



O F F I C E O F S T A T E L E G I S L A T I V E L A B O R R E L A T I O N S

December 1, 2022

Members of the Legislature,

As required by ESHB 2124, I am pleased to provide the attached preliminary report prepared by the Office of State Legislative Labor Relations.

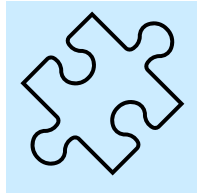
If you have any questions or comments about the attached report or if I can be of assistance, please contact me. I may be reached at (360) 786-6444 or debbie.brookman@leg.wa.gov.

Best regards,

A handwritten signature in blue ink that reads "Debbie Brookman".

Debbie Brookman
Director





December 1, 2022

Preliminary Report to the Legislature

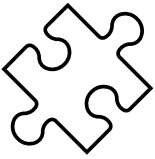
Engrossed Substitute House Bill 2124, Chapter 283, Laws of 2022

Prepared By

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1. Introduction and Summary

In March 2022, the Washington State Legislature passed ESHB 2124. In doing so, the Washington State Legislature became one of the first in recent history to allow legislative employees collective bargaining rights.

The bill also created a new legislative agency, the Office of State Legislative Labor Relations (OSLLR). As of August 2022, the new agency is up and running. The Director has been busy working through the logistics of creating a new legislative office, hiring a Labor Relations Assistant, and engaging a qualified consultant to conduct a survey of legislative employees. The OSLLR has also drafted this preliminary report.

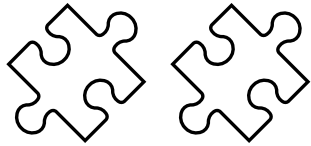
This report provides a summary of the approaches taken by other states. As of December 1, 2022, only two states, Maine and Oregon, have recognized legislative employee bargaining units. The approaches taken by Maine and Oregon are different and informative, as are some of the approaches proposed in other states. Details focusing on the practical aspects of these approaches are covered in Section 3. In addition, the National Conference of State Legislatures (NCSL) conducted more comprehensive research on the history and activity in other states on the issue of legislative employee collective bargaining. A copy of NCSL's complete report is included as Attachment A.

This report also covers the findings of a legislative employee survey. The survey was required by ESHB 2124 to provide a confidential, anonymous way for legislative employees to share their thoughts on collective bargaining. Highlights from the survey findings are included in Section 4. A more thorough summary of the survey results can be found in Attachment B.

This is a preliminary report and recommendations are not yet provided. Section 6 reiterates the specific areas for which the Legislature has requested research. Also, a list of additional considerations for the Legislature are provided. These are based on an analysis of other public sector collective bargaining laws in Washington State. Recommendations, best practices, and options for all of these considerations will be provided in the OSLLR's final report on October 1, 2023.

An overview of the role of the Public Employment Relations Commission (PERC) is provided in Section 5. Also, a [Glossary](#) of relevant terms and how they apply to public sector employees in Washington State is provided in Section 8.

This report reflects the research and thoughts of the Director of OSLLR. It does not reflect official positions or opinions of the Washington State Legislature. With this disclaimer, the Office of State Legislative Labor Relations hopes that the following report provides an informative, readable preliminary report on legislative labor relations.



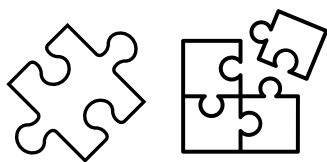
2. The Office of State Legislative Labor Relations (OSLLR)

Washington State has taken a novel approach to legislative labor relations. In addition to expanding the right to collectively bargain to all legislative employees, both partisan and nonpartisan, the Legislature has also created a new legislative agency for the sole purpose of “considering and managing the unique issues raised by legislative collective bargaining.” This new agency is the Office of State Legislative Labor Relations (OSLLR).

OSLLR’s new Director started work in late August 2022. In addition to the Director, the agency’s current staffing includes a Labor Relations Assistant, for a total of two employees. The operating budget assumes OSLLR may need to hire up to five employees. While more employees are not currently needed, items that may impact staffing include how much support the House, Senate, and other legislative agencies are able to provide OSLLR related to legal services, data, and economic proposal costing. Staffing recommendations may also depend on the number of legislative employee bargaining units created under the new legislation and unanticipated responsibilities that expand the scope of OSLLR’s mission.



OSLLR is located in the 1007 Washington Street (Dawley) building, sharing space with Legislative Support Service’s Production & Design and Administrative sections and the Counsel for the Legislative Ethics Board



3. How Other States are Addressing Legislative Employee Unionization

SUMMARY:

- Only two states, Maine and Oregon, currently have recognized legislative employee bargaining units. This section includes a summary of both states' approaches in addition to some of the approaches considered in other states such as California and New York.
 - Constitutional concerns over appropriate separation of powers have been raised in some states including Oregon.
 - The National Conference of State Legislatures (NCSL) has conducted detailed research on the activities of other states and Congress. A copy of their report is included as Attachment A.
-

To date, only two states have recognized legislative employee bargaining units, Maine and Oregon. Maine has allowed nonpartisan legislative employees the right to unionize since 1998. In Oregon, partisan Legislative Assistants organized in 2021. Oregon's new legislative employee collective bargaining law faces a lawsuit over constitutional separation of powers concerns. A summary of both states' approaches is included in this report.

Legislative employee collective bargaining is a changing landscape with legislative employees pushing for the right to unionize in several states. While Washington and Oregon are the only states to pass recent legislation to grant the right to unionize, many states have recently considered or are considering some form of legislation. OSLLR's research provides details on some of the practical aspects of other states' approaches, looking for lessons and ideas that may inform the Washington State Legislature.

The National Conference of State Legislatures (NCSL) also researched this topic for the Washington State Legislature in 2022. NCSL provides insight from a historic and legal perspective, including states where the constitutional separation of powers concern has been raised. NCSL's research also covers states such as Colorado where there is no existing right for legislative employees to organize, but that has not deterred some employees from seeking union representation under a creative "open-model." NCSL also provides information on Congressional employees. A copy of the complete NCSL report is included as Attachment A.

Maine

SUMMARY:

- Maine’s nonpartisan legislative employees have had the right to organize since 1998.
 - In 2003, two nonpartisan legislative employee bargaining units were formed.
 - The first is affiliated with the Service Employees International Union (SEIU).
 - The second is an independent association of professional staff formed primarily to avoid inclusion in the SEIU unit.
 - Maine’s Legislature is represented in bargaining by the Executive Director of Maine’s joint Legislative Council.
 - Maine’s Legislature determines the funding level for legislative employee collective bargaining agreements before negotiations begin, eliminating the need to reach agreement by a specific date.
 - Maine’s partisan staff, including Legislative Assistants, do not have the right to organize.
-

While some news articles give claim to Oregon as the first state to recognize a legislative staff union, Maine’s nonpartisan legislative employees have had the right to organize since 1998 under Maine’s [State Employees Labor Relations Act](#).

There are two unions representing Maine’s nonpartisan legislative staff, both recognized in 2003. The first is the Maine State Employees Association (MSEA), Service Employees International Union, Local 1989. The MSEA’s bargaining unit covers permanent information technology support personnel, facilities staff, secretarial support staff, legislative library staff, and committee clerks, among others.¹ While these are all designated as nonpartisan positions, the committee clerks are hired by partisan committee chairs rather than nonpartisan managers.

The second union representing Maine’s nonpartisan legislative staff is the Independent Association of Nonpartisan Legislative Professionals (IANLP). IANLP’s bargaining unit covers the professional nonpartisan staff who support legislative committees. The unit includes legal staff, research analysts, statute revisors, and other professional nonpartisan positions that work closely with elected legislators on research and bill development. The IANLP’s current collective bargaining agreement consists solely of the Maine Legislature’s nonpartisan employee personnel manual. Bargaining is generally limited to reaching agreement on improvements passed unilaterally by Maine’s Legislative Assembly. The IANLP maintains a low profile, serving

¹ A complete copy of the MSEA’s current collective bargaining agreement can be found at this [link](#). See Article 16, Union Representation, for a list of covered positions. Note that the parties have agreed to exclude temporary employees, including session staff, from representation.

the primary purpose of avoiding affiliation with MSEA and potential perceptions of partisanship.²

Maine’s history of legislative employee collective bargaining highlights the tension between nonpartisan employment and the perception of partisanship by virtue of union affiliation. In talking to Washington State’s nonpartisan legislative employees (and as highlighted by several responses to the recent employee survey, see Section 4 and Attachment B), it is clear this tension exists here, too. Maine’s nonpartisan legislative employees came up with a unique, employee-driven solution. There may be other solutions offered as options in the OSLLR’s final report.

With legislature-wide administrative authority provided by the [Maine Legislative Council](#), the administrative arm of Maine’s legislative branch, the functional definition of “employer” is straightforward. The Legislative Council’s Executive Director has delegated authority to bargain with both legislative employee unions.

In Maine, there are no statutory time frames for legislative branch employee bargaining. Instead, the Legislative Council authorizes funding for legislative employee economic agreements ahead of bargaining. It is then up to the Legislature’s negotiator to ensure the final agreement does not exceed the budgetary authorization. In other jurisdictions this might be problematic but Maine’s process benefits from the fact that legislative employees and executive branch employees are represented by the same union, the MSEA. Bargaining with MSEA’s legislative unit starts after settlements have been reached with the executive branch employee bargaining units. The executive branch employee settlements set the standard for the legislative employee settlements, reducing any risk that the Administrative Council’s preauthorized funding levels will not be sufficient to cover the outcome.³

Maine’s partisan employees, including Legislative Assistants, do not currently have collective bargaining rights under the SELRA.⁴

² Historic perspectives on the origin of the IANLP came from conversations with Maine’s Legislative Executive Director, [Suzanne Gresser](#). A summary by the Maine Labor Relations Board decision recognizing the unit may be found in the 2003 Annual Report of the Maine Labor Relations Board at this [link](#), beginning on page 4.

³ This process was explained by Maine’s Legislative Executive Director, Suzanne Gresser.

⁴ Under Maine’s SELRA, [§979-A. Definitions](#), employees who work for the office of the President of the Senate, the office of the Speaker of the House, the office of the Secretary of the Senate, the office of the Clerk of the House of Representatives or the majority or minority offices of the Senate or the House of Representatives are exempt from collective bargaining.

Oregon

SUMMARY:

- In 2021, Oregon's Employment Relations Board certified the International Brotherhood of Electrical Workers as the exclusive representative of a legislature-wide bargaining unit of Legislative Assistants. The action was taken under Oregon's existing state employee collective bargaining law.
- Shortly thereafter, Oregon's collective bargaining law was amended, effective January 1, 2022, to clarify who will represent the Legislature in collective bargaining.
- Under the newly amended law, Oregon's legislature is represented in bargaining by the Legislative Assembly's presiding officers in consultation with the majority and minority party caucus leaders of both the Senate and the House of Representatives.
- As of late November 2022, bargaining for the first union contract is ongoing. No collective bargaining agreement is yet in place.
- Oregon is facing a legal challenge to legislative employee collective bargaining based on a constitutional separation of powers argument.

In June 2021, the Oregon Employment Relations Board (ERB) issued an order certifying a new bargaining unit, [RC-001-21 CERT](#). Over objections from the bicameral Oregon Legislative Assembly, the ERB decision recognized a Legislature-wide bargaining unit of 180 Legislative Assistants who work as personal staff for Republican and Democratic members in both the House and the Senate. The order was issued under Oregon's existing Public Employee Collective Bargaining Act ([PECBA, Oregon Revised Statute 243.650 – 243.806](#)),⁵ recognizing the International Brotherhood of Electrical Workers (IBEW) Local 89 as the exclusive representative.

Oregon's Legislative Assembly has consolidated personnel administration under a Legislative Administrator appointed by the joint Legislative Administration Committee (LAC).⁶ In addition to appointing the Administrator, the LAC reviews, adopts, and amends the Legislative Branch Personnel Rules (LBPRs)⁷ which automatically apply to all nonpartisan employees. In practice, the LBPRs apply to partisan employees, too, after official adoption by a vote of the House and Senate each biennium.

⁵ Effective January 1, 2022, following the ERB decision, the PECBA was amended to specifically allow Oregon's legislative employees to unionize and specifying who would have authority to act as the employer in negotiations. See [HB 759](#).

⁶ More information on Oregon's Legislative Administration agency may be found [here](#). Also, [ORS 243.696\(3\)](#), specifies that the Legislative Assembly's chief negotiator must consult with the majority and minority party caucus leaders in both chambers.

⁷ A copy of Oregon's LBPRs is available from the Director of the OSLLR, on request.

The personal staff (Legislative Assistant I, II, III, or IV's) of Oregon's elected members are exempted from some rules in the LBPRs. For example, personal staff may be hired without a competitive recruitment, the hiring of family members is allowed, and party affiliation may be a hiring consideration. The exceptions are limited, and no individual member of the Oregon Legislative Assembly has the authority to change any of the other terms and conditions of employment set under the LBPRs. As a result, personal staff remain subject to the same classification, compensation, and benefits rules as other legislative employees.

The fact that all of Oregon's Legislative Assistants are covered by the same personnel policies and practices was an important factor in the ERB's analysis of the proposed bargaining unit. As stated in the ERB decision, "The LBPRs are intended to serve as uniform procedures for the employment practices in effect throughout the [Legislative] Branch,"⁸ giving Oregon's Legislative Assistants a sufficient community of interest⁹ to justify a Legislature-wide bargaining unit. The ERB decision recognized that some working conditions may differ depending on which assembly member the Legislative Assistant works for but found sufficient commonality to establish the requested bargaining unit.

As a result of the ERB's analysis and decision, the new bargaining unit includes all 180 Legislative Assistants who provide support to the Oregon Assembly's elected officials. This includes both caucuses and chambers, excluding supervisory, managerial, confidential, and caucus staff.

Oregon's 2021 Legislative Assembly passed a bill, [SB 759](#), to update the public employee collective bargaining law in response to the ERB decision. The new law provides a basic structure for how the Legislature, as an employer, will manage bargaining. Under the statute, the presiding officers of each house of the Legislative Assembly are authorized to act on behalf of the Legislature. They may delegate bargaining responsibility to a chief negotiator who is required to consult the majority and minority party caucus leaders and establish a bargaining team.

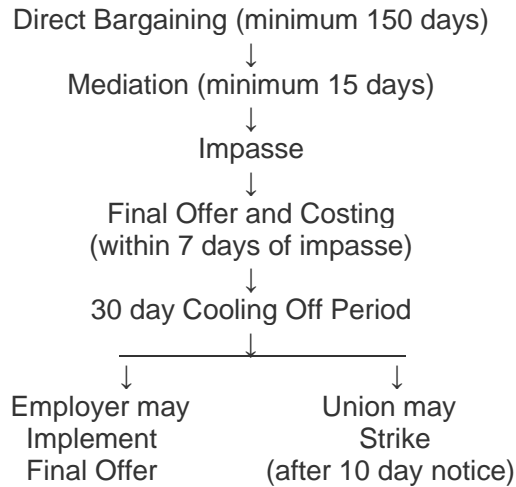
The Oregon Assembly's bargaining team includes the four caucus administrators (two from each chamber, representing the majority and minority caucuses), the Legislature's Human Resources Director, and a contracted negotiator. The new union's bargaining team is represented by the IBEW Local 89's business manager, with support from a team of bicameral and bipartisan Legislative Assistants. A joint message from the parties' negotiators posted on [IBEW Local 89's web page](#) explains that negotiations are taking time and no agreement is yet in place. Once a tentative agreement is reached, it will be subject to union ratification and approval by the Legislative Assembly's presiding officers, i.e., the Senate President and Speaker of the House.

⁸ See [RC-001-21_CERT](#), page 8

⁹ Please see "[community of interest](#)" in the Glossary, for more information on this concept.

Regarding funding of Oregon’s legislative employee collective bargaining agreements, all Oregon public sector contract negotiations are subject to specific minimum required timelines for each step of the bargaining process. In theory, strategic application of the timeline negates the need for a tentative agreement deadline:

[Oregon’s] Strike Permitted Unit Bargaining Process¹⁰



If bargaining is initiated at least 202 days prior to Oregon’s September 1st budget request deadline,¹¹ Oregon’s Governor will have sufficient time to include the cost of the final offer in the next biennium’s budget. Bargaining may continue, but any resulting modifications to the final offer need not be funded until the next legislative session.

