



## State employee bargaining: policy and organization

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At least 35 State governments engage in some type of labor negotiations with their employees, according to a survey conducted during the 1981-83 period by the Industrial Relations Center at the University of Hawaii at Manoa. A majority have formal negotiations; others have some type of "meet and confer" procedure.

States which engage in formal negotiations have bargaining units reflecting the history of organizing and negotiation activities in the respective States. The larger groups of organized State employees are in administrative/clerical, corrections, engineering/science, hospital, maintenance/trades, and public welfare occupations. Some professional employees—dentists, lawyers, doctors, teachers, engineers, and administrators—also are in bargaining units.

The American Federation of State, County, and Municipal Employees (AFSCME) is the major State employee union, representing 44 percent of the more than 943,000 covered employees in the survey. State employee associations represent about 75,000, or 18 percent of the employees, but the employee associations are affiliating with other unions, the most recent being the affiliation of the California State Employees' Association with the Service Employees International Union (AFL-CIO).

In the fall of 1981, a questionnaire was sent to the board responsible for collective bargaining procedures or the agency involved in personnel administration in each of the 50 State governments. By the fall of 1983, responses had been received from all States except New Mexico. The questionnaire was designed to identify States according to the extent of employee bargaining activity and to obtain basic data for a study of the characteristics of such activity. Questions were asked about State labor relations policy, organization of the administering agency, unit determination, and impasse resolution procedures. This summary discusses information related to policy and unit determination.

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## Labor relations policy

Collective bargaining occurs in 27 State governments and, in most instances, is authorized by law. (See table 1.) State employee collective bargaining is now authorized in Illinois by the Public Labor Relations Act (which became effective on July 1, 1984) and by the Education Labor Relations Act (effective January 1, 1984), and in Ohio with the enactment of a comprehensive statute (effective April 1, 1984). Informal consultations with no written agreements take place in four States—Utah, Indiana, Nevada, and Wyoming. In Utah, the State constitution<sup>1</sup> and attorney general opinion are the legal basis for such informal consultation. The other three States report no legal basis for their policies. "Meet and confer" discussions with mutual understandings outlined in a memorandum of understanding occur in Alabama. Informal negotiations with written memorandum of understanding are authorized by State law and attorney general opinion in North Dakota. North Dakota also confers exclusive recognition status to unions for the purpose of informal negotiations. In Maryland and Missouri, informal "meet and confer" sessions are authorized by law. Such discussions are held between the Governor and the employee organizations in Maryland.

Five States—Arkansas, Mississippi, Oklahoma, South Carolina, and Texas—report that State employees had "no bargaining rights." There was no legal basis in Arkansas for this policy. Mississippi reported "there is no State legislation relative to collective bargaining in the public sector." Oklahoma and South Carolina replied that State employees were not among employees permitted to bargain, with South Carolina noting attorney general opinions and court rulings as the legal basis for not bargaining. Oklahoma did not provide the legal basis for the State policy. Texas reported that the "employer [is] not required to meet with employee groups, except to accept their grievances."

Arizona, Georgia, Idaho, Kentucky, and West Virginia reported simply that "bargaining does not occur." Georgia indicated only that "State employees are prohibited from striking—there are no unions or Board [Public Employee Relations Board]," without any reference to collective bargaining. Kentucky said that "employees have the right to collectively bargain, but [the] State isn't mandated to recognize. Bargaining does not occur." Citations to State law

and an attorney general opinion were given as the legal basis for this policy.

Collective bargaining is prohibited in four States—by law in North Carolina and Colorado, by attorney general opinion in Tennessee, and by court ruling in Virginia.

Thus, while the policy and practices vary among States, some kind of negotiating activity—collective bargaining, meet and confer, consultation, or other mechanism—occurs in at least 35 States.

### **Bargaining units**

More than 943,000 State employees are included in at least 470 bargaining units, according to responses from 27 States. (See table 1.) Most (90 percent) of these employees are concentrated in 15 States. The State of New York employs some 161,000, or 17 percent; California has approximately 130,000, or 14 percent.

