

BACKGROUND PAPER 93-1

**HISTORY OF MAJOR
COLLECTIVE BARGAINING
LAWS IN NEVADA**

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HISTORY OF MAJOR COLLECTIVE BARGAINING LAWS IN NEVADA

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HISTORY OF MAJOR COLLECTIVE BARGAINING LAWS IN NEVADA

I. INTRODUCTION

The history of Nevada's most significant collective bargaining laws is interesting and somewhat complicated. The goal of this background paper is to summarize the contents and derivation of the major statutes.

The laws concerning private sector and governmental collective bargaining are discussed separately. A concise overview of the Federal context for state activities is presented, and statutory provisions in other states are outlined. The topic of "fair share" agreements is considered in an independent section.

II. REGULATION OF LABOR RELATIONS IN THE PRIVATE SECTOR

Regulation of labor relations was initiated in the private sector as a means of addressing increased strife between labor and management.

The Context of Federal Law

Labor-management relations are governed primarily by a series of Federal statutes that deal with various aspects of employer-employee relationships. The most comprehensive Federal statute, the National Labor Relations Act as amended through the years, covers many factors associated with collective bargaining. Although this act preempts state regulation of labor relations in many areas, a significant portion of the field is subject to state statutes.

The Wagner Act

The National Labor Relations Act of 1935, also known as the Wagner Act, embodies the "national labor policy" for the United States. It provides the genesis and structure for the regulation of labor relations.

In its original form, the Wagner Act:

- Established a legally enforceable right of employees to organize;
- Required employers to bargain with employees collectively through employee-elected representatives;

- Gave employees the right to engage in concerted activities for collective bargaining purposes, or for other mutual aid or protection; and
- Created the National Labor Relations Board as the primary regulatory body in the field.

The Taft-Hartley Act

Problems with implementation of the Wagner Act during and after World War II culminated in its amendment through enactment of the Labor-Management Relations Act of 1947, known as the Taft-Hartley Act.

The broad objectives of the Taft-Hartley Act are generally acknowledged to be two-fold: (1) to lessen industrial disputes; and (2) to place employers in a more nearly equal position with unions in bargaining and labor relations procedures.

In the words of the Taft-Hartley Act, its purposes are:

- To prescribe the legitimate rights of both employees and employers in their relations affecting commerce;
- To provide orderly and peaceful procedures for preventing the interference by either with the legitimate rights of the other;
- To protect the rights of individual employees in their relations with labor organizations whose activities affect commerce;
- To define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare; and
- To protect the rights of the public in connection with labor disputes affecting commerce.

The Nature of State Statutes

Within the context of Federal law, each state has enacted statutory provisions addressing various aspects of labor relations and collective bargaining.

The states have been particularly active in regulating obstructive actions that interfere with property rights or public safety. Although some of these statutes have been expressly designed to deal with strikes and picketing, many are general criminal laws that may have applications in situations involving labor confrontations.

Some states have enacted provisions that govern internal union relationships. A union's place in the employment relationship itself is also the subject of several state union security statutes, such as those controlling "yellow-dog" agreements and "right-to-work" provisions. Other sections of state collective bargaining legislation cover prohibited acts, protected rights, injunctions, political contributions, arbitration, mediation, and antitrust.

Nevada Statutory Provisions

Chapter 614 of the *Nevada Revised Statutes* (NRS), entitled "Organized Labor and Labor Disputes," and portions of Chapter 613, entitled "Employment Practices," address collective bargaining in the State's private sector. Topical areas of interest include arbitration of disputes, "yellow-dog" and "closed shop" agreements, and "right-to-work" provisions.

Arbitration of Disputes and Related Provisions

Many states have statutes that establish formal mechanisms for the mediation, conciliation, and arbitration of labor disputes. In some states, the parties themselves must initiate the relevant procedures by filing a request with the appropriate state agency. Regardless of the "triggering" mechanism, mediation and conciliation procedures are usually voluntary in nature; the state has no power to compel agreement and may require only good-faith by both parties to the dispute. Arbitration statutes differ, however, in that they often require a prior agreement by the parties indicating that they will be bound by the resulting award.

Nevada's basic mediation and arbitration statutes (NRS 614.010-614.080) were enacted in 1907, and they have not been amended since that time. Upon request of either party to a dispute, the Governor is directed to mediate the controversy personally or through appointment of a commission with the goal of settling the dispute amicably. If these efforts are unsuccessful, the controversy may be submitted, with the consent of the parties, to a three-member board of arbitration whose award is binding. The statutes also provide a procedure for a party to file an exception to the award which is reviewed and decided by the district court or, upon appeal, by the State Supreme Court.

A couple of sections were added to Chapter 614 of NRS in 1911 and the early 1930's, but the only significant additions were made in 1985 as follows:

- NRS 614.160 - Regulating the practice of picketing;
- NRS 614.170 - Requiring that a draft of proposed changes to a contract must be submitted in writing to members of the union before a vote for or against ratification is taken; and

- NRS 614.180 - Allowing a union in Nevada to elect to require in-state administration of any plan for providing health, welfare, or pension benefits.

