

115TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To secure the rights of public employees to organize, act concertedly, and bargain collectively, which safeguard the public interest and promote the free and unobstructed flow of commerce, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Ms. HIRONO (for herself, Mr. SCHUMER, Mrs. MURRAY, Mr. DURBIN, Mrs. GILLIBRAND, Ms. WARREN, Mr. REED, Ms. KLOBUCHAR, Mr. PETERS, Ms. BALDWIN, Mr. WHITEHOUSE, Mr. BLUMENTHAL, Mr. MERKLEY, Mr. VAN HOLLEN, Mrs. FEINSTEIN, Mr. SANDERS, Mr. BROWN, Mr. MARKEY, Ms. SMITH, Mr. SCHATZ, Mr. MENENDEZ, Ms. STABENOW, Mr. BOOKER, Mr. WYDEN, Ms. HARRIS, Mr. CARPER, Mr. CASEY, Mr. COONS, Mr. CARDIN, Ms. CORTEZ MASTO, Ms. CANTWELL, and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To secure the rights of public employees to organize, act concertedly, and bargain collectively, which safeguard the public interest and promote the free and unobstructed flow of commerce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Service Free-  
5 dom to Negotiate Act of 2018”.

1 **SEC. 2. FINDINGS; PURPOSE.**

2 (a) FINDINGS.—Congress makes the following find-  
3 ings:

4 (1) The denial by some public employers of the  
5 right of public employees to organize and the refusal  
6 by some public employers to accept the procedure of  
7 collective bargaining lead to strikes and other forms  
8 of strife or unrest. Such actions have the intent or  
9 the necessary effect of burdening or obstructing  
10 commerce by—

11 (A) impairing the efficiency, safety, or op-  
12 eration of the instrumentalities of commerce,  
13 which depend on stable government services and  
14 public infrastructure;

15 (B) materially affecting, restraining, or  
16 controlling the flow of goods into the channels  
17 of commerce, or the prices of such goods in  
18 commerce; or

19 (C) causing diminution of employment and  
20 wages in such volume so as to substantially im-  
21 pair or disrupt the market for goods flowing  
22 from or into the channels of commerce.

23 (2) The inequality of bargaining power between  
24 public employees, who do not possess full freedom of  
25 association or actual liberty of contract, and public  
26 employers substantially burdens and affects the flow

1 of commerce, and tends to aggravate recurrent busi-  
2 ness depressions, by depressing wage rates and the  
3 purchasing power of wage earners and by negatively  
4 affecting the stabilization of competitive wage rates  
5 and decent working conditions.

6 (3) Experience in public employment indicates  
7 that the statutory protection of the rights of public  
8 employees to organize, act concertedly, and bargain  
9 collectively safeguards the public interest and pro-  
10 motes the free and unobstructed flow of commerce  
11 among the States by removing certain recognized  
12 sources of strife and unrest. Such protection facili-  
13 tates and encourages the amicable settlement of dis-  
14 putes between public employees and their public em-  
15 ployers involving wages, hours, and other terms and  
16 conditions of employment.

17 (4) To be most effective and stable, labor-man-  
18 agement relationships in the public sector must be  
19 based on trust, mutual respect, open communication,  
20 bilateral consensual problem solving, and shared ac-  
21 countability. In many public agencies, it is the union  
22 that provides the institutional stability as elected  
23 leaders and appointees come and go.

24 (5) State and local public employees play an es-  
25 sential role in the efforts of the United States to de-

1 tect, prevent, and respond to terrorist attacks, and  
2 to respond to natural disasters, hazardous materials,  
3 and other mass casualty incidents. State and local  
4 public employees, as first responders, are a compo-  
5 nent of our Nation's National Incident Management  
6 System, developed by the Department of Homeland  
7 Security to coordinate response to and recovery from  
8 terrorism, major natural disasters, and other major  
9 emergencies. Effective and stable public employer-  
10 employee relationships are essential in meeting these  
11 needs and are, therefore, in both the National inter-  
12 est as well as in furtherance of the United States'  
13 obligation to safeguard the country under section 4  
14 of article IV of the Constitution of the United  
15 States.