As a group, bargaining units carved along occupational lines (for example, nurses, teachers, guards) are found more frequently than units drawn along functional or departmental lines. Such occupational units are represented by unions or associations that limit membership according to a specific occupation or profession. For example, affiliates of the American Nurses Association represent 13 of the 15 units of nurses reported in this survey. However, there are certain groups of employees who, although organized in their own units, have chosen to be represented by broad-based unions, such as AFSCME.

States permitting collective bargaining generally have the appropriate bargaining units determined by Public Employee Relations Boards, other government agencies, or State officials. In Hawaii, Minnesota, and Wisconsin, bargaining units are set forth in the collective bargaining statutes; in Florida, they are established by rules promulgated by the Public Employees Relations Commission. In California, there are 46 potential units. The Public Employment Relations Board has carved 20 units for employees covered by the State Employer–Employee Relations Act; 17 units for the University of California system, and 9 units for the California State University system under the Higher Education Employer–Employee Relations Act. (At the time of the survey, only 9 higher education units had exclusive representatives certified for representation purposes.) In Massachusetts, the Labor Relations Commission has established 10 statewide units of “nonprofessional” and professional employees, and 28 higher education units. Eight additional units (which cover State police, metropolitan district commission police, judiciary, and lottery commission employees) are set by statute.

The number of bargaining units ranges from two in New Hampshire to 51 in Washington; 13 States reported fewer than 15 units. The average number of units is 18. States tend to have relatively few units when employees are organized by occupation on a statewide basis, as is the case in Florida, Iowa, Maine, Michigan, New York, and Ver-

mont (each of these States has 10 or fewer units). Other States (Minnesota with 16 statewide units and Hawaii and Wisconsin with 12 each) carve out additional units by separating subgroups of professional employees and establishing units for supervisory employees.

The case of Ohio is unusual. Prior to the 1983 passage of the collective bargaining law, the State had negotiated agreements with a number of employee organizations. However, the bargaining agent was recognized “based on a percentage of showing of interest determined by the appointing authority of each state agency evidenced by dues payment to an employee organization. Generally, employee organizations were granted the right to negotiate a contract when twenty (20) percent to thirty (30) percent of the total number of employees paid dues to an employee organization. . . . Therefore, recognition was granted based on this showing of interest and not through representation elections.”

It was also explained that Ohio had “agreements which do not define the bargaining unit. In these instances, all dues-paying employees of an agency constitute the bargaining unit.” Presently, the law authorizes the Ohio Public Employment Relations Board to determine the appropriate unit.

### **Excluded employees**

Information on types of employees excluded from bargaining was provided by the 27 States with collective bargaining activities. (See table 1.) Only one State, Louisiana, extends bargaining to all employees, stating “no State employee groups are excluded from appropriate bargaining units.” Managerial employees and confidential employees (generally those who have access to confidential information, or who participate in negotiating on behalf of the employer) are most often excluded (20 States), followed by elected and appointed officials (11) and supervisory employees (9).

Among the collective bargaining units in Alaska is a unit of confidential employees, who are defined as “classified employees of the Executive Branch who ‘assist or act in a confidential capacity to a person who formulates, determines, and effectuates management policies in the area of collective bargaining’.” Ohio generally included supervisors in the bargaining units if they paid dues to an employee organization. However, some agreements in Ohio defined the bargaining unit to exclude supervisory, confidential, and management-level employees.