"Yellow-dog" and "Closed Shop" Agreements

A "yellow-dog" agreement may be defined as one in which either party promises (1) not to become or remain a member of a labor or employers' organization, or (2) to withdraw from the employment relationship upon joining or remaining a member of such an organization. Thirty-four states, including Nevada, have enacted statutory provisions prohibiting "yellow-dog" agreements.

Conversely, "closed shop" agreements require an individual to become or remain a member of a labor organization as a condition of employment. Twenty states, again including Nevada, prohibit these types of agreements.

The relevant statutory reference in Nevada is NRS 613.130. This provision, which prohibits "yellow-dog" and "closed shop" agreements, was originally enacted in 1911 and was amended in 1951. However, Attorney General's Opinion 69 (dated June 11, 1951) indicates that an employer has the right to hire only union labor or nonunion labor if such is his own desire, and the state employment service may legally accept orders for employment of only union or nonunion labor if an employer requests this of his own free will and not as a result of an unlawful agreement.

"Right-to-Work" Provisions

Similar to "yellow-dog" and "closed shop" concepts, a standard "right-to-work" provision prohibits any requirement that an employee become or remain a member of a union as a condition of employment. State "right-to-work" statutes are based upon Section 14(b) of the National Labor Relations Act as amended through the Taft-Hartley Act. This stipulation reads as follows:

Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any state or territory in which such execution or application is prohibited by state or territorial law.

On the basis of this provision, constitutional or statutory "right-to-work" provisions have been enacted in 21 states as listed in Appendix A.

Nevada's "right-to-work" law (NRS 613.230-613.300) was enacted by the people pursuant to an initiative petition. Although the petition was presented to the Legislature in 1951 and received a favorable vote of the people in November of 1952, it became effective only after canvass of the vote by the Nevada Supreme Court in 1953.

Three subsequent initiatives aimed at repeal of the right-to-work law were defeated at the polls, and a fourth was removed from the ballot for lack of sufficient signatures (all in the 1950's). Between 1959 and 1979, eight legislative efforts to amend or repeal the law were rejected. The decade of the 1980's saw no such legislative proposals, and one 1991 bill was not voted out of committee. Thus, Nevada's "right-to-work" law has not been amended since it was approved through initiative petition in 1953.

A detailed history (session by session) of the State's "right-to-work" law is contained in Appendix B, entitled "Summary of Legislative Proposals and Ballot Questions Pertaining to 'Right-to-Work' in Nevada, 1951 - 1992."

III. COLLECTIVE BARGAINING IN THE PUBLIC SECTOR

States have taken greater latitude in addressing public sector collective bargaining than its counterpart in the private sector.

Overview of State Laws

A notable diversity exists among states in their arrangements for public sector collective bargaining. See Appendix C for a summary of the relevant provisions in each state.

As of 1988 when the information in Appendix C was compiled, nine states made no provisions for public sector collective bargaining. Twenty-five states appear to have allowed collective bargaining for all public employees. Several states authorized collective bargaining for specific professions or levels of government, and many states provided different types of bargaining for various professions.

Local Government Collective Bargaining in Nevada

Nevada's statutes concerning public sector collective bargaining apply only to local governments and their employees.

Laws Applying to Employees of Local Government Generally

The collective bargaining law relating generally to local government employees was added to the statutes in 1969 through enactment of Senate Bill 87. It is cited as the "Local Government Employee-Management Relations Act" and constitutes Chapter 288 of NRS. Unlike the State's private sector laws, the provisions of this act have been amended during every legislative session since its creation.

The 1969 law outlined the procedures for local government collective bargaining, but it contained no mechanism for binding arbitration. It provided for mediation and subsequent factfinding, if the mediation failed. If agreement was not reached within 5 days after factfinding, the factfinder's report was made public. It was intended that public pressure would support the factfinding.

In 1971, however, enactment of A.B. 178 gave the Governor power to order that findings and recommendations in particular disputes be final and binding. This measure also specified criteria for factfinders. Senate Bill 350 in 1981 replaced the Governor's authority to order binding factfinding with a system through which panels were authorized to make this determination. This act also modified the dates associated with the negotiations process and provided that the factfinder's responsibility concerning "ability to pay" was to be related to tax shifts and limitations approved during the same 1981 session.

Appendix D contains a summary of selected legislative proposals pertaining to the Local Government Employee-Management Act.

Collective Bargaining for Firefighters, Police Officers and Teachers

In 1977, the Legislature enacted S.B. 440 which established a separate system of procedures for the negotiation of contracts between local governments and firefighters. This approach incorporated the concept of "final offer" binding arbitration. These provisions were applied to police officers in 1985, and a substantively similar process was approved for teachers in 1991.

The concept of "final offer" binding arbitration, as outlined in NRS 288.215 and 288.217, calls for each of the parties having reached impasse to submit a single written statement containing its final offer for each of the unresolved issues. Although some systems allow the arbitrator to choose one position or the other on each issue (an "issue-by-issue" approach), Nevada's statutes direct the arbitrator to accept one of the statements in its entirety (a "package" approach).

A considerable diversity of opinion exists about the value of "final offer" binding arbitration and how it should work. At least four basic positions and lines of reasoning may be outlined as follows:

- Employers generally do not support "final offer" arbitration because they tend to oppose binding arbitration of any type. They feel that their interests usually "lose" when binding arbitration is employed.
- Conversely, employee groups generally support "final offer" procedures because, if necessary to break an impasse, these types of procedures ensure that binding solutions are reached.