Finally, while Oregon is well underway to becoming the first state to have a collective bargaining agreement covering partisan legislative staff, there has been at least one legal challenge filed under a constitutional separation of powers argument. According to media reports, the [lawsuit](#) asserts that giving the ERB, a board appointed by Oregon’s Governor, authority over legislative collective bargaining inappropriately subjects the legislative branch to executive branch authority. This concern has been raised in other states and NCSL’s report provides those details. As of the date of this report, legal action is still pending.¹²

¹⁰ This comes from the Oregon Employment Relation’s Board [FAQ webpage](#). “Strike permitted” employees, including legislative employees, have a limited right to strike in Oregon.

¹¹ See Oregon’s Department of Administrative Services [webpage](#) for details.

¹² The lawsuit was filed as an appeal to the ERB Decision certifying the legislative bargaining unit, [RC-001-21 CERT](#). On March 3, 2022, Oregon’s Appellate Commissioner [granted the court jurisdiction](#) over the matter. Further judicial review has yet to be scheduled. A copy of the petitioners’ opening brief is available [here](#).

Other States that Have Considered Collective Bargaining Legislation

SUMMARY:

- Several states have recently considered bills to implement legislative employee collective bargaining. These include California, New York, New Hampshire, Minnesota, and Massachusetts among others.
 - Legislative employees are pursuing voluntary recognition under existing state employee collective bargaining statutes in New York and Massachusetts.
 - A more thorough review of other states' activity is included in the NCSL's report in Attachment A.
-

California

NCSL reports, "In 1968, California enacted its public sector collective bargaining law and included legislative staff. A decade later in 1978, the state amended the public sector collective bargaining law to explicitly exclude the legislative branch. Many attempts to repeal the exclusion have failed in the legislature over the years."¹³ The most recent attempts include California Democrats' proposed legislation, [AB314](#), in early 2022, the "Legislature Employer-Employee Relations Act." The bill delegated bargaining authority to the Speaker of the Assembly and the President Pro Tem of the Senate. The bill did not pass.

In August 2022, a new bill, [AB1577](#), was introduced and appeared to be moving towards adoption. However, [the bill failed to move out of committee on August 31, 2022](#). According to media coverage, assembly members reportedly plan to make another attempt this December.

While California does not yet have legislative employee collective bargaining, their proposed legislation includes definitions for what employee information can be provided to a union, a definition of the employer,¹⁴ and detailed provisions on unfair labor practice processing, dues deductions, negotiation ground rules including release time for employee representatives, [community of interest](#) definitions, and more.

New York

New York's most recent legislative bargaining bill, [A00109](#), was introduced in 2021 and is still active. If passed, the bill will amend the existing civil service law to explicitly provide organizing rights to legislative employees. In the meantime, New York legislative employees have self-organized into the "New York State Legislative Workers United" (NYSLWU) organization. The

¹³ See Attachment A, for a complete copy of the NCSL report

¹⁴ From [AB1577](#), "For the purposes of bargaining or meeting and conferring in good faith, 'Legislature' means the Assembly Committee on Rules or the Senate Committee on Rules, or their designated representatives, acting with the authorization of their respective houses."

NYSLWU is seeking voluntary recognition from their state’s Senate leadership. More details may be found in the following media article:

<https://www.cityandstateny.com/politics/2022/09/new-york-legislative-staffers-optimistic-about-union/376751/>.

In the absence of an undisputed legal framework for collective bargaining, voluntary recognition seems unlikely and has not been offered as of this report.

New Hampshire

New Hampshire’s legislature had a bill ([HB 1041](#)) pending in committee in early 2022 that would have extended bargaining rights to nonpartisan legislative employees. The proposed legislation defined nonpartisan employees, who would negotiate on behalf of the employer (the joint Committee on Legislative Facilities) and required any resulting unions to bargain in coalition. The bill did not pass, and it is to be determined if a new bill will be introduced.

Minnesota

Minnesota considered legislation early in 2022 that would have allowed legislative employees (both partisan and nonpartisan, excluding pages, interns, temporary employees, managers, confidential employees, and supervisors) to organize, [HF2729/SF3952](#). The bill took a structured approach by defining specific allowable bargaining units and who the respective employer is for each chamber and Minnesota’s legislative agencies. The bill died and it is to be seen if the Minnesota legislature will revive it in their next session.

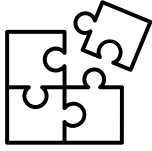
Massachusetts

While no legislation was pending, legislative Senate staffers sought voluntary recognition in 2022. Senate leadership denied the request. Massachusetts provides a comprehensive guide to [public employee collective bargaining rules](#) and describes precedents which do not appear to specifically include legislative employees. See this media article for more details:

<https://prospect.org/labor/pro-labor-state-legislatures-arent-pro-labor-for-staff/>.

It remains to be seen if the legislative staff will be successful should they pursue recognition through the Massachusetts’ Department of Labor Relations.

For more information on how legislative employee collective bargaining is being considered elsewhere, including write-ups covering Colorado, Delaware, and Congress, please see NCSL’s report in Attachment A.



4. Legislative Employee Survey

SUMMARY:

- ESHB 2124 included a provision requiring legislative employees be surveyed on collective bargaining.
 - An employee survey has just been completed and results are detailed in Attachment B.
 - Partisan employees who support Democratic lawmakers are predominantly in favor of unionization; Partisan employees who support Republican lawmakers are predominately against unionization.
 - Nonpartisan employees lean against unionization and are concerned that collective bargaining will undermine their ability to be perceived as objective and unbiased.
-

Section 2 of ESHB 2124, includes the following requirement,

“(d) The director shall contract with an external consultant for the purposes of gathering input from legislative employees, taking into consideration RCW 42.52.020 and rules of the house of representatives and the senate. The gathering of input must be in the form of, at a minimum, surveys.”

On October 31, 2022, an employee survey was launched with the professional assistance of the National Business Research Institute. The survey was a challenge to develop, the subject matter being both complicated and controversial. Of the 613 employees sent the survey link, 356 employees (58.8%) responded. In the world of employee surveys, this is considered a high response rate and the efforts of employees to provide thoughtful information on a difficult subject is commendable.

The survey focused on two objectives. The first was to identify the scope of legislative employee interest in collective bargaining. While this is an important question to the OSLLR in determining future staffing and resource needs, it is a sensitive topic for an employee survey. To ensure anonymity and to encourage employees to respond, “undecided” or “prefer not to answer” responses were allowed. The overall responses indicate:

- 40.74% of legislative employees responded they strongly or moderately disagree with being interested in joining or forming a union.

- 29.49% of legislative employees moderately or strongly agree with being interested in joining or forming a union.
- 18.54% of employees indicated they are undecided.
- The remaining 11.24% of legislative employees were a mix of slight agreement or disagreement or preferred to not answer.

The survey allowed responses to be separated by partisanship:

- Partisan Democratic House and Senate employees (those who self-identified as working for a Democratic caucus or as a Legislative Assistant to a Democratic member) responded more favorably to the question of unionization, indicating an overall level of interest in joining or forming a union of 81.69%.
- Partisan Republican House and Senate employees (those who self-identified as working for a Republican caucus or as a Legislative Assistant to a Republican member) responded indicating that 84.31% strongly or moderately disagree with having an interest in joining or forming a union.
- Nonpartisan employees were split with 42.11% strongly or moderately disagreeing with having an interest in joining or forming a union; 18.85% strongly or moderately agreeing with interest in joining or forming a union; and 25.88% undecided. The remaining 13.15% were undecided or had only slight interest one way or the other.

The second objective – and the primary area of inquiry – was to gather employee input on the issue of legislative employee collective bargaining. Many employees expressed a desire for more information about how collective bargaining works to better answer the questions, yet 178 pages of well-thought comments were received.

Employees were asked for their opinions on how legislative employee bargaining units should be configured. Some high-level themes included:

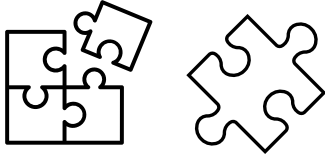
- 65% of the respondents overall reported that partisan and nonpartisan staff should not be in the same bargaining unit with each other; Nonpartisan staff responses to this question split 75% to 25% against being in the same bargaining unit as partisan staff.
- Nonpartisan staff are concerned about perceptions of partisanship by virtue of union affiliation or non-affiliation;
- House and Senate staff are closely split over whether a single bargaining unit should cover employees in both chambers. Interestingly, employees who work for legislative agencies such as LEAP, JLARC, etc. responded to this question with 77% indicating House and Senate employees should be in the same bargaining unit.

- A strong majority of respondents (about 69%) agree that employees who work for legislative agencies should not be in the same bargaining unit(s) as employees who work for the House or Senate.

Employees were also asked their opinion on whether they should be allowed to lobby for funding of their collective bargaining agreement(s). Currently, employees of the Legislature are prohibited from any activity, including lobbying, that seeks to influence the passage or rejection of proposed legislation. Overall, 58% of employees felt such lobbying should continue to be prohibited due to conflicts of interest. 42% of employees said it should be allowed as a fundamental employee and union right. Many comments suggested that lobbying, if allowed, should have clearly defined parameters.

The survey also asked employees what topics should be subject to collective bargaining. In addition to wages, benefits, and other economic issues, many employees indicated that hours of work should be bargainable. Less prominent, but still a bargaining subject recommended by many respondents, was fulltime telework, especially during the legislative interim. Other topics proposed for bargaining included dress codes, workload, at-will employment, objective merit-based pay increases, and per diem rates.

A more detailed analysis of the survey findings can be found in Attachment B.



5. The Role of the Public Employment Relations Commission (PERC)

SUMMARY:

- In other states, separation of powers concerns have been raised relative to legislative employee collective bargaining. The legitimacy of these concerns has not yet been legally determined.
 - PERC is the executive branch agency with general authority over public sector collective bargaining in Washington State.
 - Generally, PERC's authority can impact an employer's ability to terminate, direct, and negotiate with employees.
 - ESHB 2124 specifies that PERC will administer legislative branch collective bargaining, potentially creating similar separation of power concerns for the Washington State Legislature.
 - OSLLR will provide options and best practices for the legislative environment as part of the October 1, 2023 final report.
-

A few legislative employee collective bargaining initiatives in other states have faced constitutional separation of powers concerns. While these concerns have yet to be raised in Washington, Oregon is facing an active lawsuit over the issue.¹⁵ The underlying question is whether it is appropriate for an executive branch agency (and, ultimately, the judicial branch) to make determinations that impact a legislative branch employer's ability to terminate, direct, and negotiate with legislative branch employees. To better understand this concern, it may be helpful to understand the role of PERC in public sector labor relations in Washington State.

PERC is a Washington State executive branch agency with jurisdiction over public sector labor relations in Washington. This jurisdiction includes collective bargaining for city, county, public transit, state college and university, and state employees. PERC also has a significant role in helping public sector employers and unions establish positive relationships through robust education and mediation services.

¹⁵ Please see Section 3 and the NCSL report in Attachment A, for additional details.

PERC is headed by three part-time citizen commissioners who are appointed by the Governor for five-year terms. The Commission hears and decides appeals on decisions made by PERC's staff (Examiners and the Executive Director) and has rule making authority.¹⁶

Generally, PERC's authority includes the following labor relations issues:

- the certification and decertification of [exclusive representatives](#);
- the establishment of [bargaining units](#), including determining who may be included and excluded based on [community of interest](#) criteria, [supervisory](#) authority, and status as a [manager](#) or [confidential employee](#); and
- adjudication of allegations of [unfair labor practices](#), including ordering remedies.¹⁷ Such remedies may include reinstatement of employment, back pay, ordering the offending party to bargain in good faith, public posting of the PERC order, etc. In extreme cases, PERC may issue extraordinary remedies such as ordering the parties to submit their negotiation to [interest arbitration](#) and/or the payment of attorney's fees to the prevailing party.¹⁸

Each of the above bullets represents an area that can have impacts on an employer. For example, consider the formation of a new bargaining unit. Unless limited by law,¹⁹ bargaining units may be configured in a variety of ways. PERC's rules do not ensure that the best or most appropriate bargaining unit be created.²⁰ The union starts the process by proposing a bargaining unit configuration via a [representation petition](#). PERC reviews the proposal based on a community of interest standard. Under this standard, PERC considers the duties, skills, and working conditions of the employees; the history of collective bargaining, if any; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation.²¹ The employer may object to the inclusion of managers, supervisors, and confidential employees. The employer may also argue that an appropriate community of interest does not exist for some or all of the union's proposed employee grouping. An

¹⁶ From [PERC's webpage](#). Details on the current Commissioners, meeting schedule, and agendas are provided.

¹⁷ ULP's may also be filed directly with superior court, but this is not typical.

¹⁸ For a more detailed explanation of the application of PERC's extraordinary remedies, see [State - Corrections, Decision 11060-A \(PSRA, 2012\)](#). This decision also provides an example of PERC's ordinary remedies – see the "amended order" section at the end of the decision for details.

¹⁹ These limits are not uncommon, especially in specialized jurisdictions. See [RCW 41.80.400\(3\)](#), defining the only appropriate bargaining unit for Washington's Assistant Attorneys General, as one example.

²⁰ See, for example, [State – Veterans Affairs, Decision 12549-A \(PSRA, 2016\)](#), "The Legislature delegated to the Commission the authority to determine appropriate bargaining units. RCW 41.80.070(1)... That other groupings of employees may also be appropriate, or more appropriate, does not render a bargaining unit certified by the Commission inappropriate. The Commission is required to certify *an* appropriate bargaining unit, not the *most* appropriate bargaining unit." (Emphasis from original text)

²¹ From RCW 41.80.070(1) for state employees, which reflects a typical set of community of interest criteria applied by PERC.

employer's arguments related to other practical concerns are not part of the criteria considered by PERC.

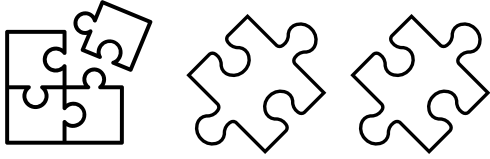
The bargaining unit recently established for Oregon's Legislative Assistants, described in Section 3, was based on a similar set of criteria to those considered by Washington's PERC.²² In Oregon's case, the ERB decision required Oregon's Legislature to coordinate negotiations across chamber and partisan lines. Whether that was workable from the employer's perspective was explicitly not a consideration. In response to the employer's objections, the Oregon ERB indicated that addressing the question of how to bargain with such a unit would be up to the Legislature to figure out.²³

ESHB 2124 asks how to best implement collective bargaining, "which would be administered by the public employment relations commission."²⁴ Per this language, PERC will have authority over legislative employee collective bargaining, yet it is not a forgone conclusion that all of PERC's existing precedents, definitions, and processes will be applied to the legislative environment. The Legislature will have options to consider related to bargaining unit determinations, as well as questions of representation and the processing of unfair labor practice complaints. OSLLR's final report will also provide an update on the status of any known separation of powers lawsuits.

²² From the Oregon [ERB decision](#) determining the new legislative assistant bargaining unit, page 33, "When determining whether a unit is appropriate for collective bargaining, we must consider such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees."

²³ *Id.*, page 32, "How the [Legislative] Branch might elect to conduct collective bargaining with its employees is beyond the scope of our inquiry here, and we would be overstepping our bounds to suggest what that structure might look like, or to require the Branch to designate a particular position or positions to perform that function..."

²⁴ RCW 44.90.010, "Intent. The legislature intends to create the office of state legislative labor relations for the purposes of considering and managing the unique issues raised by legislative collective bargaining. By examining issues set forth in RCW 44.90.030, the office will provide the legislature with a fuller understanding of how the legislature as an employer can best implement legislation for collective bargaining for legislative employees, which would be administered by the public employment relations commission."