Practice varies in terms of coverage of supervisory employees under the bargaining laws. Supervisors are included in the same bargaining unit with nonsupervisory employees in Connecticut, Louisiana, and New York. Two broad supervisory units are set forth by law in Hawaii, but some units combine supervisory and nonsupervisory employees. In Delaware and Washington, most supervisors, if organized, are in units with other employees, although this prac-

**Table 1. State government employees in bargaining units in States in which collective bargaining is authorized, 1981-83**

State	Number of units	Employees covered		Excluded employees
		Number	Percent	
Total .....	470	943,042	100.0	
Alaska .....	11	11,541	1	Elected or appointed officials; teachers and noncertified employees of school districts covered by AS14.20.550 et seq. [Alaska teachers collective bargaining law].
California .....	29	130,497	14	Managerial and confidential employees.
Connecticut .....	27	41,452	4	Elected and appointed officials; board and commission members; managerial, part-time, and confidential employees; staff of Board of Labor Relations and Board of Mediation and Arbitration.
Delaware .....	30	4,768	1	Elected officials; appointees of Governor; public school teachers; prisoners.
Florida .....	10	68,210	7	Legislative employees; managerial and confidential employees; appointed and elected officials; agency heads; members of boards and commissions; militia; negotiating representatives; persons convicted of crime in State institutions; Federal and State fruit and vegetable inspectors; Public Employees Relations Commission employees.
Hawaii .....	12	31,629	3	Appointed and elected officials; members of boards and commissions; administrative officers, director or chief of a State agency or major division, and other top-level management and administrative personnel; individuals handling confidential matters.
Illinois .....	16	45,500	5	All State employees not under the jurisdiction of the Governor; supervisors; managers; confidential employees; temporary and emergency employees.
Iowa .....	7	14,830	2	Elected officials; appointees and members of boards or commissions; representatives of public employer; supervisory employees; school superintendents, assistant superintendents, principals, and assistant principals; confidential employees; students working part time; temporary employees; national guard; judges and other court employees; patients and inmates employed, sentenced, or committed to a State or local institution; Department of Justice and Commission for the Blind personnel.
Kansas .....	31	7,707	1	Supervisory and confidential employees.
Louisiana .....	20	9,800	1	None.
Maine .....	7	11,600	1	Certain appointees; department heads; temporary, seasonal, and on-call employees; employees with less than 6 months of service; militia; assistant attorneys general; elected officials; labor relations employees; confidential employees.
Massachusetts .....	45	61,280	6	Managerial and confidential employees.
Michigan .....	10	43,104	5	Supervisors, managers, and confidential employees.
Minnesota .....	16	31,398	3	Managerial employees; physicians; unclassified employees appointed by the Governor, lieutenant governor, secretary of State, attorney general, treasurer, and auditor; all positions in the Bureau of Mediation Services and Public Employment Relations Board; hearing examiners in the Office of Administrative Hearings; confidential employees.
Montana .....	34	4,646	1	Elected officials; appointees of the Governor; supervisory employees; management officials; confidential employees; engineers.
Nebraska .....	15	7,359	1	National guard; militia.
New Hampshire .....	2	9,019	1	Unclassified and nonclassified employees; legislative service employees.
New Jersey .....	32	72,030	8	Confidential employees; managerial executives; elected officials; members of boards and commissions.
New York .....	9	161,300	17	Management; confidential employees.
Ohio .....	( <sup>1</sup> )	—	—	Supervisors; confidential and management-level employees.
Oregon .....	10	22,360	2	Supervisors; confidential employees.
Pennsylvania .....	25	88,398	9	Managerial and confidential employees.
Rhode Island .....	—	—	—	Governor and his designee; top-level supervisors.
South Dakota .....	3	2,550	( <sup>2</sup> )	Elected and appointed officials; administrators (except elementary and secondary school), administrative officers, directors, chief executive officers, chief deputies, first assistants, and others having authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other public employees or the responsibility to direct them, or to adjust their grievances or to recommend such action; students working 20 hours a week or less; temporary workers employed for 4 months or less; commissioned and enlisted personnel of the national guard; judges and employees of the unified court system; legislators and other employees of the legislature or any agency statutorily directed by the legislative branch.
Vermont .....	6	6,565	1	Employees exempt or excluded from State classified service; employees in the office of the lieutenant governor; legal assistants to the attorney general; department or agency head or deputy officer; head of an institution or a division director in the department of administration and similar positions in State colleges; managerial employees; private secretaries; Department of Personnel employees; budget and management analysts; revenue research analysts; director of budget and management operations; director of program formulation and evaluation; director of State information system.
Washington .....	51	24,061	3	Personnel exempt from civil service.
Wisconsin .....	12	27,916	3	University faculty and administrators; employees outside the classified service; limited term, sessional, and project employees; supervisory employees; management employees; confidential employees; Employment Relations Commission staff.