- Some arbitrators and professionals in the field oppose "final offer" arbitration because it limits the discretion of the arbitrator to fashion what he or she considers to be a "fair" contract. These people prefer a straight mandatory arbitration process in which the arbitrator can develop what is viewed as a "professionally sound" contract.
- On the other hand, some arbitrators and professionals in the field support "final offer" arbitration because they believe that it tends to force the two sides to move toward agreement before going to binding arbitration. Their opinion is that, if mandatory binding arbitration is to exist in some form, "final offer" is best because it places pressure on the opposing sides to truly negotiate.

Even within the overall concept of "final offer" procedures, a specific question exists as to the amount of discretion which the arbitrator should be allowed. He or she may be limited to a choice of one "package" versus the other, or they may be allowed to choose one or the other side's position on an "issue-by-issue" basis. The major points in support of each approach appear to be as follows:

- The "issue-by-issue" approach is thought to produce a better balanced contract because the arbitrator can eliminate any really "bad" provisions within the two proposals.
- The "package" approach is thought to provide the best means of forcing the sides to negotiate meaningfully before declaring impasse, and it tends to bring the parties closer to the same positions.

State Government Collective Bargaining in Nevada

Collective bargaining provisions do not apply to employees of the State of Nevada. Compensation and conditions of employment are specified statutorily by the Legislature or established through administrative policy.

At least 11 bills have proposed to extend collective bargaining to state employees in 1969, 1971, 1975, 1979, 1981, 1989 and 1991. Each of these measures died in committee, except the most recent proposal (A.B. 130 in 1991) which passed the Legislature but was vetoed by the Governor. The Governor's veto was subsequently sustained at the beginning of the 1993 Legislative Session. The bill number and summary of each measure proposing to provide collective bargaining for state employees are contained in the previously referenced Appendix D.

It should be noted, however, that the Board of Regents for the University of Nevada System in 1990 adopted a policy authorizing collective bargaining for professional staff. In 1993, the faculty of Truckee Meadows Community College became the first group to organize a bargaining unit under these provisions.

IV. STATUTES CONCERNING "FAIR SHARE" AGREEMENTS

The National Labor Relations Act provides that a union which receives a majority of votes from the employees within a bargaining unit has the exclusive right to represent that bargaining unit in collective bargaining matters. Because the union has exclusive right to represent the bargaining unit, the Act also requires that the union represent all of the members of the bargaining unit - whether they are members of the union or not.

The Concepts of "Agency Shop" and "Fair Share"

Within the terminology of collective bargaining, "agency shop" agreements require, as a condition of employment, nonmembers to pay to the union an amount equal to the members' initiation fees, dues and assessments. As a variation, "fair share" agreements require a nonmember to pay a fee calculated to be his or her share of the union's costs for specific services such as negotiation, contract administration, and grievance adjustment.

In a typical situation subject to a "fair share" agreement, the union calculates (preferably through an independent accounting/auditing firm) the proportion of its costs which are related to the specified uses (usually negotiation, administration of contracts, and adjustment of grievances). Each employee's "fair share" of these costs is then calculated. Some statutes provide that these fees may be deducted by the employer from the employee's paycheck. Some statutes also address the nonmember whose religious beliefs preclude his or her participation by authorizing payment of an amount equal to the "fair share" fee to a nonreligious, charitable organization.

Among a broad range of contentions, the major argument in favor of "fair share" agreements is that nonmembers are receiving the benefits of union activities without paying their share of the expenses - especially in the area of support for a nonmember in grievance proceedings. Conversely, a major argument in opposition to "fair share" agreements is that the nonmembers (who constitute a minority of the workers in the bargaining unit) are precluded from authorizing a union, other than the exclusive bargaining representative of the overall unit, to represent their interests.

"Agency Shop" and "Fair Share" Statutes in Other States

None of the "right-to-work" states allows "agency shop/fair share" agreements in the public or private sectors.

According to the information in Appendix C, however, 22 other states authorize "agency shop/fair share" agreements in the public sector. The Western States which allow these types of agreements are Alaska, California, Hawaii, Montana, Oregon and Washington.

"Fair Share" Proposals in Nevada

The courts have held that "agency shop" agreements are not allowed under Nevada's "right-to-work" statutes, and it is accepted that "fair share" agreements are similarly prohibited.

Several legislative proposals have been introduced which would have authorized "fair share" agreements. Based on the information in Appendix B, three bills designed to authorize such agreements in the private sector were introduced but not enacted in 1975, 1977 and 1991. Likewise, five bills to allow "fair share" agreements in the public sector were introduced but not enacted in 1975, 1983, 1989, and 1991 (2).

V. CONCLUDING COMMENTS

The topic of labor-management relations has experienced a controversial history. As one category within the general field, collective bargaining is a complicated and diverse subject.

The Federal context for state activities was outlined through the Wagner Act in 1935 and the Taft-Hartley Act in 1947. Nevada's arbitration statutes, however, were enacted in 1907, and the law prohibiting "yellow-dog" and "closed shop" agreements was originally passed in 1911. "Right-to-work" provisions were enacted through an initiative petition which became effective in 1953. Collective bargaining for employees of local governments was approved in 1969. And, a system of "final offer" binding arbitration was authorized for firefighters in 1977, with police officers and teachers added in later years. Proposals to allow "fair share" agreements in Nevada have been introduced on several occasions since 1975, but none has been approved.