16 (6) Teachers and other education professionals  
17 (including paraprofessionals, custodians, administra-  
18 tive staff, cafeteria workers, specialized instructional  
19 support personnel, and others) work to provide qual-  
20 ity education to every student. Students deserve the  
21 opportunity to reach their full potential in a well-  
22 resourced public school.

23 (7) Conflict between public employers and pub-  
24 lic employees has implications for the security of  
25 public employees and the public and affects inter-

1 state and intrastate commerce. Ineffective and un-  
2 stable labor-management relations can detrimentally  
3 impact the upgrading of public services of local com-  
4 munities, the health and well-being of public employ-  
5 ees, and the morale within public agencies. Addition-  
6 ally, these factors have significant commercial reper-  
7 cussions. Moreover, providing minimal standards for  
8 collective bargaining rights in the public sector can  
9 prevent industrial strife between labor and manage-  
10 ment that interferes with the normal flow of com-  
11 merce. It is settled law that Congress has authority  
12 under the Commerce Clause of section 8 of article  
13 I of the Constitution of the United States to safe-  
14 guard protections for employees of State and local  
15 governments.

16 (8) Many States and localities already have  
17 laws that provide public employees with collective  
18 bargaining rights comparable to or greater than the  
19 rights and responsibilities set forth in this Act, and  
20 such State and local laws should be respected.

21 (9) While the National Labor Relations Act (29  
22 U.S.C. 151 et seq.) protects the rights of private-  
23 sector employees to form or join unions, act  
24 concertedly for the purpose of collective bargaining  
25 or other mutual aid or protection, and bargain col-

1       lectively with their employers, no Federal law pro-  
2       tects these fundamental labor rights for employees  
3       of the States, including territories and possessions of  
4       the United States, and the political subdivisions  
5       thereof. The Federal Government needs to encour-  
6       age conciliation, mediation, and dispute resolution to  
7       aid and encourage public employers and the rep-  
8       resentatives of their public employees to reach and  
9       maintain agreements concerning rates of pay, hours,  
10      and working conditions, and to make all reasonable  
11      efforts through negotiations to settle their dif-  
12      ferences by mutual agreement reached through col-  
13      lective bargaining or by such methods as may be  
14      provided for in any applicable agreement for the set-  
15      tlement of disputes.

16      (b) PURPOSE.—It is the purpose of this Act to—

17           (1) secure the rights of public employees to  
18           form or join unions, act concertedly for the purpose  
19           of collective bargaining or other mutual aid or pro-  
20           tection, and bargain collectively with their employ-  
21           ers; and

22           (2) reaffirm the policy of the United States to  
23           encourage the practice and procedure of collective  
24           bargaining, which safeguards the public interest and

1 promotes the free and unobstructed flow of com-  
2 merce.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) **AUTHORITY.**—The term “Authority” means  
6 the Federal Labor Relations Authority.

7 (2) **COLLECTIVE BARGAINING.**—The term “col-  
8 lective bargaining”, with respect to public employees  
9 and public employers, means the performance of the  
10 mutual obligation of the representative of a public  
11 employer and the exclusive representative of public  
12 employees in an appropriate unit of the employer to  
13 meet at reasonable times and to consult and bargain  
14 in a good-faith effort to reach agreement with re-  
15 spect to wages, hours, and other terms and condi-  
16 tions of employment affecting such employees and to  
17 execute, if requested by either party, a written docu-  
18 ment incorporating any collective bargaining agree-  
19 ment reached, but the obligation referred to in this  
20 paragraph does not compel either party to agree to  
21 a proposal or to make a concession.

22 (3) **CONFIDENTIAL EMPLOYEE.**—

23 (A) **IN GENERAL.**—Except as provided in  
24 subparagraph (B), the term “confidential em-  
25 ployee” means a public employee who acts in a

1 confidential capacity with respect to an indi-  
2 vidual who formulates or effectuates manage-  
3 ment policies in the field of labor-management  
4 relations.

5 (B) STATE LAW.—If the term “confiden-  
6 tial employee”, or a substantially equivalent  
7 term, has a substantially equivalent meaning  
8 under applicable State law to the meaning  
9 under subparagraph (A) on the date of the en-  
10 actment of this Act, such term, or substantially  
11 equivalent term, and meaning under such appli-  
12 cable State law shall apply with respect to the  
13 term “confidential employee” under this Act for  
14 public employees and public employers in such  
15 State.

