H.R. 3225, THE "PUBLIC EMPLOYER-EMPLOYEE COOPERATION ACT"

This legislation would require that States "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 recognizes the employees' labor organization and agrees to bargaining;**
- **the right to bargain over hours, wages, and the terms and conditions of employment;**
- **the availability of a binding interest arbitration or other impasse resolution mechanism such as fact-finding, mediation, or comparable procedure; and**
- **a requirement of enforcement of "all rights, responsibilities, and protections" provided by the bill, including any written contract or memorandum of understanding through a State administrative agency or court of competent jurisdiction.**

In determining whether or not a State "substantially provides" for these rights and responsibilities, the Federal Labor Relations Authority (FLRA) is required to consider the opinions of the affected employers, employees, and labor organizations. If an employer and an affected labor organization jointly agree that the current State law "substantially provides" for these rights and responsibilities, the FLRA will give this agreement "weight to the maximum extent practicable" in making its determination.

If the FLRA determines that a State does not "substantially provide" for the rights and responsibilities enumerated above, then a State has two years (from the date of the law's enactment) or "date of the end of the first regular session of the legislature of that State that begins after the date of the enactment of this Act" to change State law or regulations to comply with the provisions of the bill. If the State fails to act, the FLRA will issue regulations which will provide for the aforementioned rights and responsibilities. These regulations will enable the FLRA to:

- **determine the appropriateness of units for labor organization representation;**
- **supervise and conduct elections to determine whether a labor organization has been selected as an exclusive representative by a voting majority of the employees in an appropriate unit;**
- **resolve issues relating to the duty to bargain in good faith;**
- **conduct hearings and resolve complaints of unfair labor practices;**
- **resolve exceptions to the awards of arbitrators;**

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- protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right;
- direct compliance by such State by order if the FLRA finds that the State is not in compliance with the regulations it issued; and
- take other actions as necessary to appropriately and fairly administer the Public Safety Employer-Employee Cooperation Act, including the authority to issue subpoenas, take depositions, administer oaths, order written interrogatories, and receive and examine witnesses.

The bill specifically prohibits strikes and lockouts.

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 above, or prevent a State from enforcing a State law which prohibits employers and labor organizations from negotiating provisions in a labor agreement that requires 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. In addition, a State may be 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.

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