6. Summary of Statutory Changes that May be Considered

SUMMARY:

- ESHB 2124 asks for information on several key areas of collective bargaining and how best to implement this for legislative employees.
 - In addition to the questions raised by the new law, a comparison of existing public sector collective bargaining laws, especially RCW 41.80 and 41.56, identify additional issues the Legislature may choose to consider. A list of additional considerations identified, thus far, is included with this preliminary report.
-

Collective bargaining statutes often address both the lofty ideals and complicated details of the relationship between employers, employees, and unions. ESHB 2124 provides an outline for legislative collective bargaining but leaves many details to be determined. Specifically, the new law asks the Director of OSLLR to submit a final report to the appropriate committees of the legislature. At a minimum, the final report must address considerations on the following issues:

- (i) Which employees of the House of Representatives, the Senate, and legislative agencies for whom collective bargaining may be appropriate;
- (ii) Mandatory, permissive, and prohibited subjects of bargaining;
- (iii) Who would negotiate on behalf of the House of Representatives, the Senate, and legislative agencies, and which entity or entities would be considered the employer for purposes of bargaining;
- (iv) Definitions for relevant terms;
- (v) Common public employee collective bargaining agreement frameworks related to grievance procedures and processes for disciplinary actions;
- (vi) Procedures related to the commission certifying exclusive bargaining representatives, determining bargaining units, adjudicating unfair labor practices, determining representation questions, and coalition bargaining;

- (vii) The efficiency and feasibility of coalition bargaining;
- (viii) Procedures for approving negotiated collective bargaining agreements;
- (ix) Procedures for submitting requests for funding to the appropriate legislative committees if appropriations are necessary to implement provisions of the collective bargaining agreements; and
- (x) Approaches taken by other state legislatures that have authorized collective bargaining for legislative employees.

In addition to the questions the Legislature requires be addressed in the Director's final report, preliminary research has identified additional questions that may warrant consideration. This research was based, in part, on a comparison of existing Washington State collective bargaining statutes including RCW 41.80, covering executive branch employees, and RCW 41.56, covering other public sector employees. While many of these questions can be resolved at the bargaining table, the Legislature may want to determine if answers to any of these questions would be better established in statute:

- ❖ How should the concepts of "[duty of fair representation](#)" and "[exclusive representation](#)" be applied and defined?
- ❖ Should an emergency clause be included in statute, allowing legal implementation of changes to [mandatory subjects of bargaining](#) without first meeting a [bargaining obligation](#)?
- ❖ Are there specific working conditions necessary to the effective operation of the Legislature that should be preserved as [prohibited subjects of bargaining](#)? Examples may include at-will employment, civil-service exempt employment, and/or the ability to contract out work under reasonable circumstances.
- ❖ What bargaining impasse procedures should apply, both for [collective bargaining](#) agreements and [mid-term bargaining](#)?
- ❖ Given the cyclic nature of the Legislature, should rules for mid-term bargaining be specified by law such as notification periods and other timeframes?
- ❖ Should access to newly hired [legislative employees](#) by the exclusive representative be established by law (see [RCW 41.56.037](#) and [RCW 41.80.083](#))?
- ❖ What dues deduction, authorization and revocation rules should apply?

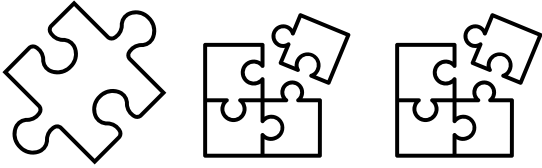
- ❖ ESHB 2124 does not include a provision prohibiting negotiation over health insurance benefits. Is it intended that legislative employees will be part of the state employee coalition that negotiates health care premiums?²⁵ If not, is it intended that legislative employee unions may negotiate directly with the employer over:
 - who provides health insurance?
 - the coverage of certain drugs or procedures, co-pays, out-of-pocket maximums?
 - and/or the dollar amounts paid towards employee premiums?

- ❖ Will represented legislative employees have the right to strike when the Legislature is *not* in session?²⁶

The Director’s final report will provide options and best practices for the questions posed by ESHB 2124, as well as options to fill these and any other identified gaps, for the Legislature’s consideration on October 1, 2023.

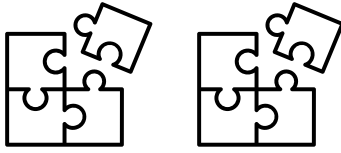
²⁵ See [RCW 41.80.020\(3\)](#)

²⁶ RCW 44.90.060 Strikes—When prohibited. (Effective May 1, 2024.) “During a legislative session or committee assembly days, nothing contained in this chapter permits or grants to any legislative employee the right to strike, participate in a work stoppage, or refuse to perform their official duties.”



7. Next Steps

By opening the opportunity to bargaining collectively with both partisan and nonpartisan legislative staff, the Washington State Legislature is forging new ground. In the coming months, the Office of State Legislative Labor Relations will research best practices and reasonable options for the Legislature’s consideration. OSLLR looks forward to providing that information in the October 1, 2023 final report.



8. Glossary of Labor Relations Definitions and Abbreviations

For the purposes of this report, the following terms and abbreviations may be used. Note that some definitions are simplified, covering the details most pertinent to the legislative environment:

Bargaining Obligation	Both the union and the employer have an obligation to bargain over proposals that cover mandatory subjects of bargaining. The obligation includes a requirement to meet at mutually acceptable times and places and to bargain in good faith.
Bargaining unit	An organized, defined group of employees having sufficient “community of interest” to bargain effectively. Bargaining units are often officially recognized by order of the Public Employment Relations Commission (PERC), but some units arise from a statutory requirement or via voluntary recognition by the employer.
Coalition Bargaining	Coalition bargaining is when multiple unions and/or bargaining units negotiate together at one table with their employer or employers. Coalition bargaining is common and sometimes required by law. ²⁷ More often, it is not required but done by mutual agreement of the parties for efficiency and fairness’ sake. For example, an employer may negotiate a “master agreement” with all or some of its bargaining units for major economic terms. ²⁸ Under this structure, the employer only needs to manage one bargaining table and each participating bargaining unit knows that it is getting at least as good a deal as the other bargaining units. Supplemental bargaining tables can then focus on bargaining unit specific issues. These advantages make coalition bargaining a popular approach for both unions and employers.

²⁷ [RCW 41.80.020\(3\)](#) requires coalition bargaining for state employee unions over the “dollar amount expended on behalf of each employee for health care benefits...”; [RCW 41.80.010\(2\)\(a\)\(iii\)](#) requires coalition bargaining for state employee unions “who represent fewer than a total of five hundred employees each...”

²⁸ For example, [Snohomish County](#) has several AFSCME bargaining units, each of which is covered under a master agreement AND its own collective bargaining agreement.

Collective Bargaining

In its most basic form, collective bargaining is the process by which employers and unions negotiate to establish wages, hours, and terms and conditions of employment. Under public sector collective bargaining laws,²⁹ the definition describes an obligation to bargain in good faith and to meet at reasonable times. The definition will also describe the scope of bargainable topics. This is where definitions for mandatory subjects of bargaining may be listed. The term collective bargaining also plays a critical role in adjudicating unfair labor practice charges as the employer and union must not “refuse to bargain collectively...”³⁰

Community of Interest

To form a viable bargaining unit, the employees seeking union representation must have things in common. This is termed a community of interest.

PERC recognizes bargaining units based on statutory definitions of community of interest. For example, for state employees covered by the Public Service Reform Act (PSRA), [RCW 41.80.070\(1\)](#), it is defined as consideration of the duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation.

Confidential Employee

In a traditional collective bargaining structure, some employees are not appropriate for bargaining because they are directly involved in development of an employer’s labor relations policy and strategy (termed “confidential” employees, in this context). Examples include the Legislative counsels that provide the OSLLR guidance and the staff of the OSLLR, itself. Confidential employees have access to information that, if shared with a union, could significantly undermine the employer’s strategic approach to collective bargaining. Due to this conflict of interest, such employees are prohibited from inclusion in a bargaining unit.

²⁹ See, for example, RCW 41.56.030(4), ““Collective bargaining” means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures, subject to RCW 41.58.070, and collective negotiations on personnel matters, including wages, hours, and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.”

³⁰ RCW 44.90.080 Unfair Labor Practices (effective May 1, 2024), “(1) It is an unfair labor practice for an employer in the legislative branch of state government:... (e) To refuse to bargain collectively with the exclusive bargaining representative of its employees.” The union is subject to the same obligation under subsection (2)(d).

Director	The Director of the OSLLR.
Duty of Fair Representation	This is the duty of the union, as the exclusive representative, to represent all employees in the bargaining unit fairly, in good faith, and without discrimination. When a union chooses to not take an employee's grievance to arbitration, for example, it must apply these principles to the decision or face a potential unfair labor practice charge for failing to meet its duty of fair representation.
Employee	<p>For the purpose of union representation in other Washington State public sector jurisdictions, an employee is a fulltime or parttime permanent employee who may appropriately be represented by a union. Generally, this means any employee who is not a confidential or management employee or otherwise specifically exempt from collective bargaining.</p> <p>Employees may also include those in temporary positions. In most cases, Washington's public sector collective bargaining rules do not prohibit unionization of temporary employees, especially if more than minimal hours are worked. If temporary employees want to be in a union and the union agrees, PERC's existing rules will give consideration based on community of interest criteria.</p> <p>Legislative employees fill positions in the above categories and are further categorized as either partisan or nonpartisan. There are no existing PERC precedents that prohibit employees from unionization based on partisanship, nor are there any precedents that prohibit partisan and nonpartisan employees from being in the same bargaining unit if other conditions of employment are sufficiently similar.</p>
Employee organization	Any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.
Exclusive representative	Any employee organization that has been recognized as the representative of the employees in an appropriate bargaining unit. While not defined under RCW 44.90 for legislative employees, most collective bargaining frameworks specify that the union is the only entity with the authority (and obligation) to bargain on behalf of all employees in the union's bargaining unit(s).

Impact Bargaining	Impact bargaining may be required even when the underlying decision was management’s right to make. For example, staffing levels are often the sole prerogative of management. When a decision to reduce staffing levels creates tangible impacts to represented employees, the impacts may be subject to negotiation even though the underlying decision is not subject to negotiation. Common impacts in this example can include increased hours and/or safety impacts, both of which may be mandatory subjects of bargaining.
Interest Arbitration	When a union and an employer are unable to reach an agreement, the case may be referred to an arbitrator to decide the outcome. In Washington State, public safety employees such as police officers, firefighters, some critical transportation employees, and others are eligible for interest arbitration. For most public sector employees, interest arbitration is only available in very rare and extraordinary circumstances by order of PERC.
Legislative Agencies	For the purposes of legislative employee collective bargaining, legislative agencies include the Joint Legislative Audit and Review Committee (JLARC), the Statute Law Committee (SLC, a.k.a. Code Revisor’s Office), the Legislative Ethics Board (LEB), the Legislative Evaluation and Accountability Program committee (LEAP), the Office of the State Actuary (OSA), the Legislative Service Center (LSC, a.k.a. LEG-TECH), the Office of Legislative Support Services (LSS), the Joint Transportation Committee (JTC), and the Redistricting Commission. ³¹
Legislative Employee	Any employee of the legislative branch of Washington State government including employees of the House, Senate, and legislative agencies.
Manager	The Legislature will need to define the term “manager,” but some likely examples of legislative managers include, at a minimum, the Chief Clerk of the House, the Secretary of the Senate, and the directors of the legislative agencies. Managers must make decisions that can have material impacts, both good and bad, on employees in a bargaining unit. These decisions often must, by necessity, prioritize the needs of the employer. Affiliation with the affected bargaining unit would undermine the objectivity of the manager’s decision-making process. As a result, managers are excluded from inclusion in bargaining units.

³¹ [RCW 44.90.020\(5\)](#)

Mandatory Subject of Bargaining	<p>Mandatory subjects of bargaining are those over which the employer and the union have an obligation to collectively bargain. Should the Legislature decide to adopt traditional definitions, mandatory subjects of bargaining will generally include any substantive change related to wages, hours, or working conditions. This is not an exhaustive list but here are some examples:</p> <ul style="list-style-type: none"> • “Wages” includes salary rates, cost of living adjustments, overtime rates, and economic benefits such as leave accruals; • “Hours” includes work schedules, number of hours worked per week, days worked per week, on-call requirements, and leave scheduling; • “Working conditions” includes workplace safety, disciplinary standards, definition and application of seniority, job security, layoffs, and use of contractors.
Mid-Term Bargaining	<p>During the term of an existing collective bargaining agreement, the employer may need to propose a change to a mandatory subject of bargaining for which an agreement does not already exist (for example, a change to work schedules). This may create a bargaining obligation and, if so, the union may file a “demand to bargain” over the decision or the impacts of the decision. The parties then meet and try to work out an agreement over how to implement the proposed change.</p>
OFM	<p>Washington State Office of Financial Management.</p>
OSLLR	<p>The Office of State Legislative Labor Relations, created in March 2022 by the passage of ESHB 2124. Less formally, LLR.</p>
Partisan/Nonpartisan	<p>Legislative employees may hold either partisan or nonpartisan positions. Partisan employees may be required to support a political party or elected official’s agenda as condition of employment. Nonpartisan employees are required, as a condition of employment, to be unbiased relative to political agendas.</p>
PERC	<p>Public Employment Relations Commission. PERC is a Washington State agency with authority over public employee collective bargaining. PERC’s responsibilities that include unfair labor practice (ULP) adjudication, bargaining unit certification,</p>

mediation, etc. The decisions issued by the PERC have precedent over the general scheme of public sector collective bargaining in Washington State.

Permissive Subjects of Bargaining

Permissive subjects of bargaining are those items over which neither party has an obligation to bargain. While permissive subjects do not require bargaining, the impacts of decisions made under this category are sometimes mandatory subjects of bargaining (see impact bargaining). Here are some examples of permissive subjects of bargaining:

- Contract negotiation ground rules such as bargaining in public, release time for union team members, and related items;³²
- Management prerogatives such as staffing levels; and
- Issues and decisions involving non-bargaining unit personnel.

Prohibited Subjects of Bargaining

Prohibited (or illegal) subjects of bargaining are those items over which the parties are not allowed to bargain. In addition to the subjects listed in the legislative collective bargaining law's management rights section, RCW 44.90.090(1),³³ the parties are also prohibited from bargaining over items established by law. Examples include workers compensation coverage and premiums, access to and accrual of protected leave such as Washington Paid Sick Leave, and similar programs intended to cover all Washington employees.

PSRA

Public Service Reform Act, Chapter 41.80 RCW, passed in 2002 to provide Washington State employees full scope collective bargaining rights.

³² Ground rules are permissive because neither party may unilaterally require a condition of the other party in order to meet their obligation under law to collectively bargain. The Legislature's new collective bargaining law, [RCW 44.90.080\(1\)\(e\)](#) states, "It is an unfair labor practice for an employer... to refuse to bargaining collectively with the exclusive bargaining representatives of its employees."

³³ [RCW 44.90.090\(1\)](#): "(1) The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, shall include, but not be limited to, the following:

- (a) The functions and programs of the employer, the use of technology, and the structure of the organization, including the size and composition of standing committees;
- (b) The employer's budget and the size of the employer's workforce, including determining the financial basis for layoffs;
- (c) The right to direct and supervise employees;
- (d) The hours of work during legislative session and the cutoff calendar for a legislative session; and
- (e) Retirement plans and retirement benefits."

Representation Petition	A petition filed by a union asking PERC to initiate an investigation into whether the union will be certified to represent a bargaining unit. Valid petitions must meet criteria including evidence that a minimum number of employees are in support of the change. The outcome of a valid petition is an election and certification of a new bargaining unit (or not), based on the election results.
Supervisor	It may be important for the Legislature to define who holds supervisory authority and determine if PERC’s existing definitions ³⁴ are workable in the legislative environment. Washington’s public sector collective bargaining rules allow supervisory employees to unionize, however, it is not appropriate for supervisors to be in the same bargaining unit as those they supervise. This is due to inherent conflicts of interest between a supervisor and the interests of the nonsupervisory bargaining unit employees, particularly in promotional and disciplinary decisions.
Tentative Agreement	Tentative agreements (sometimes, “TAs”) are agreements reached between the bargaining teams of both the union and the employer. Tentative agreements must be ratified (usually, ratification occurs by majority vote) by both parties’ respective decision-making body to become final.
Unfair Labor Practice	<p>(ULP) A violation of the law that defines unfair practices by the employer or a union. Effective May 1, 2024, ULPs for legislative employee unions and employers are defined by RCW 44.90.080, as follows:</p> <p>“(1) It is an unfair labor practice for an employer in the legislative branch of state government:</p> <p>(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;</p> <p>(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules adopted by the</p>

³⁴ As an example, under state employee rules, [RCW 41.80.005\(13\)](#), “‘Supervisor’ means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment.” In practice, this can be a high bar in the public sector where appointing authority is often limited to the top of the organization.

commission, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) To discharge or discriminate otherwise against an employee because that employee has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the exclusive bargaining representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce an employee in the exercise of the rights guaranteed by this chapter: PROVIDED, That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or to an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To discriminate against an employee because that employee has filed charges or given testimony under this chapter;

(d) To refuse to bargain collectively with an employer.”

