

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 970

Short Title: Public Safety Employer/Employee Coop. Act. (Public)

Sponsors: Senators Cowell; and Berger of Franklin.

Referred to: Judiciary I (Civil).

March 20, 2007

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

4 The General Assembly of North Carolina enacts:

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

7 **"Chapter 17F.**

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

9 **"§ 17F-1. Definitions.**

10 The following definitions apply in this Chapter:

- 11 (1) Emergency medical services personnel. – An individual who provides
12 out-of-hospital emergency medical care, including an emergency
13 medical technician, paramedic, or first responder.
- 14 (2) Employer or public safety employer. – Any city, town, county, or other
15 municipality or political subdivision of the State that employs public
16 safety officers.
- 17 (3) Firefighter. – An individual employed by a fire department who (i)
18 primarily performs work directly related to the control and
19 extinguishment of fires; (ii) is responsible for the maintenance and use
20 of firefighting apparatus and equipment, fire prevention and
21 investigation, or communications and dispatch; or (iii) provides
22 emergency medical care.
- 23 (4) Public safety officer. – An employee of a city, town, county, or other
24 municipal entity or agency who is a firefighter or emergency medical
25 services personnel. Public safety officer includes an individual who is
26 temporarily transferred to a supervisory or administrative position but
27 does not include a permanent management or supervisory employee.
- 28 (5) Public safety officer association. – An association or labor
29 organization of public safety officers composed of (i) public safety

1 officers employed by a fire department; (ii) public safety officers
2 employed by an emergency medical or ambulance service.

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

11 **"§ 17F-2. Rights of public safety officers.**

12 Public safety officers have the following rights:

- 13 (1) To form and join an association or labor organization that does not
14 include management or supervisory employees.
15 (2) To be free from reprisal or discrimination in the terms or conditions of
16 their employment for joining or supporting an association or labor
17 organization.

18 **"§ 17F-3. Rights of public safety officer associations.**

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

- 22 (1) To advocate on behalf of and represent their members concerning the
23 terms and conditions of their members' employment.
24 (2) Upon the request of one of their members, to have a representative
25 present during any questioning of a member by management or
26 supervisory employees during any investigation that could lead to
27 discipline against the member.
28 (3) To meet with officials of a public safety employer to discuss matters
29 affecting the terms and conditions of employment of public safety
30 officers, including matters pertaining to wages and hours of work.
31 (4) To have any agreements reached with a public safety employer as a
32 result of discussions reduced to writing in the form of a memorandum
33 of understanding.
34 (5) Notwithstanding the provisions of G.S. 95-98, to enforce a
35 memorandum of understanding with a public safety employer by
36 bringing an action in court.

37 **"§ 17F-4. Enforcement.**

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

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

18 (b) In an action under this section, if the court finds that a public safety officer

19 was injured by a willful violation of the rights granted under G.S. 17F-2, the court shall

20 treble the amount of damages it awards for loss of wages and benefits.

21 (c) The court may award to a plaintiff who obtains relief in an action to enforce

22 the rights granted by this Chapter and assess against the defendant the reasonable costs

23 and expenses, including attorneys' fees, of bringing the action. If the court determines

24 that the plaintiff's action was frivolous, it may award to the defendant and assess against

25 the plaintiff the reasonable costs and expenses, including attorneys' fees, of defending

26 the action.

27 (d) Parties to a civil action brought pursuant to this section shall have the right to

28 a jury trial as provided under G.S. 1A-1, Rules of Civil Procedure.

29 **"§ 17F-5. Effect of Chapter on other rights.**

30 Nothing in this Chapter shall be deemed to diminish any other rights or remedies of

31 public safety officers or associations under other statutes, the State or federal

32 constitution, or at common law."

33 **SECTION 2.** This act is effective when it becomes law and applies to

34 actions taken on or after that date.