

Preempting progress

State interference in local policymaking prevents people of color, women, and low-income workers from making ends meet in the South

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Key findings

Preemption is more prevalent in the South and is embedded in a racist history.

- “Preemption” in this context refers to a situation in which state lawmakers block a local ordinance from taking effect—or dismantle an existing ordinance.
- Southern states are more likely than states in other regions to use preemption to stop local governments from setting strong labor standards that would support people struggling to make ends meet, such as raising the minimum wage and guaranteeing paid sick leave.
- The use of preemption in the South is deeply intertwined with a long history of events and actions that have reinforced anti-Black racism and white supremacy.
- Preemption laws in the South are passed by majority-white legislatures and tend to create barriers to economic security in cities whose residents are majority people of color.
- The ordinances being preempted would disproportionately benefit Black workers and other workers of color, as well as women and low-income workers.

Preemption limits cities’ ability to protect their residents from the pandemic.

- Misuse of preemption has prevented localities in some Southern states from responding to the pandemic with local policies promoting public health, such as mask mandates and stay-at-home orders.
- In addition, misuse of preemption in the past prevented these same localities from enacting policies that would have made them better equipped to deal with the pandemic now.

Case studies. In this report, we use case studies to (1) document the practice, and establish a pattern of, misusing state preemption and (2) explore the adverse implications of this state interference on workers.

Introduction

Compelled by state and federal inaction, local governments throughout the country are tackling some of the most pressing issues of our time—from public health and safety, to climate change, to protecting workers’ rights and promoting broad-based economic security. And now, local governments in many states are leading the fight for stronger public health protections against COVID-19—through mask mandates, stay-at-home orders, and paid leave provisions, among other actions.

However, in every state in the South, conservative state lawmakers have long used preemption—state laws that block, override, or limit local ordinances—to stifle local government action, often under pressure from corporate interests and right-wing groups like the American Legislative Exchange Council (Cornejo, Chen, and Patel 2018). Through preemption, state lawmakers have obstructed local communities—often majority-Black-and-Brown communities—from responding to the expressed needs and values of their residents through policies strengthening workers’ rights. Even in the context of COVID-19, state governors have taken action to preempt local measures, like masking orders, that would do more to keep vulnerable people safe.

In this report, we first look at the historical context behind preemption in the South. We track current-day preemption of workers’ rights back to state-sanctioned policies and practices rooted in racism and designed to uphold white supremacy—practices begun in the post-Reconstruction era that disproportionately disadvantage not only Black and Brown workers but also women and low-income workers.

After establishing these historical foundations, we turn to specific case studies that illustrate the wide range of worker’s rights issues on which state policymakers are interfering with local democracy and—taken in the aggregate—have preempted progress throughout the South. To the extent that the data allow, we show the specific impacts state interference has on people of color as well as women and low-income workers. For each case study, we detail the demographics of the city or county compared with those of the state, illustrating how, across the former states of the Confederacy, the voices of people of color are being suppressed by disproportionately white state legislatures (see appendix tables).

In most of the case studies, state policymakers directly preempted a specific local ordinance that was passed or that was under consideration, stripping localities of the power to adopt the ordinance in question. In some cases, state policymakers acted proactively, passing laws to prevent local policymakers from enacting or considering certain types of ordinances. Again, we make the case that this disparate effort across states and issue silos are all connected, driven by the same goal of limiting the economic, political, and social power of people of color, women, and low-income workers.

Finally, we discuss how the current COVID-19 pandemic is disproportionately harming the same communities that have been preempted from taking local action, limiting their ability to effectively combat the public health crisis.

‘People of color’

In this report, we use “people of color” to refer collectively to people in the following race/ethnicity categories, as disaggregated in the data: Black, Latinx, Asian American/Pacific Islander (AAPI), and the category called “other,” which includes those who identify as indigenous or multiracial. “People of color” is inclusive of immigrants of color. We also use “Brown,” although we are not able to disaggregate this category using government survey data. We use these terms to reflect a shared, although varied, experience with systemic racism in America.

Latinx

“Latinx” is a gender-neutral term that may be used interchangeably with Latino/Latina or Hispanic. Latinx is an ethnic category, not a racial category. In addition to self-identifying as Latinx, Latinx Americans may also self-identify as any race—Black, white, or another race. In this report, “Latinx” refers specifically to those respondents who self-identify as “Hispanic” in government data surveys, and includes all Latinx U.S. residents, regardless of citizenship or residency status.

Preemption and the legacy of racism in Southern states

State governments interfere with local authority far more in the South than in any other region

Although state interference with local decision-making occurs in every region of the country, it is much more prevalent across the South. As seen in **Figure A**, local communities in Southern states have been prevented from enacting policies on a multitude of work-related issues. Southern communities have also been blocked from implementing various other social and economic policies that are increasingly common in other parts of the country, such as laws protecting LGBTQ communities from discrimination, immigrant rights measures, environmental protections, and ordinances to authorize removing Confederate monuments (PWF 2020; Schragger and Retzliff 2019).