<sup>1</sup>Bargaining units were not defined in Ohio.

<sup>2</sup>Fewer than 1 percent.

tice may vary. Separate supervisory units are called for under the laws of Alaska, California, Florida, Maine, Minnesota, Nebraska, New Hampshire, New Jersey, Pennsylvania, and Vermont. In Alaska, however, the law grandfathered units that combined nonsupervisory and supervisory employees prior to the enactment of the Public Employment Relations Act. In Florida, only the health care unit includes both supervisors and nonsupervisors, according to rules of the Public Employees Relations Commission. In New Jersey, the Public Employment Relations Commission is authorized to allow a bargaining unit made up of supervisory and nonsupervisory employees under special limited circumstances. Under the Pennsylvania law, supervisors are granted meet and discuss rights only. Supervisory employees in Michigan have only limited recognition rights.

### Bargaining organizations

Unions enjoying exclusive representation rights in each of the States range in number from one (Louisiana) to 20 (Rhode Island). Washington has 51 bargaining units, but only eight unions are involved.

Affiliates of AFSCME are found in 24 States in the survey. In contrast, State employee associations, are recognized in 13<sup>2</sup> of the 26 States providing union representation information, and represent approximately 18 percent of the employees included in the survey. (In January 1984, the California State Employees' Association, with current membership of approximately 90,000, announced it would affiliate with the Service Employees International Union, thus reducing the percentage of employees in the survey represented by employee associations to 8 percent.)

A number of private sector unions hold exclusive representation rights among certain groups of State public employees. For example, the Communications Workers of America represents the largest number of employees, 42,313, in six units in New Jersey and one unit in California. The Service Employees International Union represents more than 34,000 employees in Illinois, Kansas, Michigan, New Jersey, Oregon, and Pennsylvania. Other private sector unions representing State employees include the International Federation of Professional and Technical Engineers (six units with 9,000 employees in New Jersey and Washington), the Retail Clerks (four units with 3,380 employees in Montana, Nebraska, Pennsylvania, and Washington), and the Teamsters (11 units with 9,000 employees in Illinois, Massachusetts, Minnesota, Montana, New Jersey, Oregon, and Washington). At least 19 other private sector unions are represented in the survey.

In representing State government employees, the private sector unions follow jurisdictional lines in most cases (that is, the Painters, Electricians, and Machinist unions represent craft employees, and the Plant Guard Workers represent security employees). There are, however, variations. For example, the Teamsters union, which has primary interest

in "transportation, warehousing, and the manufacture, processing, sale, and distribution of food, milk, and dairy products,"<sup>3</sup> claims among its members a unit of university administrative employees in Minnesota. The Communications Workers of America, which began as a union of telephone employees,<sup>4</sup> represents State administrative, clerical, professional, and supervisory employees and psychiatric technicians. Until 1981, four of the six CWA units in New Jersey were jointly represented by the Civil Service Association and the State Employee Association.

