

DOCUMENT RESUME

ED 097 819

HE 005 973

AUTHOR Emmet, Thomas
TITLE Postsecondary Public Employment Legislation Revised Status Report--August 1974. Special Report No. 4.
INSTITUTION Academic Collective Bargaining Information Service, Washington, D.C.
PUB DATE Aug 74
NOTE 10p.

EDRS PRICE MF-\$0.75 HC-\$1.50 PLUS POSTAGE
DESCRIPTORS *Collective Bargaining; *Collective Negotiation; College Faculty; Colleges; Employment; *Higher Education; *Legislation; *Postsecondary Education; Universities

ABSTRACT

This document identifies those states that have legislation enabling faculty and other employees in public higher education to form a union and to bargain collectively with the employer. The state name, educational level(s) with current contract or recognized unity, and year of enactment are indicated for (1) states that have specific legislation that deals with public employees in postsecondary educational institutions; (2) states in which there is no specific or special postsecondary mention in the language of the legislation of an omnibus public employee bill but where by implication or interpretation postsecondary personnel and institutions are included; (3) states which have no collective negotiations legislation for postsecondary education but in which there are de facto postsecondary contracts or employee unit recognition and in which some legislative activity in respect to legalization of the de facto situation has taken place since 1970; (4) states in which there has been considerable to moderate legislative activity since 1970 of an omnibus legislation level in which postsecondary personnel would have been included; and (5) states with no activity during the period 1970-73. (NJM)

ED 097819



Academic Collective Bargaining Information Service
1818 R Street, N.W. / Washington, D.C. 20009 / 202/387-3760

SPECIAL REPORT #4

POSTSECONDARY PUBLIC EMPLOYMENT LEGISLATION

REVISED STATUS REPORT - AUGUST 1974

Dr. Thomas Emmet
Special Assistant to the President
Regis College

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EDUCATION & WELFARE
NATIONAL INSTITUTE OF
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INTRODUCTION

In late 1971 the Education Commission of the States set up an Advisory Task Force on collective negotiations in post secondary education. This group produced in May 1972 a monograph entitled Faculty Collective Bargaining in Postsecondary Institutions: The Impact on the Campus and the State, and also began monitoring trends in faculty and other employee collective negotiations in each of the fifty states. It became apparent that a further study in the form of a "Handbook" was needed which could assist state legislative committees, reference services and drafting services on the problems of existing and potential legislation with respect to postsecondary education. This second publication was commissioned and is now completed. It is entitled Collective Bargaining in Postsecondary Educational Institutions: Applications and Alternatives in the Formulation of Enabling Legislation. It is available from the Education Commission of the States, 1860 Lincoln Street, Suite 300, care of Publications Secretary, Denver, Colorado 80203. The cost is \$3.50.

In connection with that study, Dr. Thomas Emmet researched the current status of each state's legislation with the assistance of Nancy Berve, Chris Pippo and Doris Ross of the Education Commission of the States staff. With the permission of ECS, a summary was published earlier in 1974 by ACBIS. This report reprints that summary, with an update of legislative activity from January 1, 1974 until July 31, 1974.

* Statements made and views expressed herein are solely those of the author.

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ANALYSIS AND BASIC DATA

Of special interest are the following points:

- (1) The first state laws covering public employees in general were passed as early as 1959. The first law applied to postsecondary teaching personnel was the 1965 Michigan Law; however, K-12 teaching personnel had been covered as early as 1961 in a formal fashion in at least two states.
- (2) Twenty-four states currently have some form of formal statute which covers employees in postsecondary institutions. However, in several states the provisions do not cover teaching staff, but only staff employees.
- (3) Of the twenty-six states without some form of enabling postsecondary legislation, twenty-three have had legislative activity in this area since 1970. Only Louisiana, Mississippi and South Carolina report no direct postsecondary collective negotiations legislative activity in that period.
- (4) In twenty states which have extensive and comprehensive public employment legislation, eleven use a created Public Employment Relations Board to administer the legislation and nine use their existing private sector labor boards or commissions as the regulatory agency.

The following chart on postsecondary public employee legislation may be of particular interest.

Group A - States which have specific legislation which deals with public employees in postsecondary educational institutions:

STATE	EDUCATIONAL LEVEL(S) WITH CURRENT CONTRACT OR RECOGNIZED UNIT	YEAR OF LAW ENACTMENT
1 Alaska ¹	2 year ⁴	1972
2 Florida	4 year ⁴ 2 year	1974
3 Hawaii ¹	4 year 2 year	1970,71
4 Kansas ²	2 year	1970
5 Minnesota ¹	2 year	1971,72
6 Montana	2 year	1973,74
7 Nebraska	4 year	1969
8 New Hampshire	4 year ⁴ 2 year ⁴	
9 New York ¹	4 year 2 year	1967,69,71

STATE	EDUCATIONAL LEVEL(S) WITH CURRENT CONTRACT OR RECOGNIZED UNIT		YEAR OF LAW ENACTMENT
	10 Oregon ¹	4 year	2 year
11 Pennsylvania ¹	4 year	2 year	1970
12 South Dakota ¹			1970
13 Vermont ¹	4 year		1969, 72
14 Washington ³	4 year ⁵	2 year	1971, 73

¹Within omnibus public employment legislation.