16 (4) EMERGENCY SERVICES EMPLOYEE.—The  
17 term “emergency services employee” means—

18 (A) a public employee providing out-of-hos-  
19 pital emergency medical care, including an  
20 emergency medical technician, paramedic, or  
21 first responder; or

22 (B) a public employee providing other serv-  
23 ices in response to emergencies that have the  
24 potential to cause death or serious bodily in-  
25 jury, including an employee in fire protection



1 activities (as defined in section 3 of the Fair  
2 Labor Standards Act of 1938 (29 U.S.C. 203)).

3 (5) EMPLOY.—The term “employ” includes to  
4 suffer or permit to work.

5 (6) LABOR ORGANIZATION.—The term “labor  
6 organization”, with respect to public employers and  
7 public employees, means any organization of any  
8 kind in which public employees participate and  
9 which exists for the purpose, in whole or in part, of  
10 dealing with public employers concerning grievances,  
11 labor disputes, wages, rates of pay, hours of employ-  
12 ment, or conditions of work.

13 (7) LAW ENFORCEMENT OFFICER.—The term  
14 “law enforcement officer” has the meaning given  
15 such term in section 1204 of the Omnibus Crime  
16 Control and Safe Streets Act of 1968 (34 U.S.C.  
17 10284).

18 (8) MANAGEMENT EMPLOYEE.—

19 (A) IN GENERAL.—Except as provided in  
20 subparagraph (B), the term “management em-  
21 ployee” means an individual employed by a pub-  
22 lic employer in a position the duties and respon-  
23 sibilities of which require or authorize the indi-  
24 vidual to formulate, determine, or influence the  
25 policies of the employer.

1           (B) STATE LAW.—If the term “manage-  
2           ment employee”, or a substantially equivalent  
3           term, has a substantially equivalent meaning  
4           under applicable State law to the meaning  
5           under subparagraph (A) on the date of the en-  
6           actment of this Act, such term, or substantially  
7           equivalent term, and meaning under such appli-  
8           cable State law shall apply with respect to the  
9           term “management employee” under this Act  
10          for public employees and public employers in  
11          such State.

12          (9) PERSON.—The term “person” means an in-  
13          dividual or a labor organization.

14          (10) PUBLIC EMPLOYEE.—The term “public  
15          employee”—

16                (A) means an individual, employed by a  
17                public employer, who in any workweek is en-  
18                gaged in commerce or in the production of  
19                goods for commerce, or is employed in an enter-  
20                prise engaged in commerce or in the production  
21                of goods for commerce (as the terms “com-  
22                merce”, “goods”, and “enterprise engaged in  
23                commerce or in the production of goods for  
24                commerce” are defined in section 3 of the Fair  
25                Labor Standards Act of 1938);

1 (B) includes an individual who is tempo-  
2 rarily transferred to a supervisory or manage-  
3 ment position; and

4 (C) does not include a permanent super-  
5 visory employee, permanent management em-  
6 ployee, or permanent confidential employee, or  
7 an elected official.

8 (11) PUBLIC EMPLOYER.—The term “em-  
9 ployer” means any of the following that employs  
10 public employees:

11 (A) A State or the political subdivision of  
12 a State, including a territory or political sub-  
13 division of a territory.

14 (B) Any authority, agency, school district,  
15 board or other entity controlled and operated by  
16 an entity described in subparagraph (A).

17 (12) STATE.—The term “State” means each of  
18 the several States of the United States, the District  
19 of Columbia, and any territory or possession of the  
20 United States.

21 (13) SUBSTANTIALLY PROVIDES.—The term  
22 “substantially provide” or “substantially provides”,  
23 with respect to the rights and responsibilities de-  
24 scribed in section 4(b), means providing rights and  
25 responsibilities that are comparable to or greater

1 than each of the rights and responsibilities described  
2 in such section.