*By occupation.* Nearly 75,000 education employees in 21 States are represented by the American Federation of Teachers, National Education Association, American Association of University Professors, and other education employee organizations. These employees include both instructional and noninstructional professional personnel in institutions of higher education, community colleges, vocational-technical schools, schools for the blind and the deaf, and schools in correctional departments and hospitals. Affiliates of the American Federation of Teachers and the National Education Association represent the largest numbers of employees, approximately 28,700 and 28,300, respectively, followed by the American Association of University Professors with approximately 7,750. Three additional units in Hawaii and

**Table 2. Percent of organized full-time employees in State government and in private nonagriculture industries, selected States, 1980**

State	State government	Private nonagriculture industries
All States <sup>1</sup> .....	40.5	25.2
Alaska .....	67.9	33.7
California .....	48.1	27.0
Connecticut .....	78.5	23.0
Delaware .....	40.0	25.2
Florida .....	84.5	11.8
Hawaii .....	88.5	28.0
Illinois .....	44.5	30.4
Iowa .....	18.2	22.2
Kansas .....	17.3	15.4
Louisiana .....	15.7	16.4
Maine .....	69.4	24.1
Massachusetts .....	67.4	24.9
Michigan .....	54.0	37.3
Minnesota .....	54.3	26.2
Montana .....	53.7	29.2
Nebraska .....	17.9	18.1
New Hampshire .....	41.5	15.8
New Jersey .....	45.2	25.7
New York .....	82.6	38.8
Ohio .....	27.5	31.3
Oregon .....	48.3	26.1
Pennsylvania .....	60.3	34.6
Rhode Island .....	88.3	28.3
South Dakota .....	13.7	14.8
Vermont .....	65.5	18.0
Washington .....	36.2	34.4
Wisconsin .....	53.9	28.5

<sup>1</sup>Includes States other than those listed separately.

NOTE: Only States with collective bargaining authorized for State employees were selected.

SOURCE: Bureau of the Census and Bureau of Labor Statistics.

Pennsylvania, totaling 7,770 faculty members, are represented jointly by the American Association of University Professors/National Education Association, and American Association of University Professors/American Federation of Teachers. Nonteacher organizations such as the California State Employees' Association, California Federation of the Union of American Physicians and Dentists, Statewide University Police Association, Nebraska Association of Public Employees, and AFSCME represent an additional 51 units consisting of 24,000 employees in education institutions; the majority (22,700) are noninstructional, nonprofessional employees.

Affiliates of the American Nurses Association represent 13 units comprising more than 12,700 nurses in Delaware, Florida, Illinois, Massachusetts, Minnesota, Montana, Oregon, Pennsylvania, and Washington. Two units, together covering more than 2,400 registered nurses, are represented by the California State Employees' Association and the Hawaii Government Employees Association. In addition, a bargaining unit of 2,000 professional health care employees in Connecticut is represented by the N.E. Health Care Employees, District 1199, and a unit of 1,100 patient care employees in Wisconsin is represented by the United Professionals for Quality Health Care.

More than 20,700 State troopers and police were organized in 15 States. The Policemen's Benevolent Association is by far the largest, representing nearly 8,000 employees in Florida, New Jersey, and New York. The Fraternal Order of Police represents six units totaling 760 employees in Delaware, New Jersey, and Pennsylvania. Other police and State trooper organizations, representing more than 12,000 members, include the Alaska Public Safety Employees Association, California Association of Highway Patrolmen, Connecticut State Police Union, Iowa State Police Officers' Council, Kansas Troopers Association, Maine State Troopers Association, State Police Association of Massachusetts, Michigan State Police Troopers Association, Minnesota State Patrol Troopers Association, the State Troopers Fraternal Association of New Jersey, Inc., and the State Troopers Noncommissioned Officers Association of New Jersey, Inc. The Vermont State Employees Association represents a unit of State police officers in that State.

### Some observations

The survey results presented here provide the basis for some general observations concerning characteristics of State government employee bargaining: the existence of a bargaining statute determines the bargaining unit coverage, but it may not be determinative of the extent of organization in terms of organized employees; and the extent of organization in the nonagriculture sector appears to influence the organization of State employees, although in States in which collective bargaining is authorized by law, the proportion of organized workers is larger in State government than in private nonagriculture industries. (See table 2.)