This background paper provides information concerning these topics and their history in Nevada law. While not designed to be an exhaustive analysis, it should provide the reader with a general overview of the major concepts and actions.

APPENDIX A

STATES HAVING CONSTITUTIONAL OR STATUTORY "RIGHT-TO-WORK" PROVISIONS

Alabama: 25 Ala C §§ 25-7-32, 25-7-34.

Arizona: Ariz RS §§ 23-1304, 23-1305, 23-1306.

Arkansas: Ark Const Amend. 34; Ark S 81-202.

Florida: Fla Const Art 1 § 6.

Georgia: Ga C (1981) § 34-6-21.

Idaho: Idaho C §§ 44-2001 - 44-2010.

Iowa: Iowa C §§ 731.2, 731.3, 731.4, 731.5.

Kansas: Kan Const Art 15 § 12; Kan SA 44-831.

Louisiana: La RS 23:981 - 23:987.

Mississippi: Miss Const, Art. 7, § 198-A; Miss C § 71-1-47.

Nebraska: Neb Const Art 15 § 13; Neb RS §§ 48-217, 48-911.

Nevada: Nev RS §§ 613.250, 613.270, 613.280.

North Carolina: NC GS 95-78, 95-79, 95-80, 95-82.

North Dakota: ND CC 34-01-14.

South Carolina: SC C §§ 41-7-20, 41-7-30(1),(3), 41-7-50.

South Dakota: SD CL 60-8-3, 60-8-4, 60-8-5; 60-10-10.

Tennessee: Tenn CA §§ 50-1-201 - 50-1-204.

Texas: Tex RS art 5207a § 1.

Utah: Utah CA 34-34-5, 34-34-6, 34-34-7, 34-34-10.

Virginia: Va C §§ 40.1-59, 40.1-60, 40.1-61, 40.1-62, 40.1-65, 40.1-66.

Wyoming: Wyo S §§ 27-7-109, 27-7-111, 27-7-112.

APPENDIX B

SUMMARY OF LEGISLATIVE PROPOSALS AND BALLOT QUESTIONS PERTAINING TO "RIGHT-TO-WORK" IN NEVADA 1951 - 1992

(NRS 613.230 - 613.300)

(Underlined bills specifically address "fair share.")

- 1951 **Assembly:** Initiative petition to establish a "right-to-work" law presented to the Legislature on January 17, 1951. Motion carried to take no action - Initiative to ballot in November 1952.
- 1952 **General Election:** (11/4/52) Question No. 1, Initiative Petition to establish "right-to-work" law. Passed by 1,034 votes. Yes: 38,823; No: 37,789.
- 1953 **Assembly:** Initiative Petition to repeal "right-to-work" law presented. Motion carried to place on Chief Clerk's desk - Initiative ballot in November 1954.
- 1954 **General Election:** (11/2/54) Question No. 1, Initiative Petition to repeal law. Failed by 2,046 votes. Yes: 36,434; No: 38,480.
- 1955 **Assembly:** Initiative Petition to repeal law presented on 1/17/55. Also Initiative Petition to amend *Nevada Constitution* on "right-to-work" issue by adding Article 1, Section 42, relating to the right of employees to bargain collectively with their employers, to carry on concerted activities in connection therewith, and to enter into collective bargaining agreements whereby membership in a labor organization shall be made a condition of employment under certain conditions, presented on 1/17/55. Both initiatives were placed on Chief Clerk's desk on 1/17/55 - Both initiatives to ballot in November 1956.

- 1956** **General Election:** (11/6/56).
 Question No. 1: to repeal law failed by 7,248 votes.
 Yes: 42,337; No: 49,585.
 Question No. 2: to amend constitution on "right-
 to-work" failed by 12,493 votes.
 Yes: 38,554; No: 51,047.
- 1958** **General Election:** (11/4/58) Question No. 2, Initiative Petition
 to repeal "right-to-work" law was ordered removed from ballot
 by order of District Ct. No. 1 for insufficient signatures on
 original petition.
- 1959** **A.B. 359** amending law relating to prohibitions against agree-
 ments prohibiting employment because of non-membership in
 labor organizations and compelling persons to join labor
 organizations or to strike against their will or to leave their
 employment. Failed. Yes: 14; No: 27.
- 1961** **A.B. 321** amending law as indicated above in 1959.
 Died in committee.
- 1971** **A.B. 740** amending law to require posting and notification
 of "right-to-work" law and authorizing additional remedies for
 violation of such law. Died in committee.
- 1973** **A.B. 945** repealing "right-to-work" law. Died in committee.
 A.B. 946 permitting "union shops" in Nevada. Died in committee.
- 1975** **A.B. 784** permitting agreements between employers and
 labor organizations which require non-union employees, as
 condition of their employment, to pay fee to cover costs of
 negotiation and administration of collective bargaining
 agreements. Died in committee.
- 1977** **A.B. 357** permitting deductions under certain circumstances
 from non-member employees' wages for cost of contract
 maintenance and negotiation by labor organization and
 authorizing Attorney General to investigate certain unlawful
 employment practices. Died in committee.