Union

An organization that represents bargaining units for the purpose of collective bargaining. See also, employee organization.

Attachment A – NCSL’s Report, Legislative Staff Unionization and
Collective Bargaining



Legislative Staff Unionization and Collective Bargaining

A Report for the Washington Legislature

Final Report
November 2022

Introduction

In 2022, the Washington Legislature requested background information, research, and analysis from NCSL on the topic of legislative staff unions and collective bargaining.

This report provides data and information about the origins of public sector collective bargaining in the United States, about efforts within state legislatures to allow legislative staff to join unions and collectively bargain, and insight into legal issues, practical considerations, and questions that have arisen from these state legislative efforts to date.

To conduct this research, NCSL reviewed state statutes, legislation, articles, rules, and analysis and spoke with staff in several legislatures: the Colorado General Assembly, the Delaware General Assembly, the Maine Legislature, the Massachusetts Senate, the Oregon Legislature, the U.S. House of Representatives, and the Wisconsin Legislature.

The information contained in this report is for informational purposes and is not and should not be construed as legal advice on the matters contained herein or as a substitute for legal counsel.

History of Legislative Branch Unions and Collective Bargaining

Shown below is a timeline of efforts in the states around public sector collective bargaining generally and efforts to create unions in state legislatures and at the Congressional level.³⁵

Public Sector Unions – Origins

1959 – Wisconsin becomes the first state to permit public employees to collectively bargain.

1962 – President Kennedy issues Executive Order 10988 granting federal employees the ability to unionize and collectively bargain, except on wages.

1969 – President Nixon signs Executive Order 11491, building on Executive Order 10988. This Order created a framework for labor-management relations in the federal government, specified unfair labor practices, and authorized use of binding arbitration to settle disputes.

Early 1970s – Widespread state adoption of collective bargaining for public sector workers.

1976 – U.S. Supreme Court rules that Congress cannot extend the Fair Labor Standards Act to state employees.³⁶

The decision prevented the nationalization of state and local public employee unions by forbidding Congress from mandating states to allow public employee collective bargaining.

1978 – Congress passes the Civil Service Reform Act of 1978, codifying protections given to workers in Executive Orders 10988 and 11491. Agencies administering federal personnel under the Orders were reorganized, leading to the creation of the Office of Personnel Management and the Federal Labor Relations Authority. Congressional staff were excluded from collective bargaining.

³⁵Source: Moreno, Paul. "[The History of Public Sector Unionism.](#)" Hillsdale College. 2011.

³⁶National League of Cities v. Usery, 426 U.S. 833 (1976)

1995 – Congress enacts the Congressional Accountability Act removing the Congressional staff exemption from collective bargaining. Neither chamber adopted specific rules or regulations for collective bargaining, however, and no staff collective bargaining occurred.

2010s – Wave of right-to-work legislative enactments, which prohibit private and public unions from making membership and dues mandatory for employees. (8 states total)

2022 – In July, the U.S. House of Representatives adopts rules related to the 1995 Congressional Accountability Act permitting House staff to form unions and collectively bargain.

Legislative Staff Unions

The history of state legislative staff unions is complex. Legally recognized public sector unions largely emerged in the 1960s and 70s. Currently, at least 35 states allow public employees to collectively bargain in some way. Many of the states that granted collective bargaining rights to public employees excluded legislative branch employees, either with specific statutory exclusions or by excluding them from the list of covered public employees. Some examples include [Colorado](#), [Connecticut](#), [Florida](#), [Hawaii](#), [Illinois](#), [Ohio](#), [South Dakota](#), [Vermont](#), and [Wisconsin](#) (note this list is not exhaustive).

At least two states do not explicitly exclude legislative employees, which may leave the door open to a statutory interpretation allowing it: **New York** and **New Jersey**.

In some states, legislative staff collective bargaining was permitted for a time, but state actions later repealed those policies. Examples include **California**, **Connecticut**, **New Hampshire**, and **Wisconsin**.

In 1968, California enacted its public sector collective bargaining law and included legislative staff. A decade later in 1978, the public sector collective bargaining law was amended to explicitly exclude the legislative branch. Legislation has been introduced to repeal the exclusion over the years, though it has not passed to date.

Connecticut enacted its public sector collective bargaining law in 1975 and included legislative branch employees. In 1977, the General Assembly amended the law to exclude the legislative branch. In 1994, the Office of Legislative Research [published a memo](#) comparing legislative branch employee collective bargaining rights to that of New Hampshire, where a ruling at the time had granted legislative staff the right to collective bargain.

New Hampshire's labor relations board ruled in 1994 that the state's public sector collective bargaining law included bargaining rights for legislative staff. The statute was silent on the issue, so the board determined that without a specific exclusion of legislative staff, the law included them in the definition of public employee. The ruling was challenged in court and the state's supreme court reversed the labor board interpretation in 1996. The court ruled that given the original statute's language, which listed several bargaining units, if the legislature had intended to include legislative staff, they would have listed them as their own bargaining unit in the statute.

For a time, Wisconsin law defined certain nonpartisan legislative employees, including those working in the Legislative Audit Bureau (LAB) and the Legislative Research Bureau (LRB), as classified employees, which allowed them to join a public sector union. The law was amended in 1981 (for [LAB staff](#)), and in 1998 and 2007 (for [LRB staff](#)) to bring them under the definition of unclassified employee, along with all legislative staff, and phased out their ability to be in a union.

In at least two states, **Maine** and **Oregon**, collective bargaining for certain legislative staff is allowed. In 1998, Maine enacted legislation specifically permitting collective bargaining for legislative branch employees, where they had previously been excluded. In 2021, Oregon enacted legislation to include the legislative branch in the

state's collective bargaining law. **Washington** changed state law in 2022 to permit legislative staff collective bargaining to start in 2024. The Legislature is also required to study and plan for legislative staff unionization in the preceding two years.

From 2019 to 2022, at least 10 states (including Oregon and Washington) introduced legislation to establish collective bargaining rights for legislative staff, a total of 21 bills in all. Appendix A contains more detail.

As noted above, the U.S. Congress has long had unionized nonpartisan staff and the **U.S. House of Representatives** recently adopted a rule allowing House staff to unionize.

Examples of Arguments for and Against Legislative Staff Collective Bargaining

Proponents of legislative staff collective bargaining make the case that it is unfair to carve out legislative staff when other state employees have the right to negotiate different aspects of their job. They believe it prevents legislative staff from being able to collectively address workplace concerns. Some advocates for these efforts, which include legislative staff, claim that aspects of at-will legislative employment such as compensation, benefits, and demands related to work hours are inadequate and/or inequitable. The belief is that collective bargaining agreements would create better working conditions, offer workplace protections, and help with staff recruitment and retention.

Opponents of legislative staff collective bargaining contend it has the potential to create conflicts of interest, or the perception of conflicts, within the legislature. Another concern is that it could impact the ability of legislative staff to provide neutral and nonpartisan services to legislators, or that this nonpartisanship might be called into question. Opponents reference the political nature of some public sector unions and their history of donating to legislative political campaigns. Opponents fear that a legislative staff union may create a dynamic where the union is actively campaigning against sitting members whom the staff are serving. NCSL is also aware of legal analysis in some states which raised different separation of powers questions for legislatures to consider, based on state law.

State Perspectives

Legislative operations and legislative staffing structures and practices are unique across the states, and can depend upon many factors, including constitutional provisions, state statutes, federal laws, legislative rules, relevant case law, institutional leadership, policies and procedures, and budgets. Legislative staffing organizations reflect the diversity of the institutions they serve. In some legislatures, staff functions may be performed by separate offices, each handling a distinct set of tasks for an individual chamber. In others, a centralized group of nonpartisan employees performs a range of duties. Laws, policies, and procedures that govern staff can vary among legislatures and between chambers of and offices within the same legislature.

Legislative staff offices may use various strategies to engage with their employees, receive feedback about the legislative workplace, and modify or create new policies or procedures. Legislative offices have shared these strategies with NCSL, and examples include seeking feedback from employee engagement surveys or other issue-specific surveys, employing dedicated human resources staff to employee services, providing training and educational resources about workplace issues and policies, and convening staff in group and one-on-one formal and informal discussions.

According to NCSL's [Guide to Writing a Legislative Staff Personnel Manual](#), with few exceptions, state legislative employees in the 50 states and in the territories are employed on an at-will basis. At-will employment exists when the employer hires an individual for an indefinite time and either party may terminate the relationship at any time with or without notice, and for any reason. An at-will employee is generally one who serves at the pleasure of the employer—in this case, a legislature. The Guide offers example language that legislatures include in their personnel manuals regarding at-will employment.

As discussed, some states have proposed or made changes to state law that would allow legislative staff unionization. In others, staff have petitioned legislative leaders to recognize staff unions. In some states, NCSL observes a combination of both approaches. NCSL conducted interviews to gain insight into the legislative institution's perspective on the history and implementation of efforts to permit staff to form or join unions and engage in collective bargaining. A synopsis of state-by-state experiences is provided below.

Colorado

The Colorado General Assembly has several year-round nonpartisan staff offices that provide legal, research, fiscal and budget, audit, information technology, constituent services, and other functions. Each office is autonomous and is supervised by a separate legislative committee. Directors of three of the four offices informally follow state personnel policies. The fourth office is within the personnel system.

Each legislative chamber employs chamber staff and majority and minority caucus policy, budget, and communications staff. Contingent upon approved funding, Senators and House members are provided an allocation of hours from which they can hire a legislative aide. Members have autonomy and flexibility in how they manage, supervise, and assign work and responsibilities to their aides. Example responsibilities include scheduling, bill analysis, constituent response work, office management, intern management, and member communications, including social media. Members can hire their legislative aides independently or with the support of a caucus staff member. The Chief Clerk of the House and Secretary of Senate process legislative aide applications and provide information about benefits once they are hired.

In 2021, the legislature passed [SB21-244](#), sponsored by the General Assembly's presiding officers and other legislative leaders, which made legislative aides permanent part-time staff and made them eligible to access state health, life, dental, and short-term disability insurance. In 2022, the General Assembly increased the hourly rate of pay for legislative aides and nearly doubled the number of hours that lawmakers could allocate toward the employment of their personal staffing. One practical effect of this change is that a legislator can employ an aide year-round, which was not necessarily possible before. These changes apply to staff in both caucuses, in both chambers.

Colorado state law is specific on which employees have the right to unionize and which do not. Legislative employees are prohibited from being a part of the state's public sector collective bargaining law. NCSL did not identify any prior or current legislation that would subject legislative employees to the statute.

However, the Political Workers Guild of Colorado (PWGC), which, according to its website, is affiliated with Communications Workers of America Local 37074, is attempting to serve some legislative staff. The Guild was created in 2021 and [refers](#) to itself as an "open-model minority union that represents legislative aides, campaign workers, and political organizers who want to fight for dignity in our workplaces."

NCSL received perspective about how the PWGC works with staff and members. Thus far, only legislative aides who work for majority caucus members have joined the PWGC. The Guild typically engages with legislative leaders directly. On its website, PWGC cites its advocacy efforts as important to the success of recent changes affecting legislative aides.

There are possible undetermined legal and practical questions with this approach. NCSL could not identify a statutory or legal framework for a "guild." The PWGC's membership also includes campaign workers and political staff. This may make it possible for the PWGC to engage in advocacy work, even if legislative aides cannot and do not participate. Legislative aides are not protected by a collective bargaining agreement and legislative budgets and leadership could change in ways that might impact the Guild's interaction with the General Assembly or legislative staff pay or benefits in the future. Legislative staff remain at-will employees,

but members may need to be aware of their constitutionally protected First Amendment rights with respect to PWGC membership.

Delaware

The Delaware General Assembly employs nonpartisan chamber staff, partisan caucus staff and legislative assistants or administrative assistants for individual members. Most of these assistants serve more than one legislator, they are employed year-round, are eligible for benefits and leave, and are hired under the authority of the presiding officers. The Division of Research and the Office of the Comptroller provide nonpartisan legal, research and fiscal analysis for the body on a year-round basis, though the offices supplement their relatively small teams with session-only staff. Personnel policies may differ between offices and decisions about pay for assistants are made by the presiding officers.

In January 2020, some caucus staff and nonpartisan staff announced on social media that they were forming a union under the American Federation of State, County and Municipal Employees (AFSCME) Council 81. The announcement claimed that a variety of staff, including those from both caucuses, were planning to join (though some caucus staff later disagreed with that statement).

Shortly thereafter, AFSCME Council 81 hired outside counsel to research related legal issues. In February 2020, the firm determined in a letter, shown in Appendix B, that there “was not a successful path available for the union.” The outside counsel raised two legal issues: first, that legislative staff are “exempt from classified service, thus raising a question about whether the Public Employment Relations Board could ever establish a bargaining obligation for the General Assembly,” and second, that there is a “clear separation of powers issue” and “we would be asking the judicial branch to impose a requirement upon the legislative branch through the executive branch.” Counsel concluded that the restrictions set in state law made pursuing an organizing effort untenable.

NCSL did not identify any subsequent efforts to unionize legislative staff or change related state law.

Maine

Maine has a centralized legislative staffing structure that provides nonpartisan services on a variety of functions, including legal analysis, research, fiscal, audit, information technology, code revision, performance auditing and evaluation, a public information office, and a law and legislative library. These services are led by an executive director, which reports to the Legislative Council, the Legislature’s administrative body consisting of the 10 members of legislative leadership. The Legislature’s human resources department is housed within the Office of the Executive Director and personnel policy is also centralized as a result. The Legislature also has staff in the offices of the Secretary of the Senate and House Clerk, caucus staff and staff that serve leaders. Individual members do not have personal staff.

The Maine Legislature has had unionized legislative staff for two decades. After legislation passed in 1998, a group of nonpartisan staff voted to organize, and the first agreement was crafted in 2004. State law ([MRS §979-A](#)) defines who is a “legislative employee,” who is exempted, and who is a “public employer.”³⁷ Currently, staff in Maine’s Legislative Council can belong to one of two units. Only one of these units enters into a collective bargaining agreement with the Legislature.

The Maine Service Employees Association (MSEA) represents a variety of legislative staff positions, through the Administrative Unit of Legislative Employees, positions which are enumerated in the most recent collective

³⁷Exempted employees include those who are appointed, those who by nature of their work have confidential information with respect to matters subject to collective bargaining, and those employed by the presiding officers or the Chief Clerk or Secretary and temporary, on-call employees.

bargaining [agreement](#). Positions include legislative librarians, the information technology office, bill proofreaders and technicians, and clerical staff. Session-only, temporary, project-only, “acting-capacity” employees (as defined in the agreement) and “temporary, seasonal and on-call employees” (which are defined by state statute) are not covered.

A legislative employee in a position that is subject to the collective bargaining agreement can choose not to belong to the union. After a recent federal court ruling staff also can choose not to pay dues.³⁸ However, in Maine, even if staff choose not to be a member of the union, their employment conditions will be governed by the agreement if their position falls within it.

The Independent Association of Nonpartisan Legislative Professionals (IANPL) is a unit comprised of staff who work in the Legislature’s Office of Policy and Legal Analysis and the Office of Fiscal and Program Review. This unit follows personnel manuals, which contain provisions similar to those found in the MSEA’s agreement (as do partisan staff personnel manuals). The IANPL does not operate in the same manner as does the MSEA. For example, the IANPL does not lobby. Another difference is that the legislative staff contract is just one of many that the MSEA negotiates, whereas IANPL does not represent any other workers.

