

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1459

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

Sponsors: Representatives Alexander; Fisher, Goforth, Insko, Jeffus, Luebke, Michaux, Parmon, Ross, and Wright.

Referred to: Rules, Calendar, and Operations of the House.

April 21, 2005

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH A PUBLIC SAFETY EMPLOYER-EMPLOYEE
COOPERATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 17F.

"Public Safety Employer-Employee Cooperation Act.

§ 17F-1. Definitions.

For purposes of this act:

- (1) 'Emergency medical services personnel' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.
- (2) 'Employer' or 'Public safety employer' means any city, town, county, or other municipality or political subdivision of the State that employs public safety officers.
- (3) 'Firefighter' means an individual employed by a fire department who (i) primarily performs work directly related to the control and extinguishment of fires; (ii) is responsible for the maintenance and use of firefighting apparatus and equipment, fire prevention and investigation, or communications and dispatch; or (iii) provides emergency medical care.
- (4) 'Law enforcement officer' means an individual who is primarily involved with the prevention and investigation of crimes, the apprehension of persons suspected of violating criminal laws, or the holding in custody of persons suspected of or convicted of violating criminal laws.

- 1 (5) 'Public safety officer' means an employee of a city, town, county, or
2 other municipal entity or agency who is a law enforcement officer,
3 firefighter, or emergency medical services personnel. 'Public safety
4 officer' includes an individual who is temporarily transferred to a
5 supervisory or administrative position, but does not include a
6 permanent management or supervisory employee.
- 7 (6) 'Public safety officer association' means an association or labor
8 organization of public safety officers composed of (i) public safety
9 officers employed by a fire department; (ii) public safety officers
10 employed by a law enforcement agency or department; or (iii) public
11 safety officers employed by an emergency medical or ambulance
12 service.
- 13 (7) 'Supervisory employee' means an individual employed by a public
14 safety employer who (i) has the authority in the interest of the
15 employer to hire, direct, assign, promote, reward, transfer, furlough,
16 lay off, recall, suspend, discipline, or remove public safety officers, or
17 to adjust their grievances or effectively recommend such adjustment,
18 provided that the exercise of the authority is not merely routine or
19 clerical in nature but requires the consistent exercise of independent
20 judgment; and (ii) devotes a majority of time at work exercising that
21 authority.

22 **"§ 17F-2. Rights of public safety officers.**

23 Public safety officers have the following rights:

- 24 (1) To form and join an association or labor organization that does not
25 include management or supervisory employees.
- 26 (2) To be free from reprisal or discrimination in the terms or conditions of
27 their employment for joining or supporting an association or labor
28 organization.

29 **"§ 17F-3. Rights of public safety officer associations.**

30 Public safety officer associations that have demonstrated through petitions,
31 authorization cards, or other reliable methods that they represent more than half of the
32 public safety officers in an agency or department have the following rights:

- 33 (1) To advocate on behalf of and represent their members concerning the
34 terms and conditions of their members' employment.
- 35 (2) Upon the request of one of their members, to have a representative
36 present during any questioning of a member by management or
37 supervisory employees during any investigation that could lead to
38 discipline 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
41 officers, including matters pertaining to wages and hours of work.
- 42 (4) To have any agreements reached with a public safety employer as a
43 result of discussions reduced to writing in the form of a memorandum
44 of understanding.

1 (5) Notwithstanding the provisions of G.S. 95-98, to enforce a
2 memorandum of understanding with a public safety employer by
3 bringing an action in court.

4 **"§ 17F-4. Enforcement.**

5 (a) A public safety officer who believes that his or her rights under G.S. 17F-2
6 have been violated, or a public safety officer association that believes its rights under
7 G.S. 17F-3 have been violated, may bring a civil action in the superior court of the
8 county where the violation occurred or where the employer resides. In any such action,
9 the officer or association may seek, and the court may award, such relief and damages
10 as will make the officer or association whole and correct the effects of any violations.
11 Relief may include any or all of the following:

- 12 (1) An injunction to prevent future or continued violations of this Chapter.
13 (2) Removal from an officer's personnel file or record any records of
14 discipline or other unfavorable actions taken by an employer in
15 violation of G.S. 17F-2.
16 (3) Promotion or reassignment of any officer denied a promotion or
17 assignment in violation of G.S. 17F-2.
18 (4) Reassignment of the officer to the same position held before the
19 retaliatory action or discrimination to an equivalent position, or to a
20 position of higher classification if it is shown that the officer would
21 have been eligible for promotion during the period of the retaliatory
22 discharge.
23 (5) Reinstatement of an officer's full fringe benefits and seniority.
24 (6) Compensation to an officer for the consequences of the discrimination
25 or retaliation, including lost wages, lost benefits, and other economic
26 losses proximately caused by the retaliatory or discriminatory action.
27 (7) Compensation to an association for the consequences of the violations
28 of its rights.

29 (b) In an action under this section, if the court finds that a public safety officer
30 was injured by a willful violation of the rights granted under G.S. 17F-2, the court shall
31 treble the amount of damages it awards for loss of wages and benefits.

32 (c) The court may award to a plaintiff who obtains relief in an action to enforce
33 the rights granted by this Chapter and assess against the defendant the reasonable costs
34 and expenses, including attorneys' fees, of bringing the action. If the court determines
35 that the plaintiff's action was frivolous, it may award to the defendant and assess against
36 the plaintiff the reasonable costs and expenses, including attorneys' fees, of defending
37 the action.

38 (d) Parties to a civil action brought pursuant to this section shall have the right to
39 a jury trial as provided under G.S. 1A-1, Rules of Civil Procedure.

40 **"§ 17F-5. Effect of Chapter on other rights.**

41 Nothing in this Chapter shall be deemed to diminish any other rights or remedies of
42 public safety officers or associations under other statutes, the State or federal
43 constitution, or at common law."

1 **SECTION 2.** This act is effective when it becomes law and applies to
2 actions taken on or after that date.