- 1979 **A.J.R. 22** proposing to amend the *Nevada Constitution* to prohibit denial of employment because of non-membership in labor organization. Died in committee.
- 1981-1989 No bills introduced involving NRS 613.230-613.300.
- 1991 **S.B. 194** requiring employer to enter into fair share agreement, with each labor organization that he recognizes, to require employee who is not member of labor organization to pay fee for costs related to collective bargaining. Died in committee.

APPENDIX C

STATE AND LOCAL COLLECTIVE BARGAINING ARRANGEMENTS

(Provided by the National Conference of State Legislatures)

Dated: January 1988

January 1988 (revised)

STATE AND LOCAL COLLECTIVE BARGAINING ARRANGEMENTS¹

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Alabama	Firefighters	Meet & confer	No	Wages & conditions of employment	None	Prohibited	
	Teachers	Meet & confer	No	Conditions of employ- ment	None		
Alaska	State ² and Local ³	Collective bargaining	Yes & No ³	Wages, hours & conditions of employment	Mediation Arbitration*	Permitted**	Agency shop permitted (Statute)
	Teachers	Collective bargaining	No	Conditions of employ- ment	Mediation Arbitration*	Permitted**	
Arizona ⁴	None						Dues checkoff (state)

¹ By statute, civil service law, constitution, charter, executive order and decisional law.
Table does not include de facto collective bargaining arrangements.

² Coverage unless local legislative body opts out.

³ State: Alaska Labor Relations Agency
Local: Dept. of Labor

⁴ Some cities and counties have enacted comprehensive ordinances under which they may negotiate wages.

*See attached binding interest arbitration table.

**See attached right to strike table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Arkansas	None						Dues checkoff (state)
California	State Civil Service & Department of Education Teachers	Meet & confer ⁵	Yes	Wages, hours & conditions of employment	Mediation	Permitted ^{6**}	Agency shop permitted (Statute)
	Local ⁷	Meet & confer	No	Wages, hours & conditions of employment	Mediation	Permitted ^{6**}	Agency shop permitted (Statute)
	Employees of School & Community College Districts	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Permitted ^{6**}	Agency shop permitted (Statute)
	Employees of U. of C., Hastings College of Law, Cal. St. U. and Colleges	Meet & confer ⁵	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Permitted ^{6**}	Maintenance of membership permitted (Statute)
Colorado ⁸	None						

⁵In practice, employees have collective bargaining rights.

⁶Permitted under a May 13, 1985 State Supreme Court ruling.

⁷Some cities and counties have enacted comprehensive ordinances which provide for an independent administrative agency and an impasse procedure.

⁸Some cities and counties have charter amendments providing for collective bargaining.

**See attached right to strike table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Connecticut	State	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop automatic (Statute)
	Local	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop in contracts
	Teachers	Collective bargaining	Yes	Wages, & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop permitted (Statute)
Delaware	State & Local ⁹	Collective bargaining	No	State: Conditions of employment only All others: Wages, hours and conditions of employment	None	Prohibited	Agency shop in contracts
	Teachers	Collective bargaining	Yes	Conditions of employment	Mediation Factfinding	Prohibited	
	Police Officers & Firefighters	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	
District of Columbia	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Arbitration ¹⁰	Prohibited	Agency shop permitted (Statute)

⁹A municipality, city or town must elect to come under the Act. The state and counties are covered.

¹⁰Compulsory binding arbitration for compensation; PERB may impose procedures of its choice for terms and conditions.

*See attached binding interest arbitration table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Florida	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	
Georgia	Firefighters ¹¹ (pop. +20,000)	Meet & confer	No	Wages, hours & conditions of employment	Factfinding	Prohibited	
	State					Prohibited	
Hawaii	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Permitted**	Agency shop automatic (Statute)
Idaho	Firefighters	Collective bargaining	No	Wages & conditions of employment	Factfinding		
	Teachers	Collective bargaining	No	Wages & conditions of employment	Mediation Factfinding		

¹¹ Coverage only if the municipality opts to be covered by the Act.

*See attached binding interest arbitration table.

**See attached right to strike table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Illinois	State & Local ¹²	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Permitted**	Agency shop permitted (Statute)
	Education Employees	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Permitted**	Agency shop permitted (Statute)
Indiana	Teachers	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	
Iowa	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Maintenance of Membership (State) (State Reorgan. Act)
Kansas	State & Local	Meet & confer	Yes	State: Hours & conditions of employment only All others: Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	
	Teachers	Duty to bargain	No	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	

¹² Not applicable to units of local government employing less than 35 employees, except with respect to bargaining units existing on the effective date of the Act.

*See attached binding interest arbitration table.

**See attached right to strike table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Kentucky ¹³	Firefighters ¹⁴ (pop. +300,000)	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	Agency shop permitted (Statute)
	Police ¹⁵ (pop. +300,000)	Collective bargaining	No	Wages, hours & conditions of employment	None	Prohibited	
Louisiana	None						Dues checkoff (all)
Maine	State	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop in contracts
	Local & Teachers	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop in contracts
	University Employees	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	

¹³Some cities and counties have enacted comprehensive ordinances providing for collective bargaining.