Staff positions that are supervisory or managerial in nature are not included in the collective bargaining agreements. Caucus staff, leadership staff, and the staff in the Clerk’s or Secretary’s offices are also not covered.

The MSEA negotiates with the Legislative Council. The Council vests authority with the executive director to participate in the union negotiations, providing the staff with general direction. In the last negotiation, the executive director and HR personnel participated. This staff team keeps the members apprised of the process and any anticipated changes. The Legislative Council ultimately approves the agreement.³⁹

Agreements are in place for two years, beginning in October of the odd numbered-years and ending in September of the next odd-numbered year. The agreements follow state law and contain administrative and employment provisions, which address conditions such as compensation; work hours; schedules and overtime; leave; partisan and political activity; grievances, and separations. Engaging in a strike, work slowdown or work stoppage is illegal under Maine law and this provision is also included in the agreement. Once a tentative agreement is reached with the union, Legislative Council staff meet with the non-MSEA employees, after which the Legislative Council approves.

Maine’s centralized approach to human resources and relatively small staff size may make aspects of personnel management, including collective bargaining, run smoothly. Alignment between the collective bargaining agreement and office personnel manuals is one example. A unified nonpartisan staff pay plan is a tool the Legislature can use in bargaining, along with market data and collectively bargaining agreements from the other branches of government.

³⁸Janus v. American Federation of State, County, and Municipal Employees, Council 31, et al., 138 S.Ct. 2448 (2018)

³⁹As an example, these Legislative Council [minutes](#) from its October 25, 2021 meeting show how an agreement is adopted. “Motion: That pursuant to its authority under 26 MRSA, §979-A, sub-§5, the Legislative Council of the 130th Legislature ratify the collective bargaining agreement for the period October 1, 2021 through September 30, 2023 that was negotiated and tentatively agreed to by the authorized representatives of the Legislative Council and the Maine Service Employees Association on October 14, 2021. Further, that the Legislative Council authorize the Executive Director to take all necessary steps to carry out the terms of this Agreement; Further, that upon recommendation of the Personnel Committee, the Legislative Council exercise its right to adopt the revisions to its personnel policies, pending agreement from the respective authorities, to apply personnel policies and benefit provisions that are comparable to those contained in the aforementioned ratified collective bargaining agreement; and direct its Executive Director to incorporate as appropriate and administer those provisions. Motion by Speaker Fecteau. Second by Rep. Dillingham. Motion passed unanimously (10-0-0-0).”

Maine’s legislative collective bargaining agreement and state law address certain potential conflicts. For instance, the collective bargaining agreement has clear language prohibiting forms of partisan or political activity. As another example, legislatures may be concerned that agreements around work hours might limit the institution’s functionality. Maine’s agreement addresses this by including language about the nature of legislative work, recognition that the institution may require staff to work extra hours, and provisions about how staff are compensated for that time. Article 31 addresses hours of employment, stating in part:

The Legislature’s regular business hours are 8:00 A.M. to 5:00 P.M. Monday through Friday, year-round, exclusive of state-observed holidays. The legislative process by its nature often requires work outside of these regular business hours, and business hours may be adjusted to accommodate the work of the Legislature. The offices remain open, and legislative employees are expected to work, whenever the Senate or House of Representatives is in session or whenever the chair of the Legislative Council or the Executive Director determines that office hours will be extended to benefit the Legislature.

Massachusetts

The Massachusetts General Court utilizes the staff services of joint offices plus staff hired, organized, and supervised by the separate chambers. Most fiscal staff, bill drafting personnel and administrative staff are employed separately by each chamber, while some information system, security, and support services are provided jointly. The Massachusetts General Court does not have a centralized staff agency that conducts nonpartisan research, analysis and bill drafting, fiscal work, or committee services.

In the Senate, these functions are dispersed among staff in the Ways and Means Committee, legislative leadership offices, Office of Senate Counsel, and the individual members’ offices. Members may hire multiple employees, structuring their offices in ways that suit their needs. While members’ office staff are hired and managed by each member and their Chief of Staff, the Senate is ultimately the employer of each staffer. The Senate President’s Office, the Office of Senate Counsel, and the Senate Office of Human Resources all play roles in personnel management, including determining salaries and benefits, maintaining employee records, investigating reports of inappropriate conduct, and handling disciplinary matters.

The Senate has engaged in efforts to update its pay practices for staff, adjusting its approach in accordance with the Massachusetts Equal Pay Act (MEPA), which went into effect in 2018, and adopting a unified pay structure for all Senate staff in 2022. The Senate bolstered its internal employment law and HR capabilities by hiring staff with relevant experience and creating a position focused on diversity, equity, and inclusion.

In spring of 2022, some Senate staff announced their plans to unionize under a local chapter of the International Brotherhood of Electrical Workers, calling themselves the [Massachusetts Statehouse Employee Union](#). Staff sent a letter to the Senate President asking that the union be recognized. The Senate President directed the Office of Senate Counsel to study the legal issues that could affect such an effort. In July, Senate Counsel met with senators and staff to brief them on their research.

As part of the Senate discussion about the staff unionization effort, it became clear that constitutional issues and logistical matters would need to be addressed to allow legislative employees to unionize.

Per several press reports, other potential issues could be conflicts of interest related to the IBEW’s advocacy and political activity; and the decentralized staffing structure in the Senate, which differs than Maine and Oregon, the other two legislatures that currently permit staff collective bargaining.

New York

New York has one of the largest legislative staffing operations in the country. Staff services are structured by chamber and partisan caucuses with few joint, nonpartisan entities. The Assembly Speaker and the Senate President Pro Tem determine personnel levels and policies. The two leaders set staff allowances for each committee and allocations for other staff under direct member supervision. Members receive a budget to

establish staff offices and have independence in staff hiring and firing, determining their responsibilities and duties, and managing them once funding levels are established. Members also set staff salary levels; there is no unified pay structure. Members who are committee chairs get additional staff resources. Although staff services are similar in each chamber, the organization of each house is the responsibility of the legislator who serves as leader.

NCSL's research did not include interviews with New York staff or members. However, according to media accounts, in July 2022 Senate employees sent a letter to the Senate Majority Leader stating they were in the process of formally organizing a union, called New York State Legislative Workers United. Nearly 80 staff from at least 18 member offices reportedly signed on to the effort according to [one article](#).

Legal questions may need to be settled. There is at least one bill pending in the 2021-2022 biennium, [A109](#), that addresses legislative staff unionization. The letter to the Senate Majority Leader mentioned a "false understanding that (staff) do not have a right to unionize under state law." The letter further states that New York State Legislative Workers United received counsel that legislation is not needed, as legislative employees are included in the state labor relations law's definition of "public employee."

Oregon

In the Oregon Legislature, staff services are provided by employees of the Senate President, the Speaker of the House, the Democratic and Republican caucuses and five statutory committees. Additional staff are hired to meet increased staffing demands during session. Personnel policies adopted by the Legislative Administration Committee apply to specified committee and other permanent staff. Other staff function under personnel policies adopted by the Speaker and President and individual statutory committees.

Oregon legislators are provided with a funding allocation from which they can hire year-round and session-only aides and pay for services and supplies during session. Members have a fair amount of autonomy and flexibility in hiring, setting hours, managing, and delegating responsibilities and tasks. The Legislature created a career ladder and job descriptions for these positions, and these staff are classified and compensated using policies and a pay plan that applies to all legislative staff.

The Legislature made workplace reforms in the past few years, including the creation of a [Legislative Equity Office](#), a [Joint Committee on Conduct](#), revisions to a legislative [rule](#) pertaining to a safe, respectful, and inclusive workplace policy, and a comprehensive market pay study for legislative salaries.

Prior to 2021, Oregon law was silent on legislative branch representation in collective bargaining negotiations with represented legislative branch employees. During the 2021 session, the Legislature enacted [HB 759](#), which changed the state's collective bargaining law to include the legislative branch. The bill directs the presiding officers of each chamber to represent the institution in collective bargaining negotiations with any staff bargaining units, permits the presiding officers to delegate those responsibilities to a chief negotiator, and clarifies only state executive branch agencies are to be represented by the Oregon Department of Administrative Services in collective bargaining negotiations. The law took effect January 1, 2022.

In May 2021, while HB 759 was still pending, aides that work for individual members – which includes both year-round and session-only staff – voted to join a union under the local chapter of the International Brotherhood of Electrical Workers (IBEW). The Oregon Employment Relations Board (ERB) subsequently voted to certify the bargaining unit, representing approximately 180 staff, including those who did not vote to join the union. Collective bargaining began in 2022, with the four caucus administrators (two from each chamber, representing the majority and minority caucuses), the Legislature's HR director, and a third-party negotiator hired by the Legislature representing the institution in negotiations. Negotiations are ongoing and

will not take place while the Legislature is in session. Ultimately, the presiding officers will be responsible for approving any agreement.

There were legal questions raised in Oregon. In the summer of 2021, the Freedom Foundation, along with a representative and her legislative aide, [filed a lawsuit](#) with the Oregon Appellate Court seeking judicial review of the ERB's ruling. The lawsuit claims that subjecting the Legislature to an executive branch entity's decision violates the separation of powers doctrine (an argument that had been raised with an ERB administrative law judge prior to the ruling). In addition, the representative cited concerns about the constitutional right to freedom of association and potential conflicts that could occur if the union were to take a position on a political issue that runs counter to the member office's position.

U.S. House of Representatives

Congress has a complex staffing operation, with tens of thousands of staff, including committee staff, leadership staff, staff who support the institution (such as legislative clerks or the Capitol Police), nonpartisan support agency staff (the Congressional Research Office, the Government Accountability Office, or the Congressional Budget Office), the Library of Congress, and personal staff, who work for individual members. Members have a high degree of flexibility and autonomy with their offices and as a result a wide range of practices and policies are in use throughout both chambers.

The nonpartisan [Office of Congressional Workplace Rights](#) (OCWR) was established in 1996 (under a different moniker, the Office of Accountability) after the passage of the Congressional Accountability Act (CAA). The OCWR administers 14 different labor, employment, safety and health, and workplace accessibility laws for the legislative branch.

Section 1351 of the [CAA](#) extended the rights of federal executive branch employees to unionize to congressional legislative employees. The OCWR's board has rule-making authority over these provisions and promulgated rules related to unionization in the 1990's. Congress approved some of these rules at the time. Both the Capitol Police and the Architect of the Capitol offices, which are considered nonpartisan offices, have staff who have long been unionized as a result.

However, the law excluded certain staff, including those working in member offices, from the provisions until and unless the House and Senate approved OCWR regulations that applied to staff under their hiring authority. Congress did not take action adopting related rules until May 2022, when the House of Representatives [adopted HR 1096](#) approving the regulations. The [Congressional Record](#) provides more detail about to which House offices the regulations apply. The Senate has not adopted a similar rule.

Each member office and, if any file to unionize, each House committee will be treated as separate collective bargaining units.

The resolution's effective date was July 18, after which eight offices filed petitions for certification with the OCWR for the [Congressional Workers Union](#) (CWU), a new union comprised of Congressional staff, to represent their staff. The CWU seeks to represent all employees of those members of the House, whether working in DC or field offices, excluding supervisors, managers, or confidential employees. According to press reports, at least five Congressional offices have voted to join the union and OCWR conveyed that the average bargaining unit size, with exclusions related to office management, is about 9-12 employees.

At least one member office, that of Representative Andy Levin, (MI), has a collective bargaining agreement. Rep. Levin will leave office at the end of 2022 and according to OCWR the collective bargaining unit covering his office will then cease to exist.

There are legalities and practicalities to contemplate. One question is if and how a future House of Representatives could change the adopted provisions in HR 1096. In addition, there are restrictions in the executive branch law about what can and cannot be negotiated during collective bargaining, but it's possible that legislative negotiators may take different positions about other issues.

The OCRW emphasizes the importance of its nonpartisanship and neutrality in aiding staff. It also performs important education and training on all manner of topics, including these [recent changes](#). The Office believes it important for the institution to have legal counsel with experience in and understanding of the nuances of collective bargaining statutes. Finally, it stresses the important of collaboration with other offices, such as the Office of House Employment Counsel, which is a resource for managers and members, and the House [Office of Employee Advocacy](#), which is a resource for staff on CAA-related issues.

Wisconsin

The Wisconsin Legislature provides a variety of staff services ranging from nonpartisan, joint agencies to individual member staff. The Joint Committee on Legislative Organization, with Assembly and Senate leaders as members, oversee the LAB, the LRB (which performs bill drafting, legal research, and statutory revision services), the Legislative Council, the Legislative Fiscal Bureau and the Legislative Technology Services Bureau. Most chamber services are administered under the chief clerk or the sergeant-at-arms, with policy set by the leadership committees on Assembly and Senate organization.

Collective bargaining for LAB and LRB staff was phased out in 1981 and 1997, respectively. The Legislature also had a Revisor of Statutes Bureau until 2008, when it moved the functions of the agency under the LRB, and those staff also fell under the definition of classified staff for a time. In all three cases, employees who had achieved “permanent status of class” at the time the law changed were permitted to retain certain classified employee protections even as they became unclassified employees.

NCSL did not review a past collective bargaining agreement but did get insight into what was typically negotiated. Agreements for LRB attorneys were negotiated for two-year periods, were subject to approval by a legislative committee, and were then enacted into law. However, a year or more could pass before these agreements were negotiated. When this occurred, the expired collective bargaining agreement would remain in effect until a new one was enacted. The union negotiated provisions such as salary ranges and pay adjustments; employer contributions for insurance premiums; employee retirement contributions; and processes related to grievances, disciplinary actions, agency transfers and lay-offs. Legislative attorneys were entitled to union representation during any disciplinary proceeding. Health and retirement benefits were not negotiated. Attorneys were required to join the union or pay fair share.

[Questions to Consider](#)

NCSL offers several key questions for state legislatures contemplating legislative staff unionization or staff collective bargaining to consider based on this research. A non-exhaustive list is below.

- What existing constitutional law, statutory provisions, chamber rules, or legislative policies may need to be addressed?
- Who should be the chief negotiator for the legislative institution, and do they have the authority to delegate related responsibilities? (Examples could include the presiding officers or a legislative committee.)
- Who participates in negotiations on behalf of the legislature? (Examples could include chief operating officers, chief administrative officers, chiefs of staff, and/or human resources directors or staff.)
- What legal counsel is needed to represent the institution? (Examples might include hiring outside counsel with relevant expertise or enlisting in-house legislative counsel, depending upon the staffing structure.)

- Which legislative employees would be authorized to organize? (Examples include year-round, session-only, full-time, part-time, nonpartisan, partisan, etc...)
- Which union might represent legislative staff? (An existing union or a new union specific to legislative staff?)
- Can legislative employees opt out of union membership and/or dues?
- What conditions of employment could be excluded from a collective bargaining agreement?
- What separation of powers issues are problematic, if any?
- Are there conflict of interest provisions that should be addressed?
- Are there partisan or political activity provisions that should be addressed?
- What additional staff capacity or restructuring of staff roles might need to occur to support the implementation of collective bargaining agreements?
- How might collective bargaining agreements affect other legislative staff personnel policies, if at all?
- What type of education and resources would the institution offer to staff (including management) and members?

The answers to these questions will have implications for how an institution chooses to proceed and may lead to other questions.

APPENDIX A. 2019-2022 State Legislation Establishing Collective Bargaining Rights for Legislative Staff

Source: NCSL's Union Legislation and Collective Bargaining Law Legislation [Database](#)

State	Year	Bill No.	Status	Summary
California	2020	AB 969	Failed	Enacts the Legislature Employer-Employee Relations Act, providing employees of the Legislature the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.
California	2021	AB 314	Failed	Enacts the Legislature Employer-Employee Relations Act, providing employees of the Legislature the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.
California	2021	AB 1577	Failed	Enacts the Legislature Employer-Employee Relations Act, providing employees of the Legislature the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.
Illinois	2020	HB 4587	Failed	Amends the Public Labor Relations Act, provides for the right to organize and bargain collectively for legislative assistants of the General Assembly as public employees under the Act.
Illinois	2021	HB 646	Pending	Amends the Public Labor Relations Act; provides for the right to organize and bargain collectively for legislative assistants of the General Assembly as public employees under the Act.
Illinois	2021	SB 2458	Pending	Amends the Public Labor Relations Act; provides for the right to organize and bargain collectively for legislative assistants of the General Assembly as public employees under the Act.
Kentucky	2020	HB 231	Failed	Grants right to collective bargaining by public employees. Defines public employees as employee of executive, legislative and judicial branches.
Kentucky	2022	HB 592	Failed	Grants right to collective bargaining by public employees. Defines public employees as employee of executive, legislative and judicial branches.
Massachusetts	2019	HB 1613	Failed	Grants legislative employees right to unionize.