3 (14) SUPERVISORY EMPLOYEE.—

4 (A) IN GENERAL.—Except as provided in  
5 subparagraph (B), the term “supervisory em-  
6 ployee” means an individual, employed by a  
7 public employer, who—

8 (i) has the authority in the interest of  
9 the employer, if the exercise of the author-  
10 ity is not merely routine or clerical in na-  
11 ture but requires the consistent exercise of  
12 independent judgment, to—

13 (I) hire, promote, reward, trans-  
14 fer, furlough, lay off, recall, suspend,  
15 discipline, or remove public employees;

16 (II) adjust the grievances of pub-  
17 lic employees; or

18 (III) effectively recommend any  
19 action described in subclause (I) or  
20 (II); and

21 (ii) devotes a majority of time at work  
22 to exercising the authority under clause (i).

23 (B) STATE LAW.—If the term “supervisory  
24 employee”, or a substantially equivalent term,  
25 has a substantially equivalent meaning under

1 applicable State law to the meaning under sub-  
2 paragraph (A) on the date of the enactment of  
3 this Act, such term, or substantially equivalent  
4 term, and meaning under such applicable State  
5 law shall apply with respect to the term “super-  
6 visory employee” under this Act for public em-  
7 ployees and public employers in such State.

8 **SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBIL-**  
9 **ITIES.**

10 (a) DETERMINATION.—

11 (1) IN GENERAL.—Not later than 180 days  
12 after the date of enactment of this Act, the Author-  
13 ity shall make a determination as to whether a State  
14 substantially provides for the rights and responsibil-  
15 ities described in subsection (b).

16 (2) CONSIDERATION OF ADDITIONAL OPIN-  
17 IONS.—In making the determination described in  
18 paragraph (1), the Authority shall consider the opin-  
19 ions of affected public employees, labor organiza-  
20 tions, and public employers. In the case where the  
21 Authority is notified by an affected public employer  
22 and labor organization that both parties agree that  
23 the law applicable to such employer and labor orga-  
24 nization substantially provides for the rights and re-  
25 sponsibilities described in subsection (b), the Author-

1       ity shall give such agreement weight to the max-  
2       imum extent practicable in making the Authority's  
3       determination described in paragraph (1).

4           (3) LIMITED CRITERIA.—In making the deter-  
5       mination described in paragraph (1), the Authority  
6       shall be limited to the application of the criteria de-  
7       scribed in subsection (b) and shall not use any addi-  
8       tional criteria.

9           (4) SUBSEQUENT DETERMINATIONS.—

10           (A) IN GENERAL.—A determination made  
11       pursuant to paragraph (1) shall remain in ef-  
12       fect unless and until the Authority issues a sub-  
13       sequent determination, in accordance with the  
14       procedures set forth in subparagraph (B).

15           (B) PROCEDURES FOR SUBSEQUENT DE-  
16       TERMINATIONS.—Upon establishing that a ma-  
17       terial change in State law or its interpretation  
18       has occurred, a public employee, public em-  
19       ployer, or a labor organization may submit a  
20       written request for a subsequent determination.  
21       If satisfied that a material change in State law  
22       or its interpretation has occurred, the Authority  
23       shall issue a subsequent determination not later  
24       than 30 days after receipt of such request.

1           (5) JUDICIAL REVIEW.—Any person or public  
2 employer aggrieved by a determination of the Au-  
3 thority under this section may, during the 60-day  
4 period beginning on the date on which the deter-  
5 mination was made, petition any United States  
6 Court of Appeals in the circuit in which the person  
7 or public employer resides or transacts business or  
8 in the Court of Appeals for the District of Columbia  
9 Circuit, for judicial review. In any judicial review of  
10 a determination made by the Authority described in  
11 paragraph (1), the procedures contained in sub-  
12 sections (c) and (d) of section 7123 of title 5,  
13 United States Code, shall be followed.

14           (b) RIGHTS AND RESPONSIBILITIES.—The rights and  
15 responsibilities described in this subsection are each of the  
16 following:

17           (1) Granting public employees the right to self-  
18 organization, to form, join, or assist a labor organi-  
19 zation, to bargain collectively through representa-  
20 tives of their own choosing, and to engage in other  
21 concerted activities for the purpose of collective bar-  
22 gaining or other mutual aid or protection.