This has also held true during the pandemic. There has been friction between local and state governments across the South, including in Florida, Georgia, Mississippi, South Carolina, Tennessee, Texas, and West Virginia, as these states have blocked cities and counties from imposing stricter local public health measures. For example, in Georgia, Gov. Brian Kemp sued Atlanta Mayor Keisha Lance Bottoms for imposing mandatory mask ordinances and other measures to protect public health in her majority-Black city (Haddow et al. 2020). While he has since dropped the lawsuit, he is still insisting, by way of executive order, that localities can only require masks on public property, not at private businesses (LSSC 2020c). In another illustrative example, policymakers in the two most populous Southern states, Florida and Texas, pushed schools to reopen in person, challenging the authority of local school districts to make their own slower, online reopening plans (LSSC 2020c).

State interference in local democracy is rooted in Confederate history and white supremacy in the South

State interference in local democracy is embedded in a long history of events and actions that have sought to promote the interests of historically privileged property owners and perpetuate the South's racist past. Across the region, the configuration of government, policies, and practices are rooted in earlier efforts to limit the rights and freedoms of Black people and entrench white supremacy during the dismantling of Reconstruction-era economic and political gains and the concurrent rise of Jim Crow—era state-sanctioned discrimination (Farbman 2017).

Beginning in 1867, a series of radical Reconstruction Acts were enacted and paved the way for the rise of Black elected officials in state and local government as well as in the U.S. Congress (Sigward 2015). The military was given authority over the state judiciary and politics, and states were required to rewrite their constitutions for approval by Congress, including provisions for voting rights for all men, regardless of race. The Freedman's Bureau was also authorized to register newly eligible voters across the former states of the Confederacy. Additionally, all men, regardless of race, but excluding former leaders of the Confederacy, could participate in constitutional conventions to form new state governments. The former Confederate states were also required to ratify the 14th amendment, which defines citizenship rights and grants citizens equal protection under the law, in order to regain representation in Congress (Sigward 2015).

Legislative seats that were once held by white slaveholders just a decade earlier were held instead by the country's first Black members of the United States Congress (Harper and Brady 2019). About 2,000 Black public officials were elected to state legislatures and to local offices—to roles such as sheriffs, school board officials, and justices of the peace (Foner 2019). Many of these leaders were viewed as representatives not only for their states or districts, but also for Black constituencies in the region and around the country, advocating for policies to support enfranchisement and equal rights, criminalize lynching, and suppress the Ku Klux Klan (Harper and Brady 2019). But even as they were rising to

positions of power and influence, supporters of the former states of the Confederacy and white supremacists were already seeking to stem their power: Elections were often marked by violence against both voters and candidates. Black elected officials often had to fight to secure their seats after winning elections because their opponents contested the results. Once in office, their colleagues actively sought to undermine their influence in the legislature.

In 1866, violence led by white conservatives in the South culminated in particularly horrific massacres of Black people in Memphis, Tennessee, and New Orleans, Louisiana. It was also in 1866 that the Ku Klux Klan first formed in Tennessee. Between 1869 and 1877, electoral backlash marked by Ku Klux Klan voter intimidation allowed white conservatives to replace Black public officials in Tennessee, Georgia, North Carolina, Virginia, and Mississippi (Foner 2019).

In 1877, the year commonly marking the end of Reconstruction, President Rutherford B. Hayes withdrew federal troops providing protection for Black communities in the South. White Southern state lawmakers continued to disenfranchise Black voters and dismantle the reforms that had been instituted after the Civil War. In this way, they were able to essentially restore the racial hierarchy of the pre-Civil War political order (Sigward 2015).

A legacy of racist symbols in the South reinforces the supremacy of whiteness and depresses economic and political outcomes today

A large spike in the number of Confederate symbols, including monuments and place names, occurred following the end of Reconstruction, during the rise of Jim Crow and segregation in the early 20th century. A second wave of new Confederate symbols was prompted by opponents to the civil rights and desegregation movements of the 1950s and 1960s, as part of a concerted effort to reinforce a white supremacist worldview (Schragger and Retzliff 2019; SPLC 2019).

Confederate symbols are closely tied to violent oppression of Black people in both the past and the present. Lynchings were used to intimidate Black voters and suppress the political power of Black communities in the South; areas that had more lynchings historically have more streets named after Confederate generals today (Williams 2019). These areas also tend to have lower Black voter registration rates and more officer-involved killings (Williams 2020; Williams and Romer 2020).