²Meet and confer rather than mandatory legislation.

³Specific special legislation for community colleges.

⁴Nonteaching employees only.

⁵State has a law covering nonprofessional employees in state colleges and universities.

Group B - States in which no specific or special postsecondary mention in the language of the legislation of an omnibus public employee bill but where by implication or interpretation postsecondary personnel and institutions are included:

STATE	EDUCATIONAL LEVEL(S) WITH CURRENT CONTRACT OR RECOGNIZED UNIT	YEAR OF LAW ENACTMENT	
1 Connecticut ²	Vocational/Technical	1969	
2 Delaware	4 year	1965	
3 Iowa		1974	
4 Maine ²	Vocational/Technical	1970, 74	
5 Massachusetts	4 year	2 year	1970, 73
6 Michigan	4 year	2 year	1965
7 Nevada ¹		1969, 71	
8 New Jersey	4 year	2 year	1968
9 Rhode Island	4 year	2 year	1970
10 Wisconsin ²	Vocational/Technical	1971	

Community colleges may be looked upon as special districts under local government Employee Relations Act; however, university system employees would not be covered.

²Vocational/Technical schools only - does not cover four or two year state institutions' academic employees.

Group C - States which have no collective negotiations legislation for postsecondary education but in which there are de facto postsecondary contracts or employee unit recognition and in which some legislative activity in respect to legalization of the de facto situation has taken place since 1970:

	<u>STATE</u>	<u>EDUCATIONAL LEVEL(S) WITH CURRENT CONTRACT OR RECOGNIZED UNIT</u>
1	Colorado	2 year
2	Illinois ¹	2 year
3	Maryland ²	4 year 2 year
4	Ohio	4 year

¹Court decision allows teachers and other local employees to bargain. Non-academic employees bargain under University Personnel Code of the state by a governor's executive order.

²State has local government collective negotiations act for Baltimore County and also allows K-12 personnel to bargain under legislation.

Group D - States in which there has been considerable to moderate legislative activity since 1970 of an omnibus legislation level in which postsecondary personnel would have been included:

<u>STATE</u>	<u>STATE</u>
1 Alabama	11 North Carolina ³
2 Arizona	12 North Dakota ^{1&4}
3 Arkansas	13 Oklahoma ¹
4 California ²	14 Tennessee
5 Georgia	15 Texas
6 Idaho ¹	16 Utah
7 Indiana ¹	17 Virginia
8 Kentucky	18 West Virginia
9 Missouri ^{2&3}	19 Wyoming
10 New Mexico ⁵	

- ¹State has a K-12 professional negotiations act of a mandatory or meet and confer nature.
- ²State has an omnibus Public Employment Act of a meet and confer nature, but postsecondary personnel are not covered under statute.
- ³State has laws prohibiting public employees and employers from bargaining in educational settings.
- ⁴North Dakota has a limited public negotiations act for state and municipal employees.
- ⁵New Mexico has a set of State Personnel Board Regulations which allow for some of the aspects of collective negotiations of a permissive nature for public employees. The regulations are not, however, a formal public employees law; In effect, New Mexico is in a class by itself.

Group E - States with no activity during the period 1970-1973.

STATE

- 1 Louisiana
- 2 Mississippi
- 3 South Carolina¹

¹Passed a Grievance Procedure Act only in 1971.

The Education Commission of the States maintains a detailed legislative analysis service in its Research Division which monitors the progress of educational legislation in each of the fifty states. This is published each year in a report series entitled Research Brief - Legislative Achievement Series. Years 1972, 1973 and 1974 are available from the Education Commission of the States, 1860 Lincoln Street, Suite 300, Denver, Colorado.

SUMMARY

From the Education Commission of the States' research data, it would appear that seventeen states have, to date, (August 1974) passed comprehensive legislation that covers all personnel in postsecondary education. Alaska, Florida, Delaware, Hawaii, Iowa, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Dakota and Vermont clearly, by statute, allow collective negotiations for teachers and staff in postsecondary institutions. Kansas, Nevada and Washington cover community college teaching and staff personnel by specific or interpretable legislation. In addition, Wisconsin and Maine cover vocational/technical faculty and staff.

Illinois, New Mexico, New Hampshire and Washington cover staff, but not teaching personnel in four-year institutions by state personnel regulations in the first two states and by statute in the latter two.

PROJECTIONS

The following are tables of states in which legislative activity along fairly specific lines is projected for post-secondary public employees during the 1975 legislative session:

Group A - States which have public employee laws covering all or most other educational public employees in which an extension of specific legislation to cover 4 year and 2 year teaching employees is expected to be introduced.

- 1 Connecticut - To 2 & 4 year personnel.
- 2 Kansas - To 4 year personnel.
- 3 Maine - To 2 & 4 year personnel.
- 4 Maryland - To 2 & 4 year personnel.
- 5 New Hampshire - To 2 & 4 year personnel.
- 6 Nevada - To 4 year personnel and clarification of 2 year personnel.
- 7 North Dakota - To 2 & 4 year personnel.
- 8 Washington - To 4 year personnel.
- 9 Wisconsin - To 4 year and state 2 year system personnel.