23           (2) Requiring public employers to—

24           (A) recognize the labor organization of its  
25 public employees (freely chosen in an election

1 by a majority of such employees voting in the  
2 appropriate unit), without requiring an election  
3 to recertify a labor organization that is already  
4 recognized as the representative of such employ-  
5 ees unless not less than 30 percent of such em-  
6 ployees in the appropriate unit freely sign a pe-  
7 tition to decertify such labor organization;

8 (B) collectively bargain with such recog-  
9 nized labor organization; and

10 (C) commit any agreements with such rec-  
11 ognized labor organization to writing in a con-  
12 tract or memorandum of understanding.

13 (3) Making available an interest impasse resolu-  
14 tion mechanism, such as fact-finding, mediation, ar-  
15 bitration, or comparable procedures and providing  
16 for the payroll deduction of labor organization fees  
17 to any duly-selected representative of public employ-  
18 ees pursuant to the terms of an authorization exe-  
19 cuted by such public employees.

20 (4) Requiring enforcement of all rights, respon-  
21 sibilities, and protections provided by State law and  
22 enumerated in this section, and of any written con-  
23 tract or memorandum of understanding between a  
24 labor organization and a public employer, through—



1 (A) a State administrative agency, if the  
2 State so chooses;

3 (B) at the election of an aggrieved party,  
4 the State courts; or

5 (C) in the case of an alleged violation, mis-  
6 interpretation, or misapplication of the contract  
7 or memorandum of understanding, a grievance  
8 resolution procedure negotiated in such contract  
9 or memorandum.

10 (c) COMPLIANCE WITH REQUIREMENTS.—If the Au-  
11 thority determines, acting pursuant to its authority under  
12 subsection (a), that a State substantially provides for the  
13 rights and responsibilities described in subsection (b), then  
14 subsection (d) shall not apply.

15 (d) FAILURE TO MEET REQUIREMENTS.—

16 (1) IN GENERAL.—If the Authority determines,  
17 acting pursuant to its authority under subsection  
18 (a), that a State does not substantially provide for  
19 the rights and responsibilities described in sub-  
20 section (b), then such State shall be subject to the  
21 regulations and procedures described in section 5 be-  
22 ginning on the later of—

23 (A) the date that is 2 years after the date  
24 of enactment of this Act;

1 (B) the date that is the last day of the  
2 first regular session of the legislature of the  
3 State that begins after the date of the enact-  
4 ment of this Act; or

5 (C) in the case of a State receiving a sub-  
6 sequent determination under subsection (a)(4),  
7 the date that is the last day of the first regular  
8 session of the legislature of the State that be-  
9 gins after the date the Authority made the de-  
10 termination.

11 (2) PARTIAL FAILURE.—If the Authority makes  
12 a determination that a State does not substantially  
13 provide for the rights and responsibilities described  
14 in subsection (b) solely because the State law sub-  
15 stantially provides for such rights and responsibil-  
16 ities for certain categories of public employees but  
17 not others, the Authority shall identify—

18 (A) those categories of public employees  
19 that shall be subject to the regulations and pro-  
20 cedures described in section 5, pursuant to sec-  
21 tion 8(b)(3), beginning on the applicable date  
22 under paragraph (1); and

23 (B) those categories of public employees  
24 that shall not be subject to the regulations and  
25 procedures described in section 5.

1 **SEC. 5. MINIMUM STANDARDS ADMINISTERED BY THE FED-**  
2 **ERAL LABOR RELATIONS AUTHORITY.**

3 (a) IN GENERAL.—Not later than 1 year after the  
4 date of enactment of this Act, the Authority shall issue  
5 regulations in accordance with the rights and responsibil-  
6 ities described in section 4(b) establishing collective bar-  
7 gaining procedures for public employers, labor organiza-  
8 tions, and public employees in States which the Authority  
9 has determined, acting pursuant to section 4(a), do not  
10 substantially provide for such rights and responsibilities.

