TESTIMONY

of

Chuck Canterbury
President,
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on

H.R. 413, the "Public Safety Employer-Employee Cooperation Act"

before the
Subcommittee on the Health, Education, Labor and Pensions
House Committee on Education and Labor

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Good morning, Mr. Chairman, Ranking Member Price, and distinguished members of the House Subcommittee on Health, Employment Labor and Pensions. My name is Chuck Canterbury, the National President of the Fraternal Order of Police, the largest law enforcement labor organization in the United States, representing more than 327,000 officers in every region of the nation.

I am here this morning to urge this Subcommittee to consider and report favorably H.R. 413, the "Public Employer-Employee Cooperation Act." The legislation, which is cosponsored by nearly two hundred Members of the House of Representatives, was considered and overwhelmingly passed by the full Committee in June 2007 on a 42-1 vote and, just a few weeks later passed the House on a 314-97 vote. Its enactment is one of the highest legislative priorities of our the Fraternal Order of Police.

This is a very simple bill, crafted to accomplish a very simple objective—to give our nation's public safety officers, who put themselves in harm's way every single day, the opportunity to sit down and talk with their employers about workplace issues. It's about the importance of dialogue between the rank-and-file law enforcement officers and the public safety agency which employs them.

The bill, which was introduced by Representatives Dale Kildee (D-MI) and John J. Duncan, Jr. (R-TN), would recognize the fundamental right of public safety employees—primarily law enforcement officers and firefighters—to form and join unions and bargain collectively with their employers over wages, hours, and working conditions without undermining existing State collective bargaining laws.

The FOP believes that the Federal government has a legitimate, even vital, interest in public safety, even at the local and State level because all of these officers are integral to our national security and our ongoing efforts to protect the United States from domestic and foreign terrorists.

Indeed, Congress routinely sets minimum expectations and requirements that must be met by State and local governments. In 1995, for example, Congress passed the Congressional Accountability Act, which for the first time recognized the right of Congressional employees to organize. The aim of that law was to ensure that "all laws that apply to the rest of the country also apply equally to the Congress." As a result, the U.S. Capitol Police were able to form a union and for the first time, had a voice in matters related to their livelihood. Their very first contract established the Joint Labor-Management Relations Committee to review police practices and procedures, another to review equipment issues and officers safety. An examination of the issues reviewed by the joint committee demonstrates that the overwhelming majority of them relate directly to job performance. Since winning the right to bargain collectively, the U.S. Capitol Police have increased the acquisition and distribution of soft body armor and upgraded their sidearms to .40 caliber. The views of the rank-and-file officers, brought to the Joint Committee by the FOP union, have resulted in more efficient manning of fixed posts throughout the U.S. Capitol complex, making it a safer place to work and visit.

Collective bargaining is a critical tool to resolve differences, not create them. The success of the law enforcement mission depends on an open dialogue that is absent in far too many of our departments today. While the bill requires an impasse resolution mechanism, I do not expect that impasses will be common, but rather that they will be rare. It has been my experience that labor and management

can resolve their issues if they have a means to discuss them. At the end of the day, the goals of the employer and the employee are the same: improving the safety of the public and of the officer.

I also want to emphasize that this legislation is constructed in such a way that it preserves and protects the authority of the State to maintain and administer its own collective bargaining law. The legislation merely establishes very basic collective bargaining principles which State laws must meet. The implementation and enforcement of those laws are left entirely to the States.

In fact, the legislation has numerous built-in safeguards to protect existing State laws by including provisions which:

- presume that State laws are in compliance unless the Federal Labor Relations Authority (FLRA) affirmatively finds that they are not;
- limit the FLRA to evaluating State laws solely on the basis of the minimums provided for in this bill and prohibiting the creation of new requirements to be imposed on States; and
- require the FLRA to give "maximum weight" to an agreement between management and a labor organization that the State law complies with this legislation when reviewing existing State law.