¹⁴Population of 300,000 or more or any city that petitions to be included under the Act.

¹⁵County population of 300,000 or more and has adopted the merit system.

*See binding interest arbitration table.

State	Employee Coverage	Bargaining Rights	Indep. Admin. Agency	Scope of Bargaining	Impasse Procedure	Right to Strike	Union Security
Maryland ¹⁶	Teachers	Collective Bargaining	No	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	Agency shop permitted in some counties (Statute) ^{16.5}
	Non-certificated School Employees	Collective bargaining	No	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	Agency shop permitted in some counties (Statute) ^{16.5}
	Park & Planning Commission Police Officers	Collective Bargaining	No	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	Agency shop permitted (Statute)
Massachusetts	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop permitted (Statute)
Michigan	State ¹⁷	Collective bargaining	No	Wages, hours & conditions of employment (excl. merit)	Mediation Factfinding	Prohibited	Agency shop permitted (CSC Rules)
	Local	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop permitted (Statute)
Minnesota	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Arbitration*	Permitted**	Agency shop permitted (Statute)

¹⁶ Dues checkoff for state employees.

Some counties and cities have enacted comprehensive ordinances providing for collective bargaining.

^{16.5} Some counties provide automatic agency shop by ordinance.

¹⁷ Under state civil service rules and regulations.

*See attached binding interest arbitration table.

**See attached right to strike table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Mississippi	None						
Missouri	All (except police and teachers)	Meet & confer	No	State: Condi- tions of emp- loyment only All others: Wages & condi- tions of emp- loyment (Determined by parties)	None	Prohibited	
Montana	All (except nurses)	Collective bargaining	No	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Permitted**	Agency shop permitted (Statute)
	Nurses	Collective bargaining	No	Wages, hours & conditions of employment	None	Permitted**	
Nebraska	All (except teachers)	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	
	State	Collective Bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding (Binding)	Prohibited	
	Teachers	Meet & confer	No	Conditions of employment	Factfinding		
Nevada	Local	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	

*See attached binding interest arbitration table.

**See attached right to strike table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
New Hampshire	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop in contracts
New Jersey	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop permitted (Statute)
New Mexico ¹⁸	State ¹⁹	Collective bargaining	No	Conditions of employment	Mediation Factfinding	Prohibited	Dues checkoff
New York	All ²⁰	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Prohibited	Agency shop automatic for state, permitted for local (Statute)
North Carolina	None					Prohibited	
North Dakota ²¹	Teachers	Collective bargaining	No	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	

¹⁸Some counties have enacted ordinances providing for collective bargaining.

¹⁹Under state personnel rules and regulations.

²⁰Local governments can adopt their own procedures for the regulation of public employee labor relations provided they are "substantially equivalent" to the Taylor Act. This was done in New York City.

²¹State Mediation Act covers all public employees.

*See attached interest arbitration table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Ohio	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding ²² Arbitration*	Permitted**	Agency shop permitted (Statute)
Oklahoma ²³	Teachers & Non-Certified School Employees	Collective bargaining	No	Conditions of employment	Factfinding	Prohibited	
	Police & Firefighters	Collective bargaining	Yes	Wages, hours & conditions of employment	Arbitration ^{23.5}	Prohibited	
Oregon	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Permitted**	Agency shop permitted (Statute)
Pennsylvania	All	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Permitted**	Maintenance of membership permitted (Statute)

²² Factfinding recommendations can only be rejected by a 3/5 vote of either total membership of the union or the legislative body

²³ Some cities have enacted comprehensive ordinances providing collective bargaining rights.

^{23.5} Although called arbitration, corporate authorities are authorized but not required to adopt the majority opinion of the arbitration panel.

*See attached binding interest arbitration table.

**See attached right to strike table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Rhode Island	State	Collective bargaining	Yes	Wages, hours & conditions of employment	Pactfinding Arbitration*	Prohibited	Agency shop mandatory (Statute)
	Local	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Arbitration*	Prohibited	Agency shop in contracts
	Firefighters	Collective bargaining	Yes	Wages, hours & conditions of employment	Arbitration*	Prohibited	
	Police	Collective bargaining	Yes	Wages, hours & conditions of employment	Arbitration*	Prohibited	
	Teachers	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Arbitration*	Prohibited	Agency shop mandatory (Statute)
South Carolina ²⁴	None						
South Dakota	All	Collective bargaining	No	State: Hours & conditions of employment only All others: Wages, hours and conditions of employment	Conciliation	Prohibited	

²⁴Automatic payroll deduction for dues to SC State Employees Ass.--revoked if group "resorts" to collective bargaining or encourages its 10,000 members to strike.

*See binding interest arbitration table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Tennessee ²⁵	Teachers	Collective bargaining	No	Wages & conditions of employment	Mediation Factfinding	Prohibited	
Texas	Police ²⁶ & Firefighters ²⁶	Collective bargaining	No	Wages, hours & conditions of employment	Mediation Arbitration*	Prohibited	
	Teachers	Meet and confer	No	Conditions of employment	None	Prohibited	
Utah ²⁷	None					Prohibited	Dues checkoff (local)
Vermont	State	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	
	Local	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Permitted**	Agency shop permitted (Statute)
	Teachers	Collective bargaining	No	Wages & conditions of employment	Mediation Factfinding		

²⁵ Dues checkoff for state employees.