Minnesota	2019	SB 1075	Failed	Relates to state government; permits legislative employees to obtain elections for exclusive representation to bargain collectively as to terms of employment.
State	Year	Bill No.	Status	Summary
Minnesota	2022	SB 3952	Failed	Relates to state government; permits legislative employees to obtain elections for exclusive representation to bargain collectively as to terms of employment.
New Hampshire	2019	HB 363	Failed	Establishes the legislature as a public employer under the Public Employee Labor Relations Act; establishes procedures for collective bargaining by nonpartisan employees
New Hampshire	2019	SB 249	Failed	Establishes the legislature as a public employer under the Public Employee Labor Relations Act; establishes procedures for collective bargaining by nonpartisan employees.
New Hampshire	2022	HB 1041	Pending	Establishes the legislature as a public employer under the Public Employee Labor Relations Act; establishes procedures for collective bargaining by nonpartisan employees.
New York	2021	A 109	Pending	Relates to the designation and rights of legislative employees; designates employees of the legislature as being in the exempt class of classified service and includes the legislature as a public employer.
Ohio	2020	HB 733	Failed	Makes employees of the General Assembly and any state agency of the legislative branch subject to the Public Employees' Collective Bargaining Law; requires a public employer to collectively bargain with an exclusive representative of those employees.
Oregon	2021	SB 759	Enacted	Grants legislative employees right to unionize.
Washington	2019	HB 1452	Failed	Extends collective bargaining rights to employees of the legislative branch of state government.
Washington	2019	SB 5691	Failed	Extends collective bargaining rights to employees of the legislative branch of state government.
Washington	2022	HB 1806/ SB 5753	Failed	Extends collective bargaining rights to employees of the legislative branch of state government.
Washington	2022	HB 2124	Enacted	Concerns extending collective bargaining to legislative employees.

APPENDIX B. 2020 Delaware Outside Counsel Opinion.

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February 19, 2020

RECEIVED

FEB 24 2020

COUNCIL 81

Michael Begatto, Executive Director
AFSCME Council 81
91 Christiana Road
New Castle, DE 19720

Re: Legislative Aides

Dear Mike:

During the past few weeks, at your direction, this firm has been evaluating the efforts of the staff employed by the General Assembly to organize. This research has taken longer than anticipated because the efforts continue to return a negative answer. As we discussed with the lead organizers, it remains our view that the legislative staff are exempt from classified service, thus raising a question about whether the Public Employment Relations Board could ever establish a bargaining obligation for the General Assembly. In the event that we could find a way past this hurdle, which is unlikely, there remains a clear separation of powers issue as outlined in the court's decision resulting from the Family Court litigation. Here, it would be more complicated because we would be asking the judicial branch to impose a requirement upon the legislative branch through the executive branch.

While it does not appear that there is a successful path available for the Union to move this issue forward, the passion and energy offered by the legislative aides cannot be easily dismissed. It is my understanding that you have received a commitment from the leadership at the General Assembly that employees will not be retaliated against for their organizing efforts. However, this does not mean that employees will be insulated from discipline that would otherwise arise. It is my recommendation, however, at this juncture, that the Union advise these innovative and courageous individuals that it simply does not make sense to pursue an organizing effort because of the restrictions set forth in the law.

Very truly yours,

O'DONOGHUE & O'DONOGHUE, LLP


LANCER GEREN

Attachment B – Legislative Employee Collective Bargaining Survey,
November 2022

2022 Legislative Employee Survey Report

The following information was compiled by the Legislature’s Office of State Legislative Labor Relations for the December 1, 2022 preliminary report to the Legislature required by ESHB 2124 (2022).

On October 31, 2022, 613 employees of the Washington State Legislature were asked for feedback on legislative employee collective bargaining. 356 legislative employees provided responses. In addition to answering yes/no and multiple-choice questions, employees provided over 178 pages of comments. The following is a summary of the survey results and the most prevalent themes from the comments for each area of inquiry.

The most common themes identified in this report are subject to interpretation. If you would like an electronic copy (pdf) of the complete set of comments received on the survey, please email a request to debbie.brookman@leg.wa.gov.

Note, there are a few minor discrepancies in the number of respondents for each question. These are due to some respondents skipping a question. These discrepancies have no substantive impact on the overall survey results.

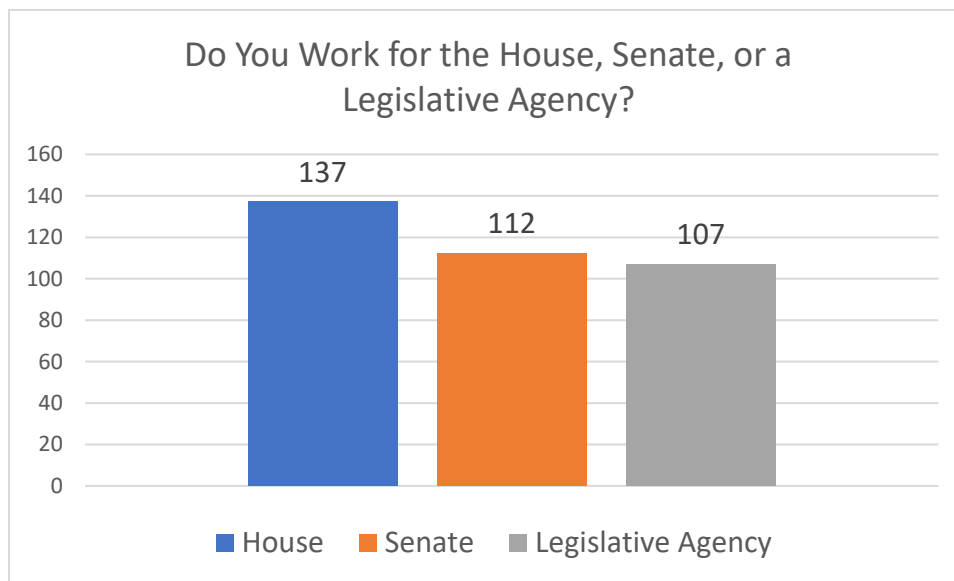
Overall Survey Response Rate

Total number of employees who were sent the survey link: **613**

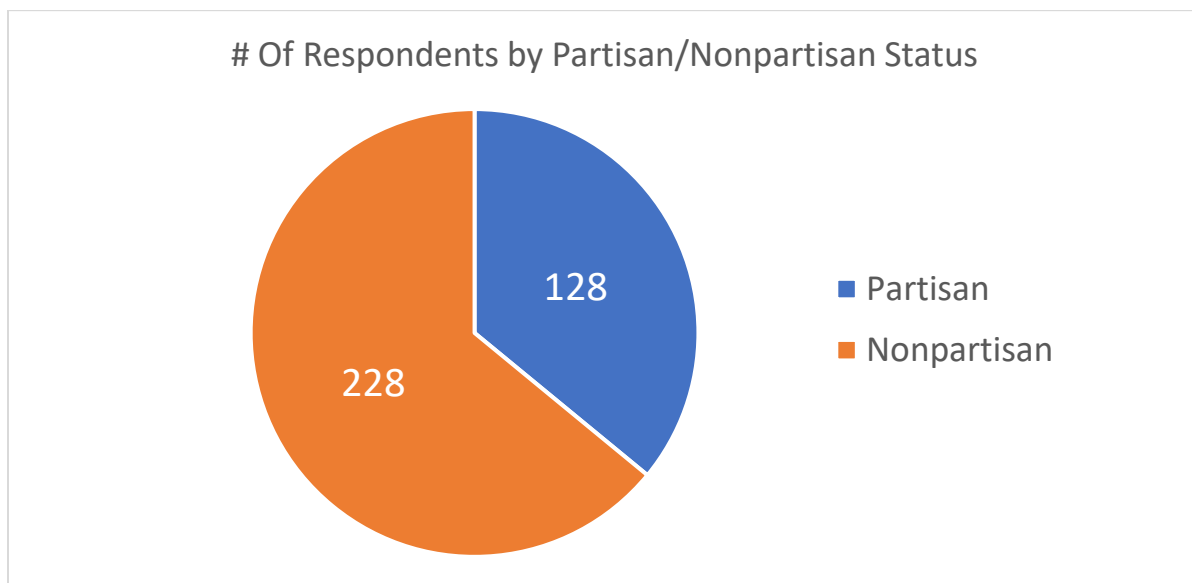
Total number of employees who completed the survey: **356**

Overall response rate: **58.8%**

Responses by Organizational Structure:



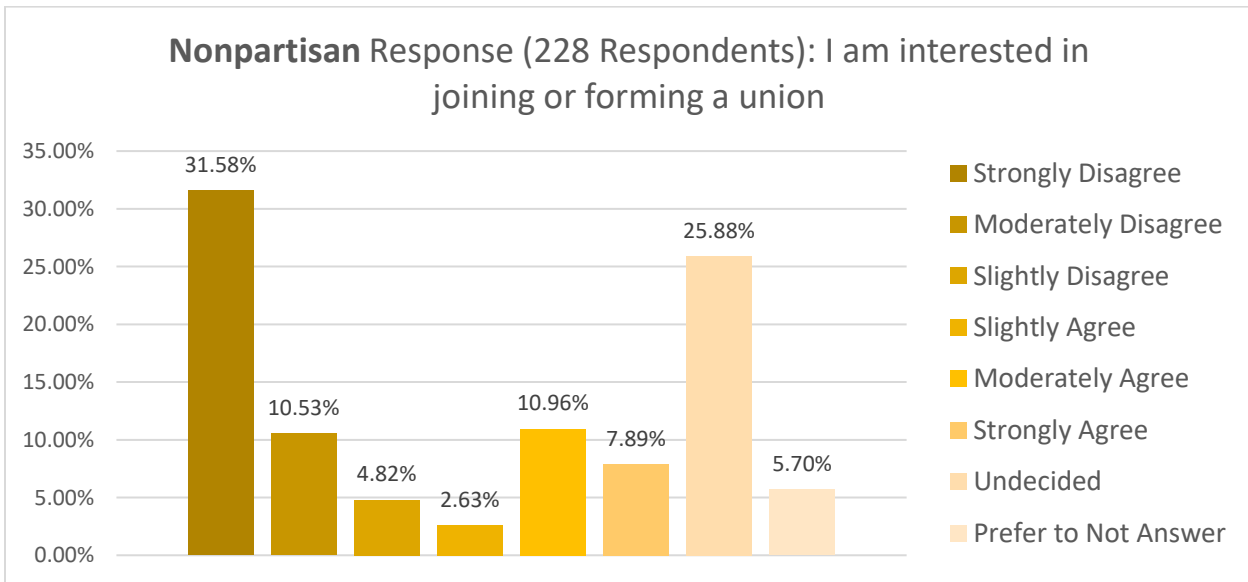
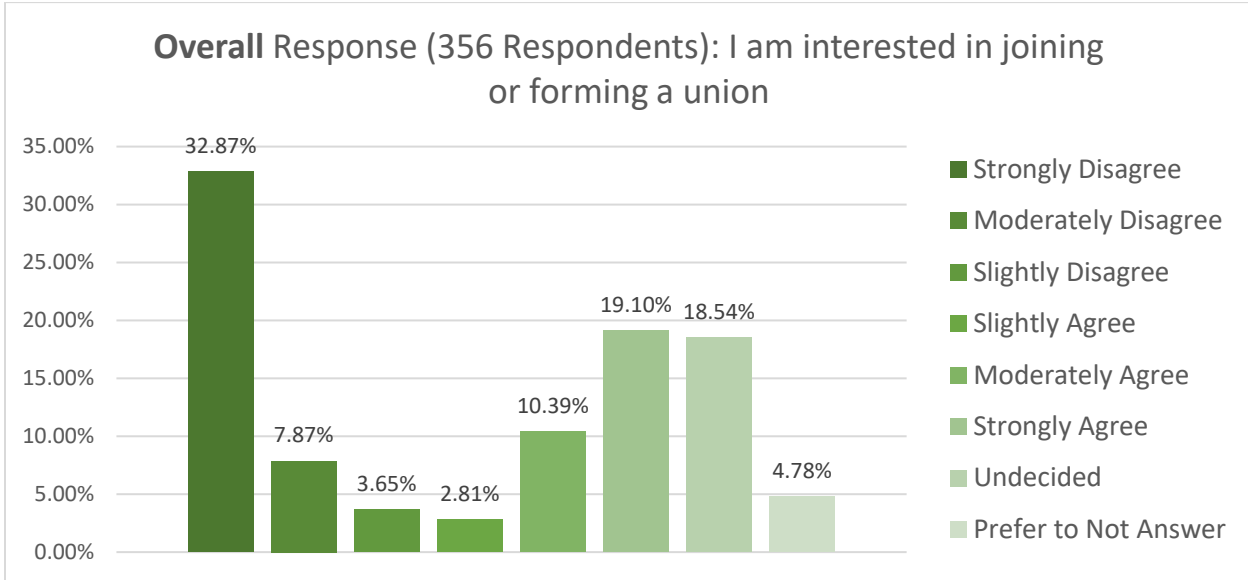
# Of Respondents by Workgroup	Number Responding ⁴⁰
House Administration including the Chief Clerk’s Office, House Accounting, House Human Resources, House Security, or House Workroom	11
House Democrat Legislative Assistants	15
House Democratic Caucus	32
House Republican Caucus	21
House Republican Legislative Assistants	10
House Office of Program Research	44
Senate Administration including the Secretary of the Senate's Office, Senate Accounting, Senate Human Resources, Senate Security, or Senate Public Records	18
Senate Committee Services	37
Senate Democrat Legislative Assistants	7
Senate Democratic Caucus	19
Senate Republican Caucus	15
Senate Republican Legislative Assistants	7
JLARC	13
Legislative Support Services (LSS)	23
LSC/LEG-TECH	24
Office of the Code Revisor	29
Office of the State Actuary, Joint Transportation Committee, LEAP, or Legislative Ethics Board	20
Prefer to not answer	7



⁴⁰ Four respondents skipped this question.