Pride in this violent history, enshrined in symbols, asserts the political and economic supremacy of whiteness. Significantly, areas with large numbers of Confederate-named streets are also more problematic economically for Black people: These areas experience worse Black-white inequality in labor market outcomes including unemployment, employment in jobs paying low wages, and overall wage disparities (Williams 2019).

States have used preemption to restrict local governments' authority to remove Confederate monuments

As calls to remove Confederate symbols have grown, so has the reactionary movement to protect these symbols. For those seeking to do the latter, their task is as simple as calling on historical preemption laws still on the books—laws passed over the years by legislators who have unabashedly sought to protect the legacy of the Confederacy.

While Virginia recently (in April 2020) gave localities back the authority to remove Confederate monuments, seven states—Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee—still have some form of “statue statute” interfering with local governments’ ability to take down Confederate monuments, as of August 2020 (Schragger and Retzloff 2019; Thrasher 2020). In some cases, these statutes include punitive measures against localities that attempt to remove Confederate symbols, including fines in Alabama and withholding of state grants in Tennessee. Tellingly, many of the same states that preempt local control over monuments also prohibit local action on raising the minimum wage and passing paid sick time—including Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee (EPI 2018).

As shown in **Table 1**, these statue-protection statutes have not completely halted efforts, either by local governments or activists, to remove these racist symbols. In the seven states with laws preempting local authority over monuments, 47 Confederate symbols have been removed—17 were removed in 2020 alone (as of August). While these actions represent meaningful progress, there are still nearly 1,000 Confederate symbols in these seven states alone. Of these states, North Carolina has removed the most symbols—18. However, this accounts for just 10.2% of the 176 Confederate symbols erected in North Carolina.

At the same time, protesters across the country have successfully pushed state policymakers to call for the removal of statues. This was the case in North Carolina, where the governor ordered the removal of Confederate monuments from the grounds of the state Capitol building (Moshtaghian and Cullinane 2020). Local policymakers can also take strong public stands, as the mayor of Birmingham did recently by ordering the removal of a Confederate statue in defiance of the preemptive Alabama Monuments Preservation Act (Burch 2020).

Preemption interacts with other policies in the South to undermine public services and worker power

The abuse of preemption is just one tool that state policymakers in the South use to suppress the political power of Black communities, reinforce white supremacy, and undermine progressive policies that would benefit not only Black workers but also other

workers of color, women, and low-income . When local governments have sought to improve public services or to strengthen worker bargaining power, state policymakers in the South have interfered at every opportunity. This section provides background on two overarching goals of these policymakers, which are common themes throughout the case studies explored in this paper: (1) keeping taxes low and regressive, and (2) undermining the power of workers to maintain the present political, racial, and economic power structure.

Tax policy and public investment

Tax and spending policy in the South emphasizes a minimalist form of government focused on privileging property holders. In their comprehensive report, *Advancing Racial Equity with State Tax Policy*, examining the interplay of state tax policy and racial equity, Leachman et al. (2018) describe how many of the state and local tax laws that preserve structural inequality by constraining public revenues had their origins in the post-Reconstruction and Jim Crow eras.

Fearful that their large Black populations might wield political power to restructure taxes, some Southern states enacted supermajority requirements for revenue changes, starting with Mississippi in 1890. This made it next to impossible for Black voters and their allies to meaningfully raise property taxes and secure public investments in education, health care, and other public goods.

The South was also home to the first modern sales tax, adopted by Mississippi in 1932 (Leachman et al. 2018). Sales taxes are particularly regressive—costing low-income families a larger share of their income compared with higher-income families—and therefore disproportionately harm Black families, who have lower household incomes on average.

The connection between these early laws and the current state of public revenues and spending in the South is self-evident. Texas and Florida, the two most populous states in the South, have the second and third most unequal tax systems in the country, meaning they take a greater share of income from low- and middle-income families than they do from wealthy families. Two other Southern states, Tennessee and Oklahoma, are also among the 10 least equal states in terms of taxation (ITEP 2018).

Their tax structures are not just unequal, but they are also inadequate. Southern states rank particularly low in state tax collections per capita and in other revenue sources, including fees and user charges (such as tolls for roads and bridges) (TPC 2020a). As a result, the unweighted average of per-capita direct state and local general expenditures in the South in 2017 was lower than in the rest of the country (TPC 2020b). Southern states, by and large, spend less on both education and health care than other states (NSB 2020; Urban Institute 2020). At the same time, the nine states with the highest incarceration rates are in the South, meaning these states are pouring excessive resources into an oppressive criminal justice system while neglecting public services that are badly needed (The Sentencing Project 2020).