²⁶ Coverage only in cities, towns and political subdivisions where collective bargaining has been approved by a majority of the voters.

²⁷ Some cities have enacted ordinances providing for collective bargaining.

*See attached binding interest arbitration table.

**See attached right to strike table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Virginia	None					Prohibited	
Washington	State ²⁸	Collective bargaining	No	Conditions of employment	None	Prohibited	Agency shop permitted (State Civil Service Law)
	Local	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Arbitration*	Prohibited	Agency shop permitted (Statute)
	Teachers	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	Agency shop permitted (Statute)
	Academic Employees (community colleges)	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation	Prohibited	Agency shop permitted (Statute)
West Virginia	None						Dues checkoff (all)

²⁸By state civil service law and executive order.

*See attached binding interest arbitration table.

<u>State</u>	<u>Employee Coverage</u>	<u>Bargaining Rights</u>	<u>Indep. Admin. Agency</u>	<u>Scope of Bargaining</u>	<u>Impasse Procedure</u>	<u>Right to Strike</u>	<u>Union Security</u>
Wisconsin	State	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding	Prohibited	Agency shop permitted (Statute)
	Local	Collective bargaining	Yes	Wages, hours & conditions of employment	Mediation Factfinding Arbitration*	Permitted**	Agency shop permitted (Statute)
Wyoming	Firefighters	Collective bargaining	No	Wages & conditions of employment	Arbitration*		

*See attached binding interest arbitration table.

**See attached right to strike table.

BINDING INTEREST ARBITRATION*

State

Voluntary (V): Both Parties Must Request

Compulsory (C): Mandatory or Either Party or a Third Party May Request

Alaska

V: State, Local, Teachers

C: Police, Firefighters, Correctional Officers, Hospital Employees

Connecticut

C: State, Local, Teachers

Dist. of Columbia

C: All²⁹

Hawaii

V: All, except

C: Police, Firefighters

Illinois

C: Police, Firefighters, Correctional Officers

Indiana

V: Teachers

Iowa

C: All

Maine

C: State, Local, Teachers, University Employees³⁰

²⁹Compulsory binding arbitration for compensation; PERB may impose procedures of its choice for terms and conditions of employment.

³⁰Not binding on salaries, pensions and insurance.

BINDING INTEREST ARBITRATION* (con't.)

<u>State</u>	Voluntary (V): Both Parties Must Request Compulsory (C): Mandatory or Either Party or a Third Party May Request
Massachusetts	V: All
Michigan	C: Police, Firefighters, Emergency Medical Personnel, Emergency Telephone Operators
Minnesota	V: Nonessential employees C: Essential employees
Montana	V: All, except C: Firefighters
Nebraska	C: All
Nevada	C: Firefighters, Police
New Hampshire	V: All
New Jersey	V: All, except C: Police, Firefighters
New York	V: All, except C: Police, Firefighters

BINDING INTEREST ARBITRATION* (con't.)

State

Voluntary (V): Both Parties Must Request

Compulsory (C): Mandatory or Either Party or a Third Party May Request

Ohio

C: Police, Firefighters, Emergency Medical Personnel, Emergency Telephone Operators, Employees of the State School for the Deaf and the State School for the Blind, Guards at Penal and Mental Institutions.

Oregon

V: All, except

C: Police, Firefighters, Correctional Officers

Pennsylvania

V: All, except

C: Police, Firefighters, Correctional Officers, Court Employees

Rhode Island

C: Police, Firefighters, State Police

C: State³¹

C: Local³², Teachers³²

Texas

V: Police, Firefighters

³¹Not binding on wages.

³²Not binding on economic issues.

BINDING INTEREST ARBITRATION* (con't.)

State

Voluntary (V): Both Parties Must Request

Compulsory (C): Mandatory or Either Party or a Third Party May Request

Vermont

V: Local

Washington

C: Police, Firefighters

Wisconsin

C: Local, Police, Firefighters, Teachers

Wyoming

C: Firefighters

APPENDIX D

SUMMARY OF SELECTED LEGISLATIVE PROPOSALS PERTAINING TO THE LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT ACT (CHAPTER 288 OF NRS)

(Underlined bills specifically address "fair share.")

- 1969** **S.B. 87** (Senator Carl Dodge's bill) regulating relations between local governments and employees and prohibiting strikes in public employment. Passed Senate. Yes: 18; No: 0; Passed Assembly. Yes 38; No: 0.
- S.B. 407** providing for collective bargaining and binding arbitration for public employees. Died in committee.
- S.B. 418** (presented by Nevada Municipal Association - now League of Cities) prohibiting political subdivisions from entering into collective bargaining agreements. Died in committee.
- A.B. 717** allowing public employees to organize for collective bargaining. Died in committee.
- 1971** **A.B. 178** providing for submission of disputes to impartial factfinders and the method of selecting factfinders; investing the Governor with emergency power to order that findings and recommendations in particular disputes will be final and binding; establishing criteria for factfinders; defining terms; and providing penalties. Passed Assembly. Yes: 29; No: 7; Passed Senate. Yes: 16; No: 0.
- 1973** **S.B. 466** establishing collective bargaining provisions for state employees. Died in committee.
- 1975** **S.B. 420** changing law to include state employees, mandatory bargaining, secret ballot election prior to recognition of a bargaining agent, and permitting strikes. Died in committee.
- A.B. 572** concerning matters subject to negotiations between employers and employees and clarifying who can enter bargaining unit. Passed Assembly. Yes: 23; No: 15; Passed Senate. Yes: 15; No: 0.

