The Public Safety Employee Labor Relations Commission  
23 established pursuant to G.S. 17F-2.
- 24 (3) Emergency medical services personnel. – An individual who provides  
25 out-of-hospital emergency medical care, including an emergency medical  
26 technician, paramedic, or first responder.
- 27 (4) Employer or public safety employer. – The State of North Carolina and any  
28 city, town, county, or other municipality or political subdivision of the State  
29 that employs public safety officers.
- 30 (5) Firefighter. – An individual employed by a fire department who (i) primarily  
31 performs work directly related to the control and extinguishment of fires; (ii)  
32 is responsible for maintenance and use of firefighting apparatus and  
33 equipment, fire prevention and investigation, or communications and  
34 dispatch; or (iii) provides emergency medical care.
- 35 (6) Law enforcement officer. – An individual who is actively serving in a  
36 position with assigned primary duties and responsibilities for the prevention  
37 and detection of crime or the general enforcement of the criminal laws of the  
38 State of North Carolina or serving civil processes, and who possesses the  
39 power of arrest by virtue of an oath administered under the authority of the  
40 State.
- 41 (7) Public safety officer. – An employee of the State, or of a city, town, county,  
42 or other municipal entity or agency, who is a firefighter, emergency medical  
43 services personnel, or law enforcement officer. The term includes an  
44 individual who is temporarily transferred to a supervisory or administrative  
45 position but does not include a permanent management or supervisory  
46 employee.
- 47 (8) Public safety officer association. – An association or labor organization of  
48 public safety officers composed of (i) public safety officers employed by a  
49 local fire department; (ii) public safety officers employed by an emergency  
50 medical or ambulance service; or (iii) law enforcement officers employed by  
51 the State or a local government.

1           (9) Supervisory employee. – An individual employed by a public safety  
2 employer (i) who has the authority in the interest of the employer to hire,  
3 direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend,  
4 discipline, or remove public safety officers, or to adjust or recommend  
5 adjustments for their grievances; (ii) whose exercise of that authority is not  
6 merely routine or clerical in nature but requires the consistent exercise of  
7 independent judgment; and (iii) who devotes a majority of time at work  
8 exercising that authority.

9 **"§ 17F-2. Public Safety Employee Relations Commission.**

10       (a) There is hereby created and established in the North Carolina Department of Labor  
11 the Public Safety Employee Relations Commission.

12       (b) The Commission shall consist of three commissioners appointed by the Governor,  
13 subject to confirmation by the Senate. All appointees shall be representatives of the public who  
14 (i) are known for their objective and independent judgment and (ii) for the duration of their  
15 appointment to the Commission, are not employed by, and do not hold any commission with,  
16 any governmental unit in the State or any employee organization. In no event shall more than  
17 one commissioner be a person who, on account of previous vocation, employment, or  
18 affiliation, is or has been classified as a representative of employers; and in no event shall more  
19 than one commissioner be a person who, on account of previous vocation, employment, or  
20 affiliation, is or has been classified as a representative of employees or employee organizations.  
21 The commissioners shall devote full time to their duties and shall not engage in any other  
22 business, vocation, or employment while serving on the Commission.

23       (c) The Governor shall select a chair from among the commissioners to serve until  
24 December 31, 2011. Beginning January 1, 2011, the chair shall serve for a term of four years.  
25 Each subsequent four-year term of the office of chair shall commence on January 1 of the  
26 second year following each regularly scheduled general election at which a Governor is elected  
27 to a full term of office. Nothing in this section shall be construed to prohibit a chair or  
28 commissioner from serving multiple terms.

29       (d) Initial terms of office for commissioners not appointed as chair shall be staggered.  
30 One commissioner shall serve for a term of one year, and one commissioner shall serve for a  
31 term of two years. Thereafter, commissioners shall serve for a term of four years.

32       (e) Vacancies shall be filled by the appointing authority for the unexpired term of  
33 office.

34       (f) The salary of the chair and each commissioner shall (i) be the same as that fixed  
35 from time to time for commissioners serving on the Industrial Commission, except that the  
36 chair shall receive one thousand five hundred dollars (\$1,500) additional per annum and (ii) be  
37 paid in 12 equal monthly installments. The chair and commissioners shall also be paid for  
38 traveling and other necessary expenses incurred in the performance of their official duties and  
39 which have been authorized and approved by the Secretary of Labor.

40       (g) The Commission shall have the following powers, duties, and responsibilities:

41           (1) To adopt rules, in accordance with Chapter 150B of the General Statutes, as  
42 are necessary to carry out the provisions of this Chapter.

43           (2) To resolve, pursuant to its adopted rules, questions, and controversies  
44 concerning claims for recognition as the exclusive bargaining representative  
45 of a bargaining unit of public safety officers.

46           (3) To determine or approve units appropriate for collective bargaining between  
47 public safety officer associations and public safety employers.

48           (4) To expeditiously process charges of unfair labor practices and violations of  
49 this Chapter filed with the Commission by public safety officers, public  
50 safety officer associations, or public safety employers, and to resolve any

1           other questions and controversies this Chapter authorizes the Commission to  
2           undertake.

3           The Commission, in the performance of its powers, duties, and responsibilities under this  
4           Chapter, shall not be subject to control, supervision, or direction by the Department of Labor.

5           (h) The chair shall be responsible for the administrative functions of the Commission  
6           and shall have the authority to employ personnel necessary to carry out the provisions of this  
7           Chapter.