With so few resources generated for and invested in public services, it is perhaps not surprising that the South has the highest poverty rates, the worst infant mortality rates, and the lowest educational attainment of any region in the United States (CDC 2018; U.S. Census Bureau ACS 2019a, 2019b).

This insistence on undercutting public investment at every turn persists even when the cost to taxpayers would be minimal, as illustrated by Medicaid expansion in the states under the Affordable Care Act (ACA), for which the federal government foots the majority of the cost. Eight states in the South have not yet expanded Medicaid and, as of 2018, 92% of uninsured adults who would have health insurance if their state chose to expand Medicaid were residing in the South (Garfield, Orgera, and Damico 2020).

The rise of so-called right-to-work laws

Southern state lawmakers also sought to limit Black workers' power in the workplace through the passage of so-called right-to-work (RTW) laws. These laws undermine workers' collective bargaining power by allowing workers at unionized firms to benefit from a collective bargaining agreement without paying their fair share toward the union's costs of negotiating and administering the agreement. RTW laws undermine the financial strength of unions, thereby limiting their ability to win better benefits, wages, and working conditions for their members. RTW laws have been shown to lower workers' wages and benefits in the states where they have been enacted (Gould and Kimball 2015).

Efforts to enact RTW laws began in the South, with the first RTW laws adopted in Arkansas and Florida in 1944. The initial efforts to push RTW laws are credited primarily to Texas businessman and lobbyist Vance Muse and the Christian American Association (CAA). Using arguments equating union growth with race-mixing and communism—and with financial backing from wealthy Southern planters, oil companies, and allied industrialists—Muse and the CAA succeeded in passing a variety of anti-union laws, including RTW laws, in the South in the 1940s (Kromm 2012; Pierce 2017). RTW laws were designed to help entrench existing political power structures by undermining workers' collective voice and ensuring that workers remained divided along racial lines (Pierce 2017).

When the Congress of Industrial Organizations (CIO), one of the country's largest national labor organizations, began its "Operation Dixie," hoping to organize workers in the South, Southern Democrats in Congress joined with northern Republicans in voting for the 1947 Taft-Hartley legislation that undermined union organizing, in part by explicitly authorizing state RTW statutes (Kahlenberg and Marvit 2012). Following the passage of Taft-Hartley, a wave of Southern states enacted RTW laws (NCSL 2020b).

The impacts of the South's anti-union efforts are stark. As of today, every state in the South is an RTW state, and all three states that ban collective bargaining by public employees are in the South: North Carolina, South Carolina, and Virginia (Barber 2020). The six states with the lowest rate of workers represented by unions are all Southern states: South Carolina, North Carolina, Georgia, Texas, Virginia, and Tennessee. Of the 10 states with the lowest rate of union representation, eight are Southern states (BLS 2020a).

Case studies of state interference with local business and labor standards ordinances

Minimum wage: Birmingham, Alabama

In 2016, the Birmingham City Council passed an ordinance raising the city’s minimum wage to \$10.10 per hour. The Alabama state legislature blocked the ordinance, bringing the city’s minimum wage back down to \$7.25 per hour.

Alabama is one of five states—all in the South—that would not have a minimum wage at all if it were not for the federal minimum wage of \$7.25 an hour (EPI 2020). Last raised in 2009, the federal minimum wage is worth significantly less today than in previous decades. At its high point in the late 1960s, the federal minimum wage was equal to roughly \$10.35 in today’s dollars—about 43% higher than it is today. Since then, Congress has enacted infrequent and inadequate adjustments to the federal wage floor, such that a working parent of one child working full time and being paid the federal minimum wage today has earnings below the federal poverty line (Cooper, Gould, and Zipperer 2019).

In 2016, faced with this decline in the real value of the minimum wage, local lawmakers in Birmingham, Alabama, passed an ordinance that established a city minimum wage of \$10.10 an hour. In doing so, Birmingham joined roughly two dozen cities and counties throughout the U.S. that had similarly established local minimum wages.

Alabama is a Dillon’s Rule state, in which local authority is strictly limited to only those powers granted by the state—therefore, the fate of Birmingham’s minimum wage ordinance was already uncertain. But the state legislature was not taking any chances that the local minimum wage law would be allowed to stand. Within just two days of the ordinance’s passage, the Alabama state legislature blocked Birmingham and other localities in the state from establishing their own minimum wages (Roth 2016).

Relationship between state and local governments: Dillon’s rule versus home rule

Across the U.S., local governments have varying degrees of authority to pass their own local ordinances, such as setting higher local minimum wages. In part, the degree of local authority derives from whether the state is considered either a “Dillon’s Rule” or a “home rule” state, as defined in the state constitution and/or by statute enacted by the legislature (von Wilpert 2017).