11 (b) ROLE OF THE FEDERAL LABOR RELATIONS AU-  
12 THORITY.—The Authority, to the extent provided in this  
13 Act and in accordance with regulations prescribed by the  
14 Authority, shall—

15 (1) protect the right of public employees to  
16 form, join, or assist any labor organization, or to re-  
17 frain from any such activity, freely and without fear  
18 of penalty or reprisal, protect the right of public em-  
19 ployees to bargain collectively through representa-  
20 tives of their own choosing, and protect the right of  
21 public employees to engage in other concerted activi-  
22 ties for the purpose of collective bargaining or other  
23 mutual aid or protection;

24 (2) supervise or conduct elections to determine  
25 whether a labor organization has been selected as an  
26 exclusive representative by a majority of the public

1 employees voting in such election in an appropriate  
2 unit, and provide for the payroll deduction of labor  
3 organization fees to any such duly-elected exclusive  
4 representative pursuant to the terms of an author-  
5 ization executed by a public employee;

6 (3) determine the appropriateness of units for  
7 labor organization representation;

8 (4) require public employers to—

9 (A) recognize the labor organization of its  
10 public employees (freely chosen by a majority of  
11 such employees voting in the appropriate unit)  
12 as the exclusive representative of such employ-  
13 ees;

14 (B) bargain in good faith with such labor  
15 organization concerning public employees'  
16 wages, hours, and other terms and conditions of  
17 employment, which shall include a procedure for  
18 the settlement of grievances culminating in  
19 binding arbitration in any agreement and a pro-  
20 cedure for resolving any impasses in collective  
21 bargaining; and

22 (C) commit any agreements to writing in a  
23 contract or memorandum of understanding;

24 (5) prohibit practices which interfere with, co-  
25 erce, or intimidate public employees in the exercise

1 of rights guaranteed in paragraph (1) or regulations  
2 issued thereunder;

3 (6) conduct hearings and resolve complaints  
4 concerning violations of any regulation or order  
5 issued by the Authority pursuant to this Act;

6 (7) resolve exceptions to the awards of arbitra-  
7 tors; and

8 (8) take such other actions as are necessary  
9 and appropriate to effectively administer this Act,  
10 including issuing subpoenas requiring the attendance  
11 and testimony of witnesses and the production of  
12 documentary or other evidence from any place in the  
13 United States, administering oaths, taking or order-  
14 ing the taking of depositions, ordering responses to  
15 written interrogatories, and receiving and examining  
16 witnesses.

17 (c) ENFORCEMENT.—The Authority may issue an  
18 order directing compliance by any person or public em-  
19 ployer found to be in violation of this section, and may  
20 petition any United States Court of Appeals with jurisdic-  
21 tion over the parties, or the United States Court of Ap-  
22 peals for the District of Columbia Circuit, to enforce any  
23 such final orders issued pursuant to this section or pursu-  
24 ant to regulations issued under this section, and for appro-  
25 priate temporary relief or a restraining order. Any petition

1 under this section shall be conducted in accordance with  
2 subsections (c) and (d) of section 7123 of title 5, United  
3 States Code.

4 **SEC. 6. LOCKOUTS AND EMPLOYEE STRIKES PROHIBITED**  
5 **WHEN EMERGENCY OR PUBLIC SAFETY SERV-**  
6 **ICES IMPERILED.**

7 (a) IN GENERAL.—Subject to subsection (b), any em-  
8 ployer, emergency services employee, or law enforcement  
9 officer to which section 5 applies may not engage in a lock-  
10 out, strike, or any other organized job action of which a  
11 reasonably probable result is a measurable disruption of  
12 the delivery of emergency or public safety services. No  
13 labor organization may cause or attempt to cause a viola-  
14 tion of this subsection.

15 (b) NO PREEMPTION.—Nothing in this section shall  
16 be construed to preempt any law of any State or political  
17 subdivision of any State with respect to strikes by emer-  
18 gency services employees or law enforcement officers.

19 **SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND**  
20 **AGREEMENTS.**

21 The enactment of this Act shall not invalidate any  
22 certification, recognition, result of an election, collective  
23 bargaining agreement, or memorandum of understanding  
24 that—

1           (1) has been issued, approved, or ratified by  
2           any public employee relations board or commission,  
3           or by any State or political subdivision or an agent  
4           or management official of such State or political  
5           subdivision; and

6           (2) is in effect on the day before the date of en-  
7           actment of this Act.