- 1975
(cont'd) A.B. 784 permitting agreements between employers and labor organizations which require non-union employees, as a condition of employment, to pay fees to cover costs of negotiation and administration of collective bargaining agreements. Died in committee.
- 1977 S.B. 346 expanding subjects of bargaining between local government employees and employers and limiting prohibition against strikes to certain employees. Died in committee.
- S.B. 440 establishing a separate system of negotiations for contracts between local governments and firefighters incorporating the concept of "final offer" binding arbitration. Passed Senate. Yes: 20; No: 0; Passed Assembly. Yes: 36; No: 1.
- A.B. 169 providing for changes in hearing and factfinding procedures. Passed Assembly. Yes: 40; No: 0; Passed Senate. Yes: 19; No: 0.
- A.B. 356 enlarging scope of mandatory bargaining with local government employees and making factfinding conclusive. Died in committee.
- 1979 S.B. 552 revising law governing labor negotiations between teachers' organizations and local government employers and removing prohibition against strikes by teachers. Died in committee.
- A.B. 137 providing for collective bargaining by state employees. Passed Assembly. Died in Senate committee.
- 1981 S.B. 350 replacing Governor's authority to order binding factfinding with a system through which panels are authorized to make this determination, modifying the dates associated with the negotiations process, and providing that the factfinder's responsibility concerning "ability to pay" is related to tax shifts and limitations approved by the 1981 Legislature.
- S.B. 532 extending collective bargaining to state employees and allowing accrued sick leave to be taken during first 6 months of employment. Died in committee.

- 1981
(cont'd)
- S.B. 536 extending collective bargaining to state employees and removing Governor's emergency power to submit dispute to binding factfinding. Died in committee.
- S.B. 537 extending collective bargaining to state employees and providing for public referendum under certain circumstance. Died in committee.
- A.B. 55 restricting certain aspects of collective bargaining by local governments. Died in committee.
- 1983
- S.B. 49 restricting certain aspects of collective bargaining by local governments. Died in committee.
- A.B. 478 clarifying schedule of collective bargaining by local governments and excluding specific panels from requirements of open meetings. Died in committee.
- A.B. 520 requiring non-members of employee organizations to pay proportionate share for negotiations. Died in committee.
- 1985
- S.B. 494 adding police officers to the system of "final offer" binding arbitration which applies to firemen. Passed Assembly. Yes: 41; No: 0; Passed Senate. Yes: 21; No: 0.
- A.B. 51 setting limits on factfinding in collective bargaining by public employees. Died in committee.
- 1987
- S.B. 200, 290, and 291 restricting renegotiation of collective bargaining agreement between local government and employee organizations. Died in committee.
- A.B. 436 allowing employees of local government to negotiate salaries as a percentage of total budget of local government employers. Died in committee.
- A.B. 618 making various changes concerning collective bargaining for police officers and firemen. Passed Assembly. Yes: 42; No: 0. Passed Senate. Yes: 20; No: 0.
- A.B. 699 authorizing collective bargaining for Nevada Highway Patrol. Died in committee.

- 1987
(cont'd) **A.B. 818** allowing employees of local governments to negotiate salaries as fair share of total budget of local government employers. Died in committee.
- 1989 **A.B. 302** requiring certain local government employees to pay costs related to negotiations. Died in committee.
- A.B. 537** expanding scope of mandatory bargaining of certain public employees. Died in committee.
- A.B. 577** providing for collective bargaining and binding arbitration for certain state employees with powers of peace officers. Died in committee.
- A.B. 709** extending subject of mandatory collective bargaining to include all employees of school district. Died in committee.
- 1991 **S.B. 206** requiring certain local government employees to pay fee for costs related to collective bargaining. Died in committee.
- S.B. 370** establishing criteria for determining recommendations and awards by factfinders. Died in committee.
- S.B. 464** providing for arbitration in collective bargaining between school districts and certain employee organizations. Passed Senate. Yes: 18; No: 2; Passed Assembly. Yes: 39; No: 3.
- A.B. 142** excluding certain sources of revenue of local government from consideration in collective bargaining. Died in committee.
- A.B. 143** revising definition of collective bargaining. Died in committee.
- A.B. 368** making various changes related to collective bargaining. Died in committee.
- A.B. 415** authorizing collective bargaining on behalf of state employees. Died in committee. (However, A.B. 130 authorizing collective bargaining for certain employees in the classified service of the State through adding sections to Chapter 284 of NRS. Passed the Legislature, was vetoed by the Governor, and the veto was sustained.)

1991
(cont'd)

A.B. 463 expanding the scope of mandatory bargaining for local government employees. Died in committee.

A.B. 719 requiring certain local government employees to pay fee for costs related to negotiations. Died in committee.