In Dillon’s Rule states local governments have only those powers that are essential to municipal government or that the state has explicitly given to them, including any powers that are necessary for or implied by those explicitly given powers (NLC 2016). If there is any doubt whether a local government has the power to act in a specific case, courts in Dillon’s Rule states have generally ruled in favor of the state (von Wilpert 2017). Eight states adhere strictly to Dillon’s Rule: Alabama, Arkansas, Nevada, New Hampshire, Vermont, Virginia, West Virginia, and Wyoming (Diller 2012).

The other states have some degree of home rule authority for cities, giving local governments greater authority to determine the scope of their responsibilities and powers. However, the extent and parameters of local power are often not well defined and are inconsistently enforced. In fact, many states have both Dillon’s Rule and home rule provisions (Coester 2004). Regardless of whether a state is a Dillon’s Rule state or a home rule state, state lawmakers in the South regularly override local ordinances and strip local communities of the power to establish their own workplace protections that would disproportionately benefit Black and Brown workers, low-income workers, and women.

Alabama is one of 25 states to bar local governments from setting minimum wages that are different from the state minimum wage (EPI 2018; NELP 2019). In theory, preemption could be used in such a case to ensure consistently *high* standards across a state—that is, to prevent local governments from setting a local minimum wage that is *lower* than the state minimum wage. That is not the case here. In fact, in 18 of these states, including Alabama and nine other Southern states, the state minimum wage is equal to the federal minimum wage of \$7.25 an hour—so it’s not possible to go lower (EPI 2020).

In an effort to reinstate the higher local minimum wage, Birmingham fast-food workers, Black state lawmakers, and civil rights groups filed suit against the state’s attorney general. They argued that the attorney general had a duty to inform lawmakers that the law negating Birmingham’s minimum wage was unconstitutional because it “perpetuates Alabama’s de jure policy of white supremacy, in particular its suppression of local black majorities through imposition of white control by state government” (Koplowitz 2019). Although the lawsuit was dismissed on procedural grounds, the data, discussed below, show that the plaintiffs’ arguments have merit.

The decision by the Alabama state legislature to block the Birmingham minimum wage is a clear example of a majority-white legislature using its power to block communities of color from adopting laws benefiting their communities. According to data from the 2018 American Community Survey, almost 69.2% of Birmingham’s residents are Black while just 22.1% are white. When Birmingham’s population is compared with Alabama’s state legislature, the racial disparity is stark: 75.0% of state legislators in Alabama are white and only 22.1% are Black (see **Appendix Table 1**).

In blocking Birmingham’s minimum wage ordinance from taking effect, the state legislature

prevented local leaders from taking action to address the needs of the city. In 2018, Birmingham’s poverty rate among working-age people was 23.7%—dramatically higher than the statewide working-age poverty rate of 14.5%. Yet local leaders were blocked from enacting a policy that effectively reduces poverty.

As shown in **Figure B** and **Table 2**, stopping Birmingham’s minimum wage from taking effect denied pay raises to an estimated 65,000 low-wage workers, 19.1% of the local workforce. Note that the minimum wage impact data in the figure and table reflect estimates for Birmingham’s Jefferson County, which includes Birmingham and surrounding areas.

The Birmingham minimum wage case also reveals how the decision by a white, male-dominated state legislature to strip local governments of their ability to respond to the needs of their constituents disproportionately harms women and communities of color. Table 2 shows that a higher Birmingham minimum wage would have disproportionately helped Black workers: 26.2% of Black workers in Birmingham’s Jefferson County would have received a raise, compared with just 14.2% of white workers. While Black workers make up just 31.5% of the Jefferson County workforce, they would have made up 43.1% of all workers receiving higher pay due to the higher minimum wage. It is also worth noting that the majority of low-wage workers who would have benefited from the higher minimum wage are women. As shown in Table 2, 53.8% of the workers who would have received a raise because of the higher local minimum wage are women.

Occupational tax: Montgomery, Alabama

In February 2020, the Montgomery City Council passed an occupational tax to provide additional funding for public services. The Alabama state legislature passed a bill to nullify the ordinance.

In February 2020, the Montgomery, Alabama, City Council passed a measure establishing an occupational tax (a payroll tax levied on employees who work in the city) of 1%. The tax was intended to provide additional funding for public services, and it supported the hiring of additional public employees (WSFA Staff and Bowerman 2020). In anticipation of the tax passing, and in defiance of a letter signed by the mayors of the 10 largest cities in Alabama, the state legislature moved to strip cities of the ability to levy occupational taxes (AP 2020). The new law, passed in March, does not impact the occupational taxes that were already in place in more than 20 Alabama cities prior to February 2020, but it nullified the Montgomery measure. Going forward, cities must now obtain permission from the state legislature before they can raise their occupational taxes above the levels they were at as of February 1, 2020 (Cason 2020).

