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ABSTRACT

This document analyzes legislation in 23 states enabling collective bargaining in higher education. Highlights indicate: (1) Twenty of the 23 laws were either passed or amended within the last 3 years. (2) Only five laws made special effort to identify college faculty explicitly as being covered and needing some special concern. (3) Only three state laws expand the definition of bargaining unit beyond "appropriate unit" giving some consideration to the differences between professional and nonprofessional employees. (4) Six states have no provision for run-off elections in their laws, while only one state (Delaware) in effect prohibits run-off elections by requiring a one year waiting period before a second election when the original election does not result in one choice receiving a majority of votes. (5) All states provide for exclusive representation by the elected agent. (MJM)

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SPECIAL REPORT #17
March 1975

Analysis of Legislation in 23 States Enabling Collective Bargaining in Higher Education

This is another staff report* in direct response to the many calls received from educators trying to evaluate new state bills or existing laws in terms of their effect upon college and university governance. The twenty-three states with existing laws show a variety of approaches that are worth reviewing. The two "innerfolds" of this report when placed together offer an easy referral table to anyone interested in identifying how other states have responded to such questions as "Should strikes be prohibited?" and "Who should act as employer at the bargaining table with a faculty union?" The interesting variety of responses should be a help to those interested in evaluating bills or existing laws.

George W. Angell
Director

SUMMARY OF ANALYSIS

1) Twenty of the 23 laws were either passed or amended within the last 3 years.
2) Only five laws made special effort to identify college faculty explicitly as being covered and needing some special concern.
3) Only three state laws expand the definition of bargaining unit beyond "appropriate unit" giving some consideration to the differences between professional and non-professional employees.
4) Six states have no provision for run-off elections in their laws, while only one state (Delaware) in effect, prohibits run-off elections by requiring a one year waiting period before a second election when the original election does not result in one choice receiving a majority of votes.
5) All states provide for exclusive representation by the elected agent.

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6) Eleven states include no union security provisions (agency shop, maintenance of membership, service fee, etc.) in their laws, while two states (New York and Vermont) prohibit the negotiation of union security. One state (Hawaii) requires all unit members to pay service fees whether or not they are union members. The remaining nine state laws specifically permit negotiation of union security encouraging strong unions as an effective voice of employees.
7) Only one state (Rhode Island) does not identify a specific agency to administer the law, while one state law is administered by a governmental department (Delaware).
8) Six of the 23 state laws name a special employer for higher education, perceiving some difference between employment relations in the university and those in other public agencies.
9) Eleven state laws, in defining scope of bargaining, go beyond "wages, hours and terms and conditions of employment" by specifying inclusions and/or exclusions.
10) In two states (Kansas and Rhode Island) the employer is obligated by law to meet and confer only, two other states (Nebraska and Washington) make no specific provision for bargaining while most states (19) require that the employer bargain in "good faith."
11) Four state laws (Alaska, Hawaii, Oregon, Pennsylvania) permit strikes, but only after fulfillment of impasse or grievance procedures. In one state (Montana) strike is permitted by court interpretation.
12) Twenty-one of twenty-three state laws have special provisions for resolving impasses indicating that outside assistance is helpful in resolution of impasse.
13) Eighteen states recognized a need to control excesses in the activities of parties in employment relations by prohibiting unfair labor practices.
14) Twelve laws require, and eight states permit, the negotiation of a grievance procedure thereby recognizing the need for an agreed-upon dispute resolving process.
15) Only eleven state laws narrow the scope of bargaining by defining "management rights."
16) Only three laws set some deadline (date or otherwise) for reaching agreement.
17) Twenty-one of twenty-three laws require the reducing of an agreement to writing leaving two states where preciseness of contract language is not obligatory.
18) Sixteen state laws require legislative approval of agreements, ranging from approval of the entire agreement to monetary provisions only.
19) Only five state laws provide that the negotiated contract prevails over state and local law, (one of the five states[Kansas] provides that the memorandum of agreement is to be implemented by law, resolution, executive order, rule or regulation) leaving 19 states wherein a negotiated contract's effectiveness is dependent upon complementary state and local law.

** Parties may agree to or the Governor may direct a binding fact-finding process.