8           (i) The Department of Labor shall provide office space and administrative support to  
9           the Commission as necessary for the Commission to carry out its powers, duties, and  
10           responsibilities under this Chapter.

11           (j) Subject to prior approval by the chair and the Secretary of Labor, the Commission  
12           may make expenditures necessary to carry out its powers, duties, and responsibilities under this  
13           Chapter, including expenditures for personal services, law books, books of reference,  
14           periodicals, furniture, equipment, supplies, and printing and binding.

15           (k) The Commission shall have an official seal for authentication of its orders and  
16           proceedings, upon which shall be inscribed the words "State of North Carolina Public Safety  
17           Employee Relations Commission Seal". The Commission's seal shall be judicially noticed by  
18           the courts of the State.

19           **"§ 17F-3. Rights of public safety officers.**

20           Public safety officers shall have all of the following rights:

- 21           (1) To form and join a public safety officer association that does not include  
22           management or supervisory employees.
- 23           (2) To be free from reprisal or discrimination in the terms or conditions of their  
24           employment for joining or supporting a public safety officer association.
- 25           (3) To be granted an arbitrator, selected by the process set forth in G.S. 17F-6,  
26           to settle disputes involving workplace grievances when a resolution cannot  
27           be achieved through the employer's administrative process.
- 28           (4) Upon joining a public safety officer association, to have the membership  
29           dues, insurance, and other fees connected with being a member of the  
30           association deducted and collected from their salary by the employer.

31           **"§ 17F-4. Rights of public safety officer associations.**

32           Public safety officer associations that have demonstrated through petitions, authorization  
33           cards, or other reliable methods that they represent more than half of the public safety officers  
34           employed in a department, agency, or other appropriate unit of a public safety employer shall  
35           have all of the following rights:

- 36           (1) To advocate on behalf of, and represent their members concerning, terms  
37           and conditions of employment.
- 38           (2) Upon the request of a member, to have a representative present during  
39           questioning of a member by management or a supervisory employee during  
40           an investigation that could lead to disciplinary action against the member.
- 41           (3) To meet with officials of a public safety employer to discuss matters  
42           affecting the terms and conditions of employment of public safety officers,  
43           including matters pertaining to wages and hours of work.
- 44           (4) To have any agreements reached with a public safety employer as a result of  
45           discussions reduced to writing in the form of a binding contract.
- 46           (5) Upon the request of a member, and after the member provides written  
47           authorization to the employer, to have the membership dues, insurance, and  
48           other fees connected with being a member of the public safety officer  
49           association deducted and collected from the member's salary by the  
50           employer.

51           **"§ 17F-5. Rights of public safety employers.**

1 Public safety employers shall have all of the following rights:

- 2 (1) To exercise control and discretion over their organization and operations.
- 3 (2) To determine unilaterally the purpose of each of their constituent agencies,
- 4 units, instrumentalities, or institutions.
- 5 (3) To set standards for public safety services to be offered to the public.
- 6 (4) To direct their employees, including taking disciplinary action for proper
- 7 cause, and relieving employees from duty due to lack of work or other
- 8 legitimate reasons.

9 A public safety employer's exercise of these rights shall not preclude public safety officers  
10 or public safety officer associations from filing grievances about decisions on the above matters  
11 if the decisions have the practical consequence of violating (i) the terms and conditions of a  
12 signed contract between a public safety officer association and a public safety employer or (ii)  
13 a civil service or career service regulation.

14 **"§ 17F-6. Enforcement.**

15 (a) Except as prohibited in subsection (e) of this section, all of the following persons  
16 and entities may file a request with the Commission for arbitration of the matter in dispute:

- 17 (1) Any public safety officer who believes his or her rights under this Chapter or
- 18 a signed contract between a public safety employer and a public safety
- 19 officer association to which the public safety officer belongs have been
- 20 violated.
- 21 (2) Any public safety officer association that believes the rights afforded to the
- 22 association or one of its members under this Chapter or a signed contract
- 23 between the public safety officer association and a public safety employer
- 24 have been violated.
- 25 (3) Any public safety employer that believes the rights afforded to the employer
- 26 under this Chapter or a signed contract between the employer and a public
- 27 safety officer association have been violated.

28 (b) Upon receiving a request for arbitration pursuant to subsection (a) of this section, an  
29 arbitrator shall be selected in the following manner:

- 30 (1) The Commission shall select five arbitrators and present the list to both the
- 31 public safety officer association and the public safety employer.
- 32 (2) The party who made the request for arbitration shall strike one name from
- 33 the list, and then the other party shall strike a second name from the list. This
- 34 process shall be repeated until only one arbitrator's name remains on the list.
- 35 (3) The remaining arbitrator shall be selected to hear the case.

36 (c) The arbitrator's decision shall be final and binding on both parties, except that upon  
37 either party's application, the court shall vacate a decision procured by corruption, fraud, or  
38 other undue means.

39 (d) The losing party shall pay the costs of the arbitrator.

40 (e) This section shall not be used for the purpose of negotiating a contract between a  
41 public safety officer association and a public safety employer.

42 **"§ 17F-7. Effect of Chapter on other rights.**

43 Nothing in this Chapter shall be deemed to diminish any State or federal statutory,  
44 constitutional, or common-law rights or remedies of public safety officers, public safety officer  
45 associations, or public safety employers."

46 **SECTION 5.** The Department of Labor shall use funds appropriated for the  
47 2009-2010 and 2010-2011 fiscal years to implement this act.

48 **SECTION 6.** This act is effective when it becomes law.