Here again, a majority-white state legislature overrode the will of local lawmakers representing a majority-Black city. As previously noted, the Alabama legislature is 75% white. Nearly two-thirds (60.8%) of Montgomery residents are Black, compared with one-quarter (26.7%) statewide (see Appendix Table 1). Four of Montgomery’s nine city council members are Black (MacNeil 2019). While the council is still whiter than Montgomery’s

majority-Black population, it is still much more representative than Alabama's state legislature.

The need for additional revenues such as those that would have been provided by the Montgomery occupational tax is clear. Alabama, like most states, has a regressive state tax system that needs progressive overhaul (Gundlach 2020). In fact, its system is even more regressive than most states in that its residents must pay the full sales tax on groceries (Figueroa and Legendre 2020). Under Alabama's regressive system, residents in the lowest income group pay the largest share (9.9%) of their income in total taxes, while Alabamans with the top 1% of families pay 5.0% of their income in taxes (ITEP 2018).

The additional revenue from the Montgomery payroll tax was intended to go toward bolstering public safety, education, infrastructure, and other public programs, including salaries for additional public employees (WSFA Staff and Bowerman 2020). In Alabama, as in communities across the country, women and Black workers are disproportionately employed in state and local government (Cooper and Wolfe 2020). As shown in **Figure C**, women account for nearly three in five state and local government employees in Alabama, whereas they make up less than half of the private-sector workforce. Black workers are also somewhat overrepresented (26.9% of the state and local government workforce compared with 25.8% of the private-sector workforce) as are women of color (19.7% compared with 17.1%; see **Table 3**). The Montgomery occupational tax aimed to bolster progressive revenue streams at the local level to strengthen local programs and services—goals that should be encouraged, not blocked.

Targeted and local hire laws: Nashville, Tennessee

In 2015, Nashville voters passed a ballot initiative requiring that a share of work hours on municipal construction projects go to local and low-income workers. The Tennessee state legislature passed a bill overriding the ballot initiative.

Targeted and local hiring policies support job opportunities by requiring that a minimum percentage of work hours created by a development project be set aside for job seekers from low-income communities within the city or county, especially low-income communities of color. These policies provide good jobs to local residents in communities that often experience barriers to employment (Cornejo, Chen, and Patel 2018).

In 2015, Nashville¹ voters approved, by a 58% to 42% margin, a local ballot initiative backed by local community and labor organizations. The proposed ordinance required that for municipally funded construction projects that cost \$100,000 or more, 40% of construction work hours must go to Nashville residents, with 25% of those work hours (or 10% of the overall work hours) going to low-income Nashville residents. Just weeks after the city passed the ordinance, the state legislature introduced and passed a bill to override it. With the governor's signature, it became the first state prohibition on municipal-

level local hire laws in the country (Woodman 2016).

Tennessee is no stranger to preemption. The state limits municipalities from implementing minimum wage, paid leave, and anti-discrimination laws, to name a few (DuPuis et al. 2018). And it took no time for state legislators to step in to override the will of Nashville voters. As state senator Jack Johnson, the bill's sponsor, put it: "Another issue that has been brought in opposition to my bill, which would nullify the charter amendment, is that we are overturning the will of the voters of Nashville. In fact we are" (Ebert 2016).

The state legislative override of the Nashville local hire initiative is another example of state legislators thwarting the will of local communities of color. In Nashville, 44.1% of residents are people of color, while 82.6% of state legislators in Tennessee are white and 84.6% are men. Just 12.9% of Tennessee state legislators are Black and 0.8% are Latinx (see **Appendix Table 2**).

Guaranteeing that 40% of construction work hours on municipally funded projects go to Nashville residents would substantially increase the chances of Black, Latinx, and immigrant workers being hired for this work. As shown in **Figure D** and **Table 4**, about one in seven construction workers living in Nashville are Black (14.5%), while workers in the larger Nashville metropolitan area that extends beyond Davidson County (Nashville-Davidson-Murfreesboro-Franklin, Tennessee) are half as likely to be Black. The trend is even more pronounced for Latinx workers, who make up nearly half (46.2%) of construction workers in Nashville, compared with a quarter (25.1%) in the greater metro area and fewer than one in five (18.2%) in Tennessee.

Immigrant workers also would have benefited from the local hiring initiative, if the will of Nashville voters had not been overturned. Just about half (49.5%) of all construction workers in Nashville were born outside the U.S. and 45.0% are not U.S. citizens. Immigrant construction workers are far more concentrated in Nashville than in the Nashville metropolitan area (23.0%) or Tennessee overall (16.1%).