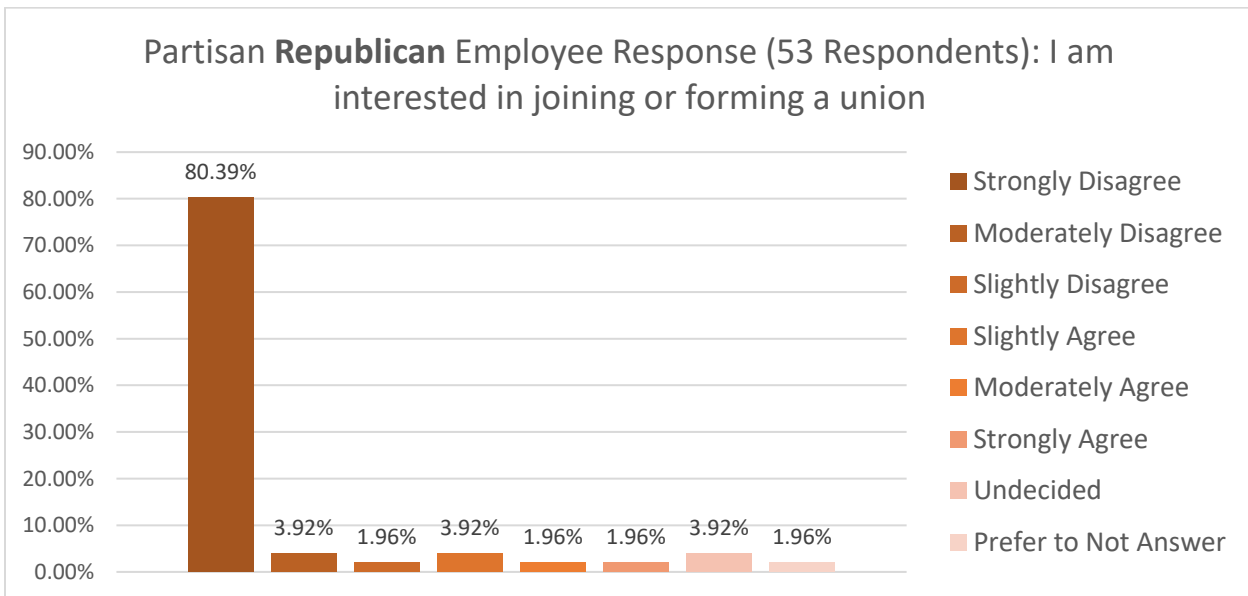
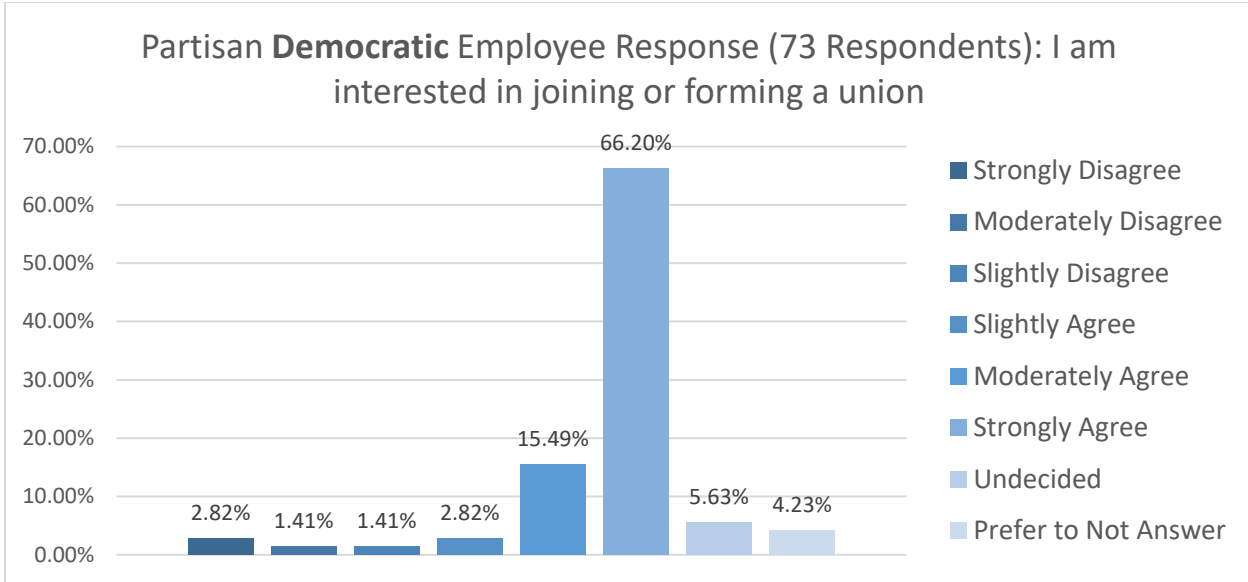
Question: I am interested in joining or forming a union

Overall & Nonpartisan Employee Response:

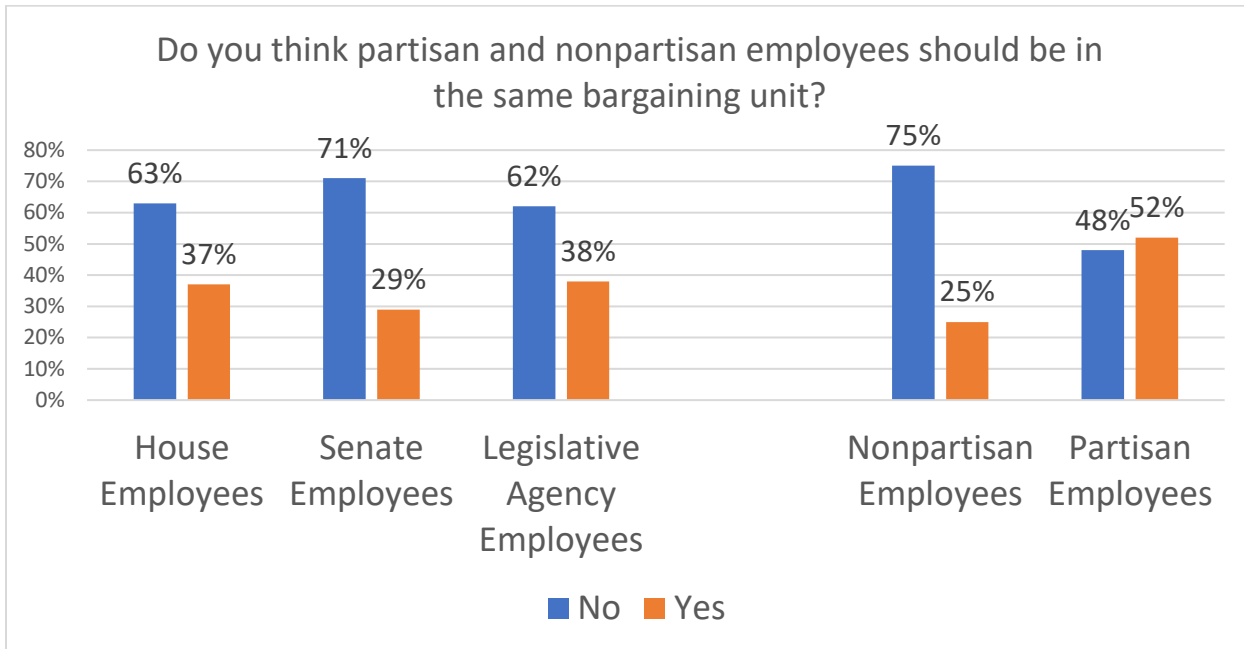


Question: I am interested in joining or forming a union

Partisan Employee Response:



Question: Do you think partisan and nonpartisan employees should be in the same bargaining unit?



Comments from respondents who answered “NO:”

Most Common Themes:

- It would be a conflict of interest
- Separate/different work, management, missions, and needs
- Clear boundaries allow nonpartisan staff to maintain political neutrality
- Mixed units would water down ability to advocate
- It would be awkward
- The whole concept of nonpartisan employee unionization puts nonpartisan employees in a difficult spot

A few representative comments:

“Although we all work for the House, the work and management of partisan and nonpartisan employees is intentionally very separate, which is important for nonpartisan staff to be seen as nonpartisan.”

“We are very different entities with different needs, pressures, and goals. I don’t know that our interests are aligned enough to be combined.”

“The very nature of nonpartisanship is to remain neutral, and that is very difficult to do if grouped in with partisan employees. I think nonpartisan employees would be less likely to

participate in union activities, so that would leave partisan employees speaking on our behalf which I personally do not want. We also probably have different concerns and different work structures that do not make us comparable.”

“Since unions are about advocacy, nonpartisan staff have been trained to not lobby the legislature. While treating all work groups the same would create more fairness within the different staff groups, it would go against everything we have been taught.”

Comments from respondents who answered “YES:”

Most Common Themes:

- It would create more equity and consistent treatment for all employees
- Employees have similar duties and working conditions
- We are stronger, more productive, and more efficient if we bargain together
- If partisan employees are alone, the bargaining process will be less stable and more political
- Politics should not be part of workplace issues

A few representative comments:

“Because they all work for the same members of the Legislature and having an institution wide unit prevents different workgroups from being subject to different work standards”

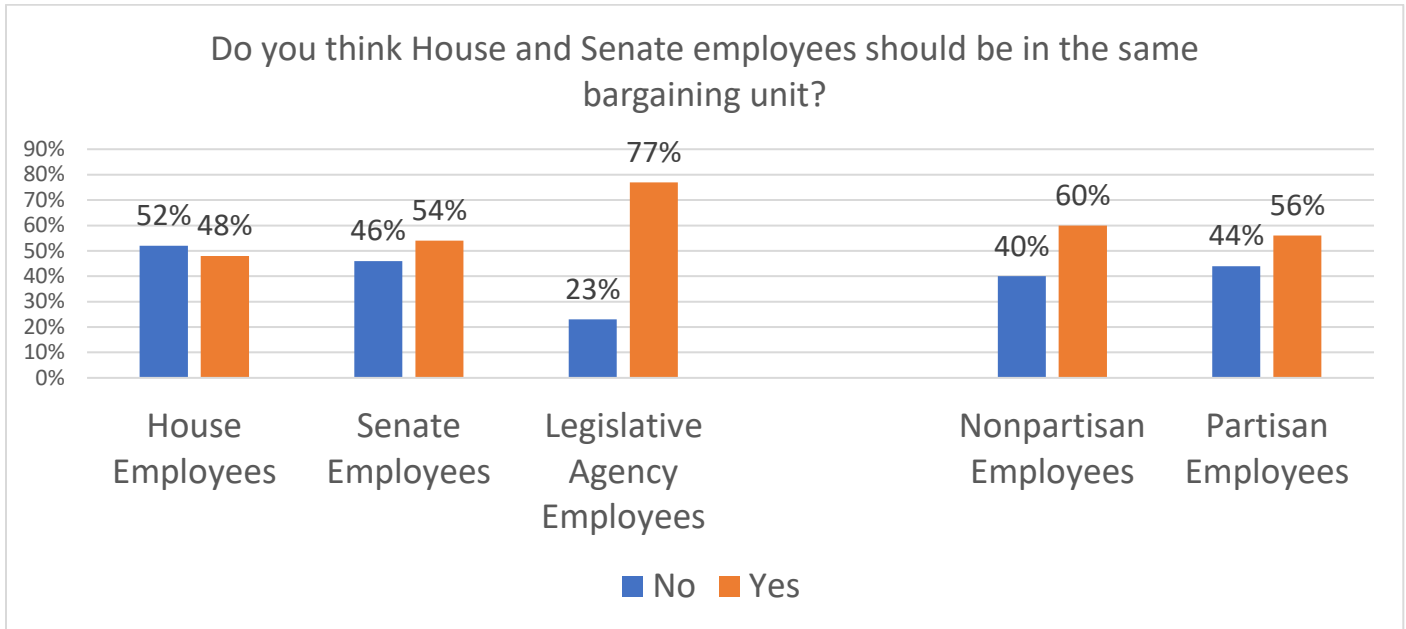
“We have the same needs and need the same protections. We have the same pay ranges across work groups for various classifications. We also have the same employer. It makes sense that we bargain together.”

“Bargaining should focus on common working conditions for all House staff. Different bargaining units may be at odds with one another in a way that is counterproductive to the Legislature's role.”

“Nonpartisan staff does a similar job to partisan staff, but the partisan staff is very small and has higher turnover. Separating non-partisan and partisan staff would make the partisan staff union more unstable and give it less power to negotiate.”

“Whoever the majority party is now or in the future needs to be restricted from commandeering any union's agenda to fit partisan objectives. Having any union designed to include both partisan and nonpartisan staff would mitigate and restrain bias”

Question: Do you think House and Senate employees should be in the same bargaining unit?



Comments from respondents who answered “NO:”

Most Common Themes:

- Too many differences between House and Senate rules, workload, culture, and issues
- Need to retain leadership’s autonomy for each chamber
- Neither should be in a bargaining unit

A few representative comments:

“I’ve worked in both chambers, and their respective cultures are too different. Which is OK.”

“The House and Senate are independent institutions in the Legislative branch. They have been and will be again controlled by separate political parties or coalitions. Each have employees who the majority of whom should be free to make decisions for their workplace.”

“On the surface, we do similar work, but the institutions are very different culturally and functionally. Our rules differ. Our processes differ. Our expectations of staff differ. For example, SCS and OPR staff all draft amendments for staff. However, only OPR staff can draft and submit floor amendments; any Senate staff can draft a floor amendment. House has no surprises rule on floor amendments; Senate is all about surprises. Senate can change bill titles with amendments; House cannot. While these may seem small, collectively, they are an expression of the cultural differences between the chambers. I

wish to retain the cultural diversity of the institutions and avoid the possibility that collective bargain leads to a lowest common denominator legislative workplace.”

Comments from respondents who answered “YES:”

Most Common Themes:

- Bargaining together is more likely to create equity and remedy disparities in treatment, compensation, and working conditions
- A larger unit will be more balanced, stable, and wise
- House and Senate employees have similar workplace issues and duties
- House and Senate employees should bargain together with bargaining units split by partisan and nonpartisan status

A few representative comments:

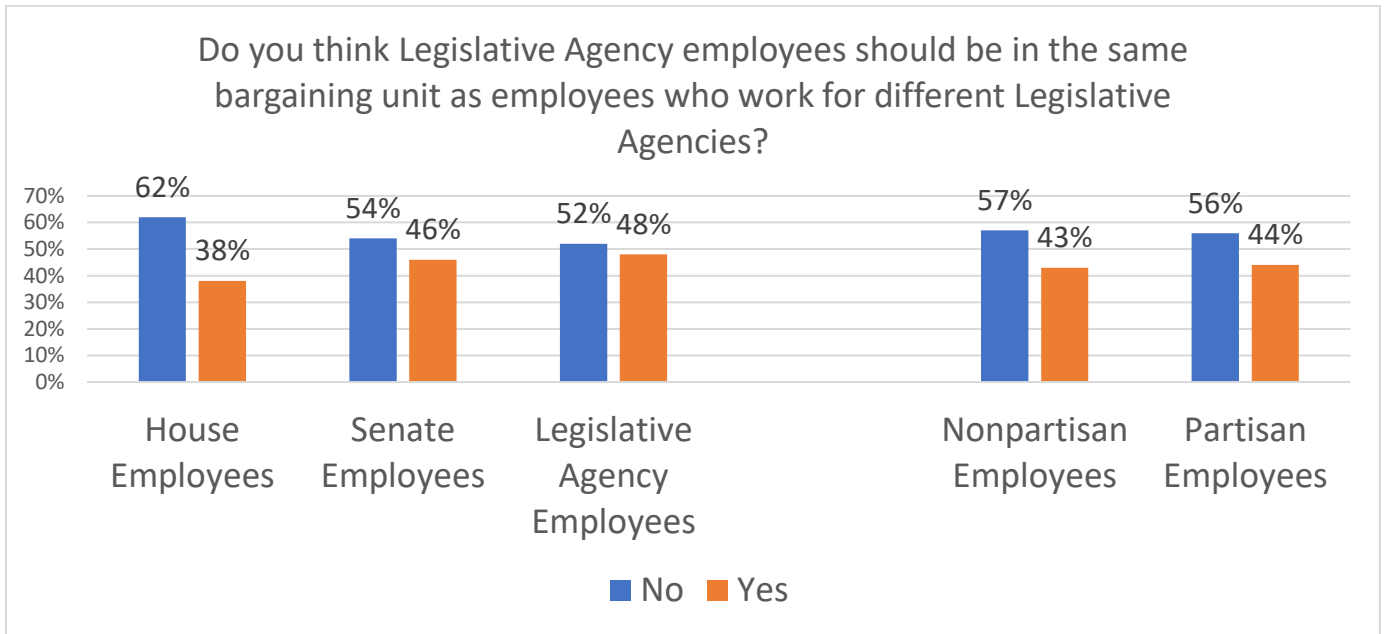
“House and Senate have similar working conditions but right now the treatment of staff is very different and that seems to create conflict/hard feelings between the two bodies that could potentially be resolved in some respect if there was similar treatment (protections, expectations, working conditions) for staff in both bodies.”

“As someone who has worked in both the House and Senate, I know firsthand that the scope of work and issues are similar for related staffing units, i.e., nonpartisan, caucus, etc. Also, I don't think it would make sense to have different salaries/benefits for one group in the Senate, for example Senate nonpartisan staff, and different salaries/benefits for the nonpartisan staff in the other chamber.”

“Although there are differences in the chambers, almost everyone has a counterpart and I think it would be nice for counterparts to be in parity with one another. Also, some individuals such as myself work in small work groups that, if the group is further separated, would have even fewer people who can relate to what is happening around this topic.”

“There are too many differences in how the House and Senate manage and treat their employees, although they have moved closer in recent years. I still think it's best to separate partisan and non-partisan bargaining units, but House & Senate partisan staff should have the same working condition expectations. Likewise, non-partisan staff in both the House & Senate should have the same working condition expectations.”

