



May 8, 2008

Dear Senators Reid and McConnell,

We understand that next week the Senate will consider H.R. 980, the Public Safety Employer-Employee Cooperation Act. Because it represents an unprecedented Federal intrusion into state and local decision-making, potentially disrupts our nation's carefully developed emergency-response functions, and raises serious Constitutional questions under the Tenth Amendment, the Administration strongly opposes this legislation. If H.R. 980 or any other bill that presents the concerns below were presented to the President, his senior advisors would recommend that he veto.

This bill would preempt state authority to regulate the collective bargaining rights of its state and local public safety employees, displacing the decisions behind existing statutes and constitutions. The relationship between a state government and its employees, particularly employees who assist in discharging the state's police powers, should not be the subject of Federal manipulation absent a compelling Federal need. In the Administration's view, H.R. 980 does not satisfy this test, because of settled principles limiting Federal intervention in areas of state sovereignty, and the bill's incompatibility with the national security interests set forth below.

While the Administration does not object to states deciding to allow collective bargaining, we believe that state and local governments are themselves most appropriately positioned to deal with the complex issues in determining the nature and range of collective bargaining rights, especially at the local level. Federalism principles dictate that states should be permitted the maximum flexibility to decide what type of bargaining is compatible with their execution of public safety responsibilities amidst changing local needs. States have responsibly considered these and other factors, leading to a majority already requiring or allowing public-safety employees to collectively bargain, in accordance with particular local variations. H.R. 980 preempts these decisions and local variations, and forces states and localities to engage in nationally dictated collective bargaining with public safety employees regardless of local circumstances.

The Federal preemption of state authority to determine bargaining rules with public-safety employees could result in substantial cost increases and force localities to respond by cutting the size of their local enforcement workforce or by raising taxes. Cost increases associated with previous public-sector unionizations have been substantial. Reductions in public-safety workforce size would raise safety concerns, as would potential seniority requirements, union work rules, and other limitations on public-safety management. These are decisions best left to states and localities, since these entities bear the direct costs and receive the direct benefits of the actions contemplated.

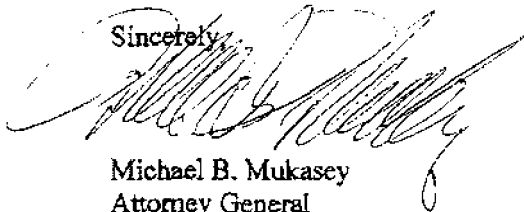
The Administration is also concerned that this bill could upset our nation's carefully developed emergency-response functions. The President has restructured and reformed the Federal

government to focus its significant public-safety resources on security against terrorist attacks and disasters, but our emergency-response function relies heavily on coordination with first responders in public-safety agencies at the state, local, and territorial levels. Any legislation establishing a uniform standard for collective bargaining could reduce the flexibility needed to prevent and respond to a shifting series of threats and hazards.

Finally, H.R. 980 raises serious Constitutional concerns under the Tenth Amendment. It is not clear that courts would uphold the Federal government's authority to impose a comprehensive regulation of the labor relations between states and their employees in the manner prescribed by H.R. 980. Current Supreme Court case law suggests that the Tenth Amendment permits the Federal government to require state compliance with a general regulatory scheme, but does not permit the Federal government to require states in their sovereign capacities to regulate their own citizens.

H.R. 980 may go beyond the permitted general regulation of state activities because it extends the FLRA's jurisdiction and authority (which currently applies only to labor relations between the federal government and its employees) to labor relations between states and their public employees. Specifically, the Federal requirement that states collectively bargain with their policeman, firefighters, and other public-safety employees in accordance with Federal regulation could be construed as infringing on states' core sovereign functions of providing fire prevention and police protection to their citizens.

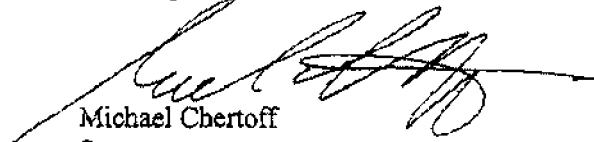
Sincerely,



Michael B. Mukasey
Attorney General
U.S. Department of Justice



Elaine L. Chao
Secretary
U.S. Department of Labor



Michael Chertoff
Secretary
U.S. Department of Homeland Security