To sum up: In addition to disregarding the will of Nashville voters, Tennessee legislators directly blocked a policy that would stand to benefit Black, Latinx, and immigrant workers. Without targeted local hiring policies, workers from these communities are more likely to be denied job opportunities due to systemic racial discrimination in hiring practices (Quillian et al. 2017). The failure of state legislators to support this policy also deprives communities of transparency regarding hiring in the construction industry for publicly funded projects in their communities.

Around the country, local and state governments have made effective use of targeted and local hiring measures on major economic development and construction projects to deliver good jobs to local communities. By voting for a measure that would ensure more construction job opportunities go to Nashville residents, voters chose to provide opportunities to Black, Latinx, and immigrant workers in their community. Voters sent a clear message that when their tax dollars are spent on development, those dollars should be bolstering the economic security of Nashville residents. As many Southern states see an increase in the number of development projects and other public infrastructure investments in their communities, targeted and local hiring measures will serve as a critical

component for ensuring racial and economic equity and inclusion in the South.

Paid sick leave: Dallas, Texas

A paid leave ordinance was set to go into effect in Dallas, Texas, on April 1, 2020. On March 31, a Texas federal court judge blocked the ordinance after state legislators' attempts to block it failed.

When workers do not have access to paid sick leave, they are forced to choose between their economic security and the health of themselves and their families. The workers who are the most economically precarious, who stand to lose the most by missing a day of earnings, are also the least likely to have access to paid leave. Paid sick leave is particularly important for women in the workforce, who are more likely than men to have caregiving responsibilities. Having access to paid sick days allows parents to stay home from work when their child is sick and increases their ability to stay in the labor force (Milli and Williams-Barron 2018). Despite these benefits, no states in the South require all employers to provide paid sick leave (ABB 2019).

For many service workers—for example, restaurant workers—going to work while ill could also pose an increased contagion risk to the greater community (NPWF 2020; Ibarra 2018). The coronavirus pandemic has made many realize the public health implications of going to work while sick—a realization that should underscore the importance of paid leave, even during “normal” times.

Over the past two years, the cities of Austin, San Antonio, and Dallas, Texas, have all passed laws requiring that businesses provide their employees with paid sick leave (Dailey and Douglas 2020). State legislators in 2019 attempted, but failed, to pass legislation to block these local paid sick leave laws. Undeterred, right-wing lawmakers in Texas and their business allies turned to the Texas court system to try to block the local paid sick leave ordinances, succeeding in receiving injunctions for the Austin and San Antonio ordinances in 2018 and 2019, respectively (Samuels 2019; Dailey and Douglas 2020). On March 31, 2020, in the face of a global pandemic, a federal judge blocked Dallas from enforcing its paid sick leave law, which was set to go into effect the next day (Dailey and Douglas 2020). All three ordinances are still on hold pending court action.

As shown in **Table 5**, two in five (41%) of workers in Dallas, a total of 301,838, do not have access to paid sick leave (Milli and Williams-Barron 2018). Access rates for Black workers in Dallas fall below access rates for white workers, with 37% of Black workers lacking paid sick leave compared with 31% of white workers (see **Figure E**). The majority (55%) of Latinx workers in Dallas do not have access to paid leave. The vast majority (71%) of the workers who would benefit from a paid leave ordinance are people of color.

The Dallas paid leave ordinance would particularly benefit lower-income workers, who are much less likely to have access to paid sick leave. Fewer than one in three full-time (35 hours or more), full-year workers in Dallas whose income is less than \$15,000 per year have paid leave, compared with the vast majority (85%) of workers who earn \$65,000 or

more (Milli and Williams-Barron 2018).

By blocking these paid leave measures through the courts, right-wing legislators and the business community have shown their disregard for the health of the 4.3 million Texas workers who do not have access to paid leave. Paid leave represents an investment in public health (Lewis 2019), because it prevents workers who are sick from exposing their co-workers and the public to illness. Yet as the Texas experience shows, even in the face of a global public health crisis, the fight to deny workers paid leave continues.

In fact, the pandemic has created additional opportunities for the misuse of preemption to prevent policies that would promote public health. Southern states—including Florida, Georgia, Mississippi, South Carolina, Tennessee, Texas, and West Virginia—have prevented localities from enacting local public health measures that are stricter than statewide stay-at-home orders.

Case studies involving proactive preemption, in which localities are blocked before they can even consider policies that could benefit their residents

As we have shown, state lawmakers in the South often override local initiatives benefiting local residents. In other cases, local communities lose their ability to make positive change before they have even contemplated action on the issue. This section details some of these cases. We describe actions taken by state policymakers to block local democracy, and we show how local communities could have benefited from the potential measures in question, based on the positive impacts such measures have had where they have been enacted. At bottom, it is clear that local communities have been deprived of the opportunity to benefit their residents because of the chilling effects of state interference.