The findings reveal State government bargaining characteristics which are not entirely like those that describe the private sector. This leads to questions which require further investigation. What factors other than the existence of a bargaining statute influence or promote organization of State employees? Does the existence of a merit system affect the development of a State's labor relations policy and organization of employees? Are there differences in the bargaining outcomes developing out of State government bargaining? It may be that the perceived differences are only minor variations; but without further examination, it is not clear whether they reflect the environment unique to State government and the individual States. □

### FOOTNOTES

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<sup>1</sup>According to the Utah respondent, the prohibition of collective bargaining by State Constitution is found in *Utah Code Annotated*, Secs. 34-34-1 to 34-34-17 (Utah's right-to-work law).

<sup>2</sup>The States are Alaska, California, Connecticut, Illinois, Kansas, Maine, Michigan, Montana, Nebraska, New Hampshire, North Dakota, Vermont, and Washington.

<sup>3</sup>See Jack Stieber, *Public Employee Unionism: Structure, Growth, Policy* (Washington, The Brookings Institution, 1973), p. 5.

<sup>4</sup>See Jack Barbash, *Unions and Telephones* (New York, Harper & Row, 1952).

## Proportion of higher income families declines during the 1969-82 period

The proportion of families earning \$25,000 or more after inflation decreased to 39 percent in 1982, after remaining constant at about 45 percent in 1969 and 1976, according to the 1983 Survey of Consumer Finances. This change in the distribution of real income reflects changes in the economy and in the size of families. For example, both 1969 and 1982 were recession years, and the number of families maintained by unmarried persons increased over the 1969-82 period, causing a decrease in average family size and, therefore, reduced family income.

The older the head of the household, the more the average family income. Incomes ranged from \$13,835 when the household head was under age 25 to nearly \$33,000 when the head was in the 45- to 54-year-old group. Family incomes fell for each age group thereafter—reaching \$11,335 for households headed by persons age 75 or older.

Occupation, education, and race played a key role in family income. The higher the educational attainment of the family head, the higher the family income. Income was lowest in families maintained by persons with an eighth grade education or lower, and rose consistently with each level of attainment. Families maintained by a professional,

technical, or managerial worker averaged higher incomes than those maintained by other workers. Incomes also tended to be higher when the family head was white. As might be expected, the lowest income was in households maintained by unmarried persons with children, followed by households maintained by retirees.

About 60 percent of the nonfarm families owned their homes in 1983, down from 65 percent in 1977. The decrease can be partly attributed to the high mortgage interest rates in recent years, as well as to the increase in the number of families headed by unmarried persons. Families maintained by persons 45 years and over were most likely to own their homes; those maintained by persons under age 35 were least likely.

The survey questioned homeowners about the current market value of their homes and about the outstanding mortgage debt. From the responses, home equity was determined. The average real value of homes increased from \$53,190 in 1970 to \$72,238 in 1980. During the same period, real equity increased from \$37,853 to \$56,133.

Total assets (in 1983 dollars) increased over the 1970–83 period. Average holdings of liquid assets were \$11,274 in 1970, \$15,224 in 1977, and \$12,934 in 1983. The 1969 and 1982 recessions attributed to the lower holdings in 1970

and 1983, as families used liquid assets to meet shortfalls in income.

The proportion of owners of liquid holdings and the dollar amount of holdings of liquid assets increased with family income. For example, slightly more than half (53 percent) of the families with incomes under \$5,000 had liquid assets in 1983, while nearly all (99 percent) of those with incomes of at least \$30,000 had such assets.

The 1983 Survey of Consumer Finances was jointly sponsored by the Board of Governors of the Federal Reserve System, Department of Health and Human Services, Federal Deposit Insurance Corporation, Comptroller of the Currency, Federal Trade Commission, Department of Labor, and U.S. Treasury. Personal interviews of 3,824 families were conducted by the University of Michigan's Survey Research Center. The individual selected as the respondent for each family was either the head of the family, or, for married couples, the person most knowledgeable about family finances.

This summary is from the report "Survey of Consumer Finances, 1983," *Federal Reserve Bulletin*, September 1984. Future articles based on survey results will examine family debts and the financial behavior of high income families. □