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Collective Bargaining Bill for Public Safety Workers Could Cost Taxpayers Federal legislation would override North Carolina ban on union organizing



By Donna Martinez

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RALEIGH — Nearly 32,000 North Carolina state and local public safety employees could begin negotiating contracts with unions if recently introduced federal legislation becomes law. S. 3194, [The Public Safety Employer-Employee Cooperation Act of 2009 \(S. 3194\)](#), sponsored and introduced April 12 by Senate Majority Leader Harry Reid, D-Nev., would override North Carolina law forcing the state, municipalities, and counties to recognize and bargain collectively with unions representing police, firefighters, emergency medical responders, and others.

Union officials refused to speak to *Carolina Journal* about the pending legislation. Neither the SEIU, which is affiliated with the State Employees Association of North Carolina (SEANC), the North Carolina Fraternal Order of Police, nor the International Association of Firefighters responded to repeated requests for comment.

Organized labor's silence stands in contrast to vocal concerns expressed by local officials and associations over costs to taxpayers, burdens to administrators, the ability of law enforcement to nimbly respond, and constitutionality of the legislation.

The bill could become law quickly and without substantive debate. Reid introduced S. 3194 under a rule that allows it to bypass committee review and proceed to the floor in as little as 48 hours.

No action had occurred as of press time.

S. 3194 would override [North Carolina General Statute 95-98](#), which for 51 years has prohibited public sector collective bargaining. S. 3194 would let public safety employees choose to be represented by a union and have their hours, wages, and terms and conditions of employment determined by collective bargaining. Supervisors and managers would be exempt.

The North Carolina League of Municipalities estimates 28,000 municipal and county law enforcement workers and paid firefighters would fall under the bill. The State Office of Personnel puts the number of public safety positions in state government at nearly 3,800, including members of Highway Patrol, employees of the State Bureau of Investigation, and others.

“From my experience, it would be costly to local governments,” said Wayne Bowers, city manager of Greenville and former city manager of Gainesville, Fla., where collective bargaining is law. “We had one full-time labor relations person, we had a staff assistant to that labor relations director, we had one city attorney who spent just about full time on labor relations issues, and we occasionally had to hire

outside attorneys.” Cost to Gainesville: roughly \$250,000.

Mint Hill Police Chief Tim Ledford, president of the North Carolina Association of Chiefs of Police, believes collective bargaining would bring tax increases and layoffs. NCACP opposes the bill. Ledford, once a union official in a different industry, says he understands rank-and-file officers see collective bargaining as a path to higher compensation. However, his experience showed him union contracts hurt good workers by protecting slackers: “With unions, everybody gets the same across the board.”

Compensation costs will rise with a unionized public sector work force, according to Chris Edwards, director of tax policy studies for the Cato Institute. In the Cato report [Public-Sector Unions](#) (PDF), Edwards writes that after adjusting for state-to-state differences in the labor market, “public-sector unions increase average pay levels by roughly 10 percent.”

Rebecca Troutman of the North Carolina Association of County Commissioners says local law enforcement officers receive a competitive salary, a 5 percent 401(k) contribution by their employers every year, a robust pension plan, and a separation allowance.

S. 3194 is an expensive, unfunded mandate, according to Ellis Hankins of the League of Municipalities. “It’s going to result in the same services being delivered at a much higher cost,” Hankins said. Like the county commissioners’ group, the league views collective bargaining and S. 3194 as a major threat that would create an adversarial relationship between employee and employer and lead to collective bargaining with other public employees.

Hankins points to Vallejo, Calif., as the poster child for what can happen when officials have no flexibility to cut budgets. In 2008, [Vallejo declared bankruptcy](#) after unions refused to renegotiate contracts. Three-quarters of Vallejo’s general fund budget went to public safety worker compensation. A bankruptcy appellate panel from the 9th U.S. Circuit Court of Appeals agreed the city was insolvent and ordered changes to the agreements.

Lack of operational flexibility is Ledford’s concern. “You’ve got to be able to make decisions on the fly and on the spot — make immediate decisions. With a union you can’t do that. You’ve got to get buy-in from the union rep before you can make decisions about anything that affects the employee,” he said.

Fraternal Order of Police President Chuck Canterbury addressed “the boogeyman of collective bargaining having an adverse affect on public safety” [before Congress last month](#). He said public safety officers who responded after the 9/11 attacks and Pentagon police who responded to a shooting this year were covered by collective bargaining agreements. “None of those called to action in these most extreme of circumstances paused to contemplate whether any of their actions would impact current or future negotiations,” Canterbury said.

The North Carolina Association of Fire Chiefs hasn’t taken a position on the bill, but President Frank Burns thinks North Carolina’s small towns could become all-volunteer forces if S. 3194 passes. Burns, fire chief of Kings Mountain, questions whether small towns could afford collective bargaining rules on hours worked, pay rates, benefits, and duty requirements. He doesn’t think an all-volunteer force would impact service adversely. Burns says volunteers comprise 80 percent of North Carolina’s 50,000-strong firefighting force, while 20 percent are paid.

Among North Carolina's Washington delegation, Republican Sen. Richard Burr opposes S. 3194. On May 7, he told NewsRadio680 WPTF he doesn’t see the bill coming up during the regular session of Congress but Burr did say, “I’m alarmed at what might happen in a lame-duck session of Congress post the November election, between then and January when the new Senate is seated.”

Democratic Sen. Kay Hagan's office didn't respond to *CJ's* request to learn her position. In September 2008, then-candidate Hagan told Greensboro *News & Record* reporter Mark Binker, [in a voice-mail message](#) posted on the paper's website: "Once I'm elected to the U.S. Senate, I want you to know that I will never support a bill at the federal level that mandates states allow collective bargaining of state government employees. I truly believe that's a state rights issue. That's my strong belief and that's how I'll vote."

Hankins believes S. 3194 violates every principle of federalism and might be unconstitutional. "There really are good legal arguments that the legislation is beyond constitutional powers of the Congress. If they can do this, they can do about everything," Hankins said.

Donna Martinez is a contributor to Carolina Journal.