Question: Do you think Legislative Agency employees should be in the same bargaining unit as employees who work for different Legislative Agencies?



Comments from respondents who answered “NO:”

Most Common Themes:

- Each legislative agency is a different employer
- Each agency has different duties and workplace issues
- I’m not sure

A few representative comments:

“Again, each office is slightly different and nuanced. No one-size-fits-all policy will be effective or fair to all.”

“Each legislative agency is akin to each executive branch state agency. Different organizations.”

“The work is very different. JLARC's schedule and requirements are very different than those of Leg Tech and LEAP which have crazy session hours”

Comments from respondents who answered “YES:”

Most Common Themes:

- Bargaining together is good for equity and consistency
- Strength in numbers
- If the work is the same or similar, agency employees should be in the same unit
- We all work for the Legislature
- I’m not sure

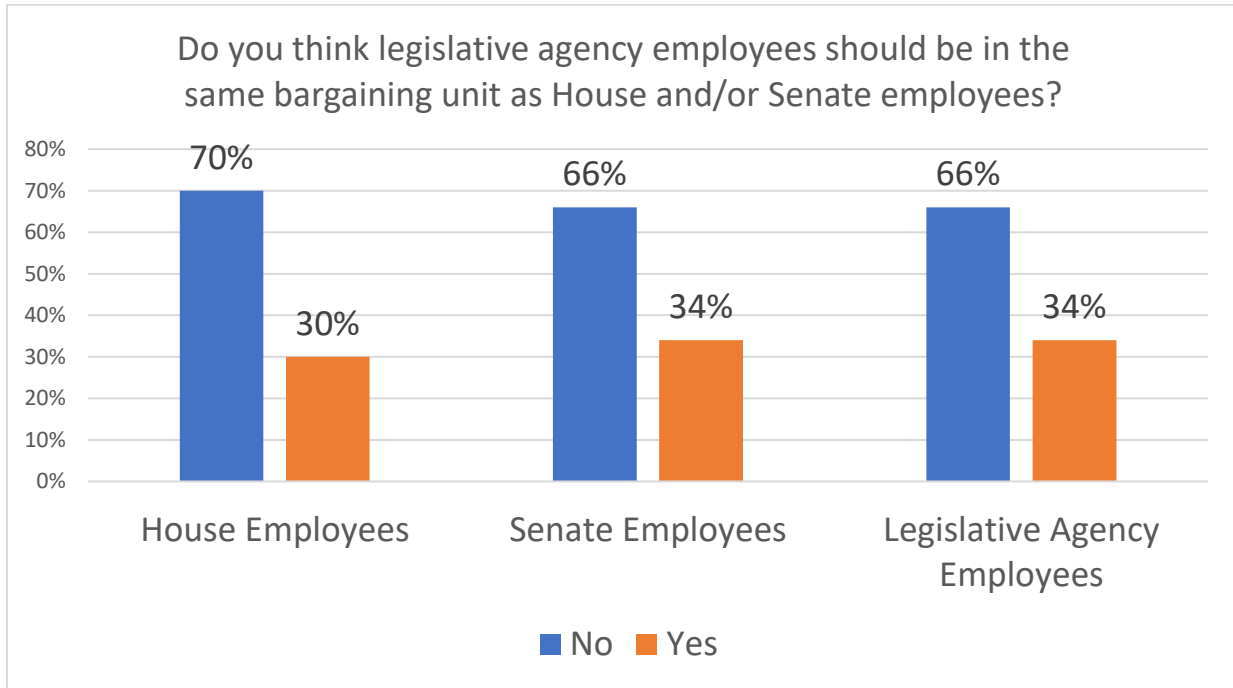
A few representative comments:

“Legislative staff work is all intertwined and each agency/staff should have the same rights and be protected and treated equally.”

“All workers who perform the same tasks should be in the same bargaining unit.”

“While the subject of work among legislative agency work is different, we all have similar support roles for the Legislature. Other than the subject of our work, I don't think there is much difference in our work condition expectations.”

Question: Do you think Legislative Agency employees should be in the same bargaining unit as House and/or Senate employees?



Comments from respondents who answered “NO:”

Most Common Themes:

- Too many differences in the work, expectations, management, and mission
- Nonpartisan employees should not be in the same unit as partisan employees
- Not sure

A few representative comments:

“Actually, I’d love for one unit for all (power in numbers), but I think the House and Senate will be difficult to negotiate with and will want to be independent from each other and from legislative agencies.”

“Different management, different shops, different issues.”

“While some might be able to be grouped together that question is too broad. Legislative employees include partisan and nonpartisan staff which I do not think should be grouped together. Nonpartisan staff and other legislative agencies serving all members might be able to be grouped together.”

Comments from respondents who answered “YES:”

Most Common Themes:

- Equity and consistency are more achievable
- Similar/shared duties and responsibilities, in many cases
- Yes, but only with the House’s and Senate’s nonpartisan staff
- We all work for the Legislature

A few representative comments:

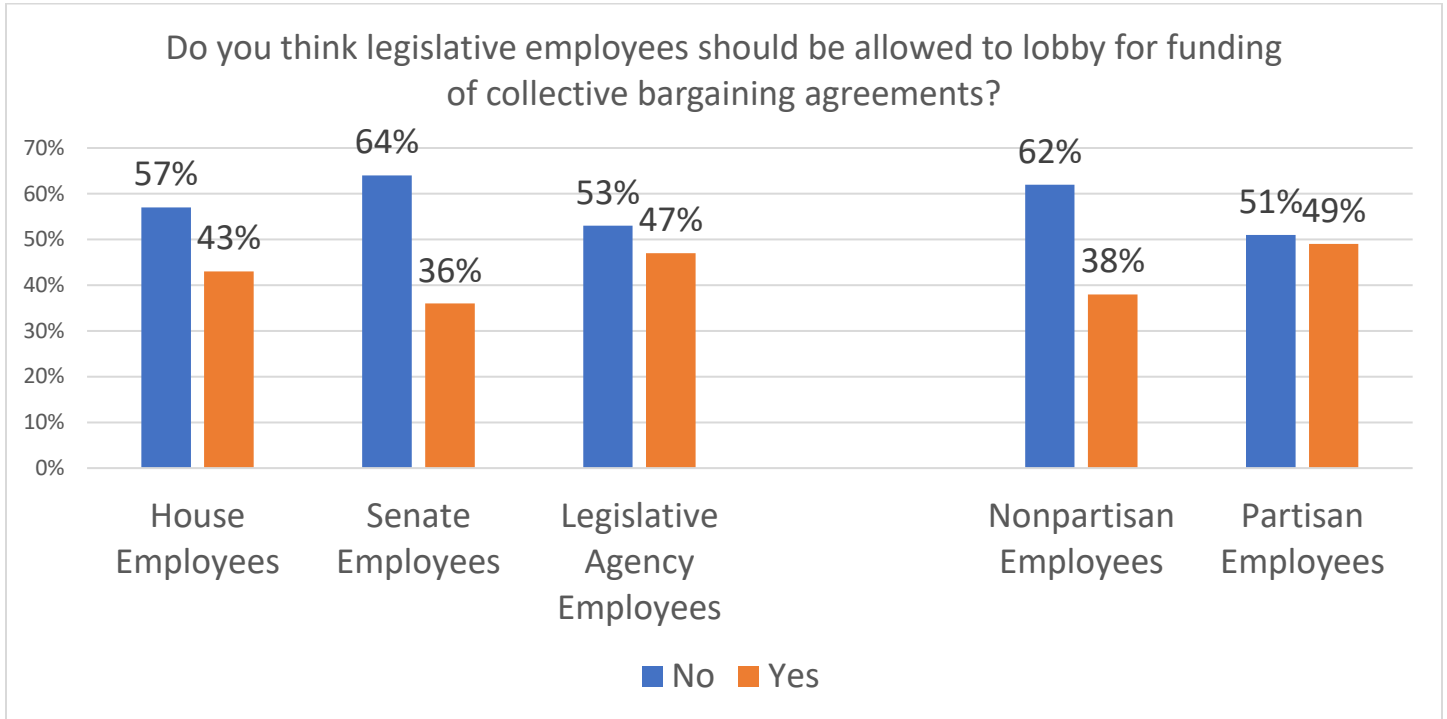
“Legislative agency employees and House & Senate employees have similar interests and undertake the same essential work: assisting the legislature in studying questions of public policy; developing responsive legislation; and assisting in the analysis, consideration, and enactment of such legislation.”

“Division by partisan/nonpartisan should be enough to handle the needs of the various types of employees in the legislature.”

“Some of these legislative agency employees have very similar job functions to OPR or SCS staff.”

Question: Do you think legislative employees should be allowed to lobby for funding of collective bargaining agreements?

(Note, all legislative employees are currently prohibited from any activity, including lobbying, that seeks to influence the passage or rejection of proposed legislation.)



Comments from respondents who answered “NO:”

Most Common Themes:

- It is a conflict of interest for all legislative employees, but especially for nonpartisan staff
- It will undermine public trust because we have an advantage by working directly for the decision-makers
- It’s too much of a slippery slope
- If it allowed, it should be done on behalf of employees by a 3rd party (this theme was raised in the “yes” responses, too, but to a lesser degree)

A few representative comments:

“Engaging in lobbying will undermine public trust in our work for elected officials and the people who elect them. Instead, we will be seen as working for our own interests.”

“Absolutely not. Part of working in this unique environment is we all should be cognizant to keep our personal opinions to ourselves, as that is integral to maintaining our professional reputation as objective legislative staff. Once we start being openly partisan at work, we lose that crucial identity for ourselves. If we are allowed to lobby for ANYTHING we start to blur

that line and we stop being trustworthy or reputable for honest, objective work. Especially related to a highly partisan topic like bargaining, we should not be allowed to break down that wall.”

“This was difficult to answer. I want to say yes; however then I thought about the implications of saying yes. Currently we cannot lobby support for literally anything. This if course is of special interest, but then that opens the doors for others to potentially use that argument towards other topics. I know there have been moments that I would lobby if I could, even if the topic was not of special interest to anyone else. So if we would be able to lobby for this but not for other issues that are important to us then does this create a slippery slope? Even if it doesn't, I would find it difficult to say you can't lobby for anything EXCEPT for this one thing. Plus, originally I know that not everyone was included in this conversation so then I worry about saying you can't lobby for anything except this one topic and you have to be in a certain workgroup.”

“I think they could, but it may be better for them to be allowed to bring in a third party to handle those negotiations to create some separation.”

Comments from respondents who answered “YES:”

Most Common Themes:

- Advocating for workplace rights is a fundamental right
- Inability to lobby for this diminishes the success of any union and is unfair
- It should be allowed but it could be tricky – reasonable parameters might be helpful

A few representative comments:

“Employees deserve the right to ask for compensation, and the ability to ask for funding commiserate with what they've negotiated. Absent this, the ability of the union(s) to put their bargains in place would be greatly diminished.”

“A complete ban on lobbying makes it impossible for legislative employees to advocate for fundamental workplace changes without violating their professional ethics. It places the employer at a strong advantage and does not provide equity with other state agencies. Nobody should be forced to be silent about their own working conditions by their employer. It would be appropriate to require this lobbying to take place outside of the employee's professional role so that those lines aren't blurred.”

“If the Legislature, in its collective wisdom, chooses to grant collective bargaining powers to legislative employees, it should do so fully and permit legislative employees to lobby. To do otherwise would be inconsistent with the grant of authority and unfair.”

Open Ended Question: Which categories of legislative employees do you think are appropriate (or not appropriate) to be represented by a union?

Common Themes:

- All employees are appropriate, except managers
- No one is appropriate
- Legislative Assistants are the only appropriate group
- Partisan employees are the only ones appropriate/Nonpartisan staff are not appropriate
- Session staff are appropriate
- Session staff are not appropriate

A few representative comments:

“All categories would be appropriate to be represented by a union. Everyone should be able to negotiate for better working conditions and higher wages”

“None, by working here, you chose to work in politics, even if [you] work in a non-partisan position. Unions are political in nature and will further politicize our jobs and work environment.”

“If there has to be a union, perhaps the Legislative Assistants makes the most sense since their jobs are dependent on wild swings in election cycles. They deserve security and predictability. Other staff do not need representation by the union. If anything, we need to be freed from having to adhere to what the public employee union does in our individual bargaining.”

“For nonpartisan policy staff, being represented by a union could create the perception of staff interests, if not politics, conflicting with member priorities. Nonpartisan policy staff work for all members of both parties, the perception of impartiality is central to the roll as nonpartisan staff.”

“Definitely LAs, not session staff. LAs all share common core functions but the work required by the member varies by member, some do policy work, others are more administrative. Also members give LAs time off which isn't always recorded so there's no unity there.”

“I think caucus/partisan staff, member offices, and session staff could be appropriate for a union as it could offer security and other benefits. I do not think permanent, nonpartisan committee staff are appropriate to be represented as it directly conflicts with the nature of the job and the role.”

“I am curious about session staff having a bargaining unit, since only work a session or two, I am unsure how they could contribute to negotiations as well as voting. It seems a tad complicated and there could be the potential for others to speak for them without their input.”

Open Ended Question: **What workplace topics should (or should not) be bargainable?**

Most common themes for issues that should be bargainable:

- Pay
- Overtime/Granted time threshold
- Leave and holidays
- Internal pay equity
- Telework, especially during the Legislative interim
- Hours worked during session
- Work schedules, including flexible schedules
- Stipends, including per diem and relocation/housing costs during session
- Benefits
- Equitable/Objective merit-based pay increases
- Clear and effective complaint process (especially complaints against members)
- Hiring practices
- Bonuses
- After-hours communication requirements
- Job security
- Dress code
- Seniority
- Cell phones/Use of personal equipment
- Tuition reimbursement

Most common themes for issues that should NOT be bargainable:

- At-will status
- Healthcare benefits
- Pensions

Open Ended Question: **Do you have ideas or suggestions for how and if coalition bargaining can work?**

Most Common Themes:

- For compensation and benefits, coalition bargaining can ensure parity and efficiency
- Some issues are unique to a specific group and should be bargained separately
- It could be too challenging
- Coalition bargaining should be voluntary

A couple representative comments:

“Coalition bargaining might make sense for certain bargaining topics that affect multiple units, such as compensation. However, other topics, such as working conditions, are better

addressed in bargaining between a unit and the unit's parent agency (House/Senate/caucus/legislative agency).”

“Given the nature of the positions you are trying to force to unionize, there are going to be strong conflicts, likely impassable, if you have to all bargain together in a coalition.”

Open Ended Question: Do you have any other ideas or suggestions related to legislative employee collective bargaining?

Most Common Themes:

- Nonpartisan staff are concerned with how they will be perceived, regardless of whether they choose to unionize or not
- The problems this bill tries to solve only pertain to a specific workgroup and job classification
- Termination should only be for cause/At-will status should be maintained
- Bargaining units should be small to allow choice and reflect diverse interests and perspectives/Bargaining units should be large to ensure equity, efficiency, and solidarity
- The Legislature needs flexibility – the limitations of a CBA could threaten staff’s ability to support the members
- This law should be repealed
- More training and information is needed

Open Ended Question: If you are surveyed on this topic again in the future, what questions would you like to be asked?

Most Common Themes:

- Why do I feel collective bargaining is necessary (or not)?
- What issues need to be bargained?
- What do you expect to get out of bargaining?
- What role should the Legislature have in the process?
- Job satisfaction related questions: Are you paid fairly? Is your work schedule reasonable? Etc.
- I need more information to answer this question

Open Ended Question: What questions about legislative employee collective bargaining do you want answered?

Most Common Themes:

- How will bargaining units be identified and established?
 - How do I decline union membership? Will I be forced to join a union? How do I oppose this?
 - What union-related behavior, conversations, actions are protected? Can we get some examples?
 - How much do dues cost?
 - How will this work for nonpartisan staff?
 - Will members still be able to hire their own staff?
 - Why is there a delay to implement? What is the timeline?
 - What employee information will be public, e.g., union membership status, negotiation proposals, etc.?
 - Will collective bargaining make it harder to get rid of bad employees?
 - What does the future hold? Who will be in a union, what will be bargained, and which union will represent employees?
-

The OSLLR would like to thank all of the legislative employees who completed the survey!