Group B - States expected to have legislation introduced to cover de facto collective negotiations in postsecondary educational institutions.

- 1 Colorado
- 2 Illinois
- 3 Ohio

Group C - States which will have legislation introduced in the form of omnibus public employee bills which will, by inclusion, cover postsecondary education personnel.

- 1 California Has K-12 law now - Completed Legislative Study
- 2 Idaho " - Legislative Study in progress
- 3 Indiana "
- 4 Kentucky

Group C - Continued

- 5 Missouri
- 6 New Mexico
- 7 North Carolina - Legislative Study in progress
- 8 Oklahoma K-12 meet and confer statute - Legislative Study
in progress
- 9 Texas Allows boards to negotiate - Legislative Study
at K-12 level in progress
- 10 Virginia
- 11 West Virginia

Group D - States in which there may be modest legislative activity on public employee negotiations acts of an omnibus nature.

- | | |
|------------|-------------|
| 1 Alabama | 4 Tennessee |
| 2 Arizona | 5 Utah |
| 3 Arkansas | 6 Wyoming |

Group E - States in which no real legislative activity of a substantive nature is expected on collective negotiations legislation for postsecondary institutions.

- | | |
|-------------|------------------|
| 1 Georgia | 3 Mississippi |
| 2 Louisiana | 4 South Carolina |

FEDERAL LEGISLATION

In addition, there are a number of bills which have been introduced at the federal legislation level. The most notable of these are House Bill 8677, the Clay-Perkins Bill, known as the National Public Employment Relations Act of 1973, and, more recently, House Bill 9730. House Bill 9730 would simply make public employees subject to the National Labor Relations Act. House Bill 8677 would create a Public Employment Relations Commission on the national level.

While no action is expected in the House or Senate this fall, we can expect a strong push for a federal law which will supplant or supplement the state laws in the 1975-76 Congress. This federal activity may spur states to pass their own legislation, in part to answer the arguments of some that federal action is needed to redress the effects of state inaction.

CONCLUSION

What does this say for the growth of collective negotiations in postsecondary education? Some observers feel that by 1980 most of the states will have passed some form of public employee collective negotiations legislation. This legislation will usually include postsecondary teaching and staff personnel. Students of faculty collective bargaining should note that in the public sector the postsecondary teaching personnel are but a very small part of the total public employee work force. Their coverage or non-coverage is only a small sideshow in a much larger picture of policemen, firemen, clerical workers, and so on.

Thus, one can see a progressive upward trend in collective negotiations activity in postsecondary education as state after state passes legislation. Each time a new state is added, one can expect the "ripple effect" to spill over into the private institutions in that state as well. Or we might have a reverse "ripple effect" as in Colorado, where two private colleges began a pattern that may well end in the passage of legislation for the public sector of postsecondary education.

All of the above is certainly food for reflective thought. In summary, legislative activity continues at a very heavy pace. Some researchers have predicted a leveling off of the collective negotiations boom in higher education. But in light of the number of pending state public employee collective bargaining laws, coupled with new realistic federal pressures in the next Congress, this seems less likely.

BIBLIOGRAPHY

Education Commission of the States, Collective Bargaining In Postsecondary Educational Institutions, ECS, Denver, 1974.

Joyce M. Najita, Guide to Statutory Provisions in Public Sector Collective Bargaining: Scope of Negotiations, Industrial Relations Center, University of Hawaii, Honolulu, Hawaii, 1973.

Joyce M. Najita and Dennis T Ogawa, Guide to Statutory Provisions in Public Sector Collective Bargaining: Union Security, Industrial Relations Center, University of Hawaii, Honolulu, Hawaii, 1973.

Dennis T. Ogawa and Joyce M. Najita, Guide to Statutory Provisions in Public Sector Collective Bargaining: Unit Determination, Industrial Relations Center, University of Hawaii, Honolulu, Hawaii, 1973.

Helene R. Shimaoka, Topic Coded Titles on Public Employee Collective Bargaining with Emphasis on State and Local Levels, Industrial Relations Center, University of Hawaii, Honolulu, Hawaii, 1973.

Helene S. Tanimoto, Guide to Statutory Provisions in Public Sector Collective Bargaining: Impasse Resolutions Procedures, Industrial Relations Center, University of Hawaii, Honolulu, Hawaii, 1973.

Terrence N. Tice, Editor, Faculty Power: Collective Bargaining on the Campus, Institute of Continuing Legal Education, University of Michigan, Ann Arbor, Michigan, 1972.

Terrence N. Tice, Editor, Faculty Bargaining in the Seventies, Institute of Continuing Legal Education University of Michigan, Ann Arbor, Michigan, 1973.

United States Department of Labor, Labor Management Services Administration, State Profiles: Current Status of Public Sector Labor Relations, Washington, D.C., Government Printing Office, 1971.

August 1974