In addition, the legislation protects State right-to-work laws. Specifically, the bill allows States to enforce laws that prevent employers and unions from requiring union fees as a condition of employment. Many people assume that collective bargaining rights and right-to-work laws are mutually exclusive, but the fact is that the two can coexist. Many right-to-work States allow collective bargaining and all private sector employees in such States have bargaining rights. Public safety officers in these States deserve the same rights as other workers.

I think it is important to underscore the unique nature of public safety work. Ours is not the traditional labor-management relationship. In our line of work, the aim of both the rank-and-file officer and the chief law enforcement officer is to decrease crime and make communities safer. This is our bottom line: not profits versus wages, but the safety of the public and of the officer. Studies have consistently shown that cooperation between public safety employers and employees enhances overall public safety, as well as the safety of officers.

Imagine for a moment how difficult it would be for Congress to conduct business if there was no way for the leadership and the party members to caucus and plan the party's agenda. Or if there was no dialogue between the majority and the minority members. If this were the case, bipartisan agreement would be even less possible—there would be no way for Congress to work in a bipartisan manner and the nation would suffer as a result.

This legislation affords the opportunity for public safety employees to form and join a union, giving the rank-and-file officer a voice in the workplace. It will provide management with needed feedback. We know that crime-fighting is successful and effective if conducted by a team working together with an open dialogue.

If the legislation becomes law with the language that has been prepared for the Committee's consideration, then the FLRA, bound by the provisions described above, would then review existing State law and determine if the law would "substantially provide" for the following rights and responsibilities:

- the right to form and join a labor organization that serves as, or seeks to serve as, the exclusive bargaining representative for non-management and non-supervisory public safety employees;
- a requirement that the public safety employer recognize the employees' labor organization, agree to bargaining;
- the right to bargain over hours, wages, and the terms and conditions of employment;
- the availability of an "interest impasse resolution mechanism such as fact-finding, mediation, arbitration, or comparable procedures"; and
- a requirement of enforcement through State courts of "all rights, responsibilities, and protections provided by State law," including any written contract or memorandum of understanding.

These very minimal requirements are the heart of this legislation, and none can be fairly called burdensome. More importantly, it is only if the FLRA determines that a State does not "substantially provide" for the these rights and responsibilities that the Authority will issue regulations.

Neither this bill or any regulations issued by the FLRA under the authority of this legislation will invalidate a certification, recognition, collective bargaining agreement, or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) that is in effect on the day before the date of enactment, or the results of any election held before the date of enactment.

The bill would not preempt any law of any State or political subdivision of any State or jurisdiction that substantially provides greater or comparable rights and responsibilities as described in above, or prevent a State from enforcing a State law which prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment (*i.e.* "right-to-work").

The bill would also not preempt any State law in effect on the date of enactment that substantially provides for the rights and responsibilities described above solely because:

- such State law permits an employee to appear in his or her own behalf with respect to his or her employment relations with the public safety agency involved;
- such State law excludes from its coverage employees of a state militia or national guard;
- such State law does not require bargaining with respect to pension and retirement benefits;
- such rights and responsibilities have not been extended to other categories of employees covered by this legislation, in which case the FLRA shall only exercise

the authority granted it by this bill with respect to those categories of employees who have not been afforded the aforementioned rights and responsibilities;

- such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

Further, if a State provides collective bargaining rights for some, but not all, public safety employees described in the bill, the FLRA will be required to specify those categories of employees to eliminate any confusion over which groups of employees would come under the FLRA regulations.
Finally, a State may exempt from its State law, or from the requirements established by this bill, a political subdivision of the State that has a population of less than 5,000 or that employs fewer than 25 full time employees.

In conclusion, Mr. Chairman, this bill takes a minimalist approach to a critically important issue. The bill is well-crafted, balanced, and respectful of the principles of Federalism.

I want to thank you for holding this hearing and to thank all Members of this Subcommittee for their time and attention to this important issue.

Thank you. I would now be happy to answer any questions you may have.