

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**HOUSE BILL 1651**

Short Title: Public Safety Employer-Employee Cooperation. (Public)

Sponsors: Representatives Blue, Ross, and M. Alexander (Primary Sponsors).

Referred to: Judiciary II, if favorable, Appropriations.

May 7, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION  
ACT AND TO ESTABLISH THE PUBLIC SAFETY EMPLOYEE RELATIONS  
COMMISSION WITHIN THE NORTH CAROLINA DEPARTMENT OF LABOR.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

"(g) Payroll Deduction for Payments to Certain Employees' Associations Allowed. – An employee of the State or any of its political subdivisions, institutions, departments, bureaus, agencies or commissions, or any of its local boards of education or community colleges, who is a member of a domiciled employees' association that has at least 2,000 members, 500 of whom are employees of the State, a political subdivision of the State, or public school employees, may authorize, in writing, the periodic deduction each payroll period from the employee's salary or wages a designated lump sum to be paid to the employees' association. A political subdivision may also allow periodic deductions for a domiciled employees' association that does not otherwise meet the minimum membership requirements set forth in this paragraph.



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

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

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

14 **"Chapter 17F.**

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

16 **"§ 17F-1. Definitions.**

17 The following definitions apply in this Chapter:

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

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

7 **"§ 17F-2. Public Safety Employee Relations Commission.**

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

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

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

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

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

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

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

- 39 (1) To adopt rules, in accordance with Chapter 150B of the General Statutes, as  
40 are necessary to carry out the provisions of this Chapter.  
41 (2) To resolve, pursuant to its adopted rules, questions, and controversies  
42 concerning claims for recognition as the exclusive bargaining representative  
43 of a bargaining unit of public safety officers.  
44 (3) To determine or approve units appropriate for collective bargaining between  
45 public safety officer associations and public safety employers.  
46 (4) To expeditiously process charges of unfair labor practices and violations of  
47 this Chapter filed with the Commission by public safety officers, public  
48 safety officer associations, or public safety employers, and to resolve any  
49 other questions and controversies this Chapter authorizes the Commission to  
50 undertake.

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

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

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

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

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

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

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

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

29 **"§ 17F-4. Rights of public safety officer associations.**

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

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

49 **"§ 17F-5. Rights of public safety employers.**

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

- 51       (1) To exercise control and discretion over their organization and operations.

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

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

12    **"§ 17F-6. Enforcement.**

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

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

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

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

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

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

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

40    **"§ 17F-7. Effect of Chapter on other rights.**

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

44           **SECTION 5.** The Department of Labor shall use funds appropriated for the  
45    2009-2010 and 2010-2011 fiscal years to implement this act.

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