8   **SEC. 8. EXCEPTIONS; RULES OF CONSTRUCTION.**

9           (a) IN GENERAL.—Section 4(d), and the regulations  
10          and procedures under section 5, shall not apply—

11           (1) solely because a State law permits a public  
12           employee to appear on the employee’s own behalf  
13           with respect to the employee’s employment relations  
14           with the public employer involved;

15           (2) solely because a State law excludes from its  
16           coverage public employees of a State militia or na-  
17           tional guard;

18           (3) to a political subdivision of a State if —

19                   (A) such political subdivision has a popu-  
20                   lation of fewer than 5,000 people or employs  
21                   fewer than 25 public employees; and

22                   (B) the State in which such political sub-  
23                   division is located notifies the Authority of the  
24                   State’s request that such political subdivision be  
25                   exempt from such sections; or

1           (4) solely because the laws or ordinances of a  
2 State or political subdivision of a State permit or re-  
3 quire a public employer to recognize a labor organi-  
4 zation on the basis of signed authorizations executed  
5 by public employees designating the labor organiza-  
6 tion as their representative.

7           (b) COMPLIANCE.—

8           (1) ACTIONS OF STATES.—Nothing in this Act  
9 or the regulations promulgated under this Act shall  
10 be construed to require a State to rescind, or pre-  
11 empt, the laws or ordinances of any political subdivi-  
12 sion of the State, if such laws or ordinances provide  
13 rights and responsibilities for public employees that  
14 are comparable to or greater than the rights and re-  
15 sponsibilities described in section 4(b).

16           (2) ACTIONS OF THE DISTRICT OF COLUM-  
17 BIA.—Nothing in this Act or the regulations promul-  
18 gated under this Act shall be construed—

19                   (A) to require the District of Columbia to  
20 rescind—

21                           (i) section 501 of the District of Co-  
22 lumbia Government Comprehensive Merit  
23 Personnel Act (1–605.01, D.C. Official  
24 Code), establishing the Public Employee



1 Relations Board of the District of Colum-  
2 bia; or

3 (ii) section 502 of such Act (1–  
4 605.02, D.C. Official Code), establishing  
5 the power of the Board;

6 (B) to preempt the laws described in sub-  
7 paragraph (A); or

8 (C) to limit or alter the powers of the gov-  
9 ernment of the District of Columbia pursuant  
10 to the District of Columbia Home Rule Act  
11 (Public Law 93–198; 1–201.01 et seq., D.C.  
12 Official Code).

13 (3) ACTIONS OF THE AUTHORITY.—Nothing in  
14 this Act or the regulations promulgated under this  
15 Act shall be construed to preempt—

16 (A) the laws or ordinances of any State or  
17 political subdivision of a State, if such laws or  
18 ordinances provide collective bargaining rights  
19 for public employees that are comparable to or  
20 greater than the rights enumerated in section  
21 4(b);

22 (B) the laws or ordinances of any State or  
23 political subdivision of a State that substan-  
24 tially provide for the rights and responsibilities  
25 described in section 4(b) with respect to certain

1 categories of public employees solely because  
2 such rights and responsibilities have not been  
3 extended to other categories of public employees  
4 covered by this Act;

5 (C) the laws or ordinances of any State or  
6 political subdivision of a State that substan-  
7 tially provide for the rights and responsibilities  
8 described in section 4(b), solely because such  
9 laws or ordinances provide that a contract or  
10 memorandum of understanding between a pub-  
11 lic employer and a labor organization must be  
12 presented to a legislative body as part of the  
13 process for approving such contract or memo-  
14 randum of understanding; or

15 (D) the laws or ordinances of any State or  
16 political subdivision of a State that permit or  
17 require a public employer to recognize a labor  
18 organization on the basis of signed authoriza-  
19 tions executed by public employees designating  
20 the labor organization as their representative.

21 (4) LIMITED ENFORCEMENT POWER.—In the  
22 case of a law described in section 4(d)(2), the Au-  
23 thority shall only exercise the powers provided in  
24 section 5 with respect to those categories of public  
25 employees for whom the State does not substantially

1       provide the rights and responsibilities described in  
2       section 4(b).

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

4       There are authorized to be appropriated such sums  
5 as may be necessary to carry out the provisions of this  
6 Act.