Fair scheduling: Atlanta, Georgia

In 2017, the Georgia state legislature passed a law prohibiting local governments from implementing fair scheduling regulations, even though no cities in Georgia had such a law. Fair scheduling could benefit 28,991 workers in Atlanta and 750,926 workers statewide who work in retail and food service.

The Georgia legislature has frequently acted to prevent local governments from protecting and empowering workers, including prohibiting local paid leave and minimum wage ordinances (EPI 2018). As discussed earlier in this paper, paid sick leave and minimum wage ordinances are particularly critical for raising the living standards of Black and Brown

workers and women.

In 2017, Georgia joined the list of states that have passed laws prohibiting localities from implementing fair scheduling regulations (EPI 2018; Donohue 2017). By prohibiting its cities and counties from requiring that employers give additional notice or pay to employees when their schedules are changed, Georgia is once again preventing communities from adopting labor standards that would disproportionately benefit women and workers of color.

Many workers, especially hourly and low-wage workers, are subject to unpredictable schedules (Vogtman and Tucker 2017). Under the guise of flexibility, employers leverage technology to make last-minute and inconsistent scheduling decisions. The result is that workers are required to give up their own freedom and flexibility (CPD 2018). These unfair scheduling practices can take many forms, which can be used in combination, compounding their negative effects. Some employers use “just-in-time” scheduling, often with the aid of scheduling software, to make last-minute staffing decisions in response to anticipated changes in demand. Another tactic is on-call scheduling: Workers are asked to stay available, generally without compensation, but are not told whether they are required to come in until just hours before the shift. Workers may also be asked to work unreasonable shifts, for example, a “clopening”—a late closing shift followed by an early opening shift (Vogtman and Tucker 2017; Schneider and Harknett 2019). Each of these practices is quite widespread within the retail and food service industries (Schneider and Harknett 2019). While unfair scheduling is certainly not limited to retail and food service, most fair workweek laws do focus on protecting workers in those industries (Wolfe, Jones, and Cooper 2018).

These unpredictable scheduling practices wreak havoc on workers’ lives. Workers must plan their time, spending, and savings around these inconsistent (and often insufficient) hours. Unpredictable scheduling can negatively impact workers’ access to child care and health care, since day care centers often require consistent drop-off schedules and doctor visits require advance appointments. Enrolling in additional training and education can be next to impossible when you are required to “stay available” for shifts (Vogtman and Tucker 2017). Even when compared with peers with similar wages, retail and food service workers with less predictable schedules were more likely to experience material hardship, such as going hungry or being unable to pay bills (Schneider and Harknett 2019).

Furthermore, unfair scheduling practices can make it difficult to schedule job interviews or shifts at other jobs, preventing workers who are part time but would like to work more hours from getting full-time work or another part-time job (Golden 2015). Part-time work and lower hours are more prevalent in wholesale and retail trade, as well as in leisure and hospitality (which includes restaurants), than in the overall workforce. At the same time, part-time workers in these industries are also more likely to want full-time work than their peers in the overall workforce (BLS 2020c).

Since Black, Latinx, and Asian workers, and women of any race, are all disproportionately likely to be employed in restaurants or bars, they would also stand to gain the most protection from scheduling fairness legislation. Nationwide, Latinx workers make up 26.8%

of all workers in the food service and bar industry, and Black workers account for 13.2% (compared with 17.6% and 12.3% of the overall workforce, respectively). Asian workers are also disproportionately likely to work in food service or bars, making up 7.5% of that industry compared with 6.5% of the overall workforce. Women account for a majority (52.1%) of this industry despite making up just 47% of the overall workforce (BLS 2020b).

Retail and food service workers of color, and particularly women of color, are more likely to experience unstable schedules than their white peers, an inequity that persists even when controlling for other demographic characteristics and education (Schneider and Harknett 2019).

Because of the clear importance of predictable scheduling to workers, a number of cities and one state have adopted scheduling fairness laws. As of 2018, 1.8 million workers in New York City, San Jose, Seattle, San Francisco, Emeryville (California), and the state of Oregon were protected by fair workweek laws that focused largely on retail and fast-food workers (Wolfe, Jones, and Cooper 2018). In the last year, fair workweek protections have also taken effect in Chicago and Philadelphia, with Chicago's ordinance covering workers in health care facilities, building services, and hotels in addition to restaurant and retail workers (HR Dive 2019).

In **Table 6**, we show the number and demographics of nonmanagerial workers in retail and food service. By proactively preempting fair scheduling laws, the Georgia state legislature has denied local governments the opportunity to protect the 750,926 Georgians who work in retail and food service, not to mention workers in other industries who would stand to benefit from broader fair workweek protections.

In particular, if Atlanta were to enact fair workweek legislation, 28,991 workers in retail and food service would stand to benefit. The majority, or 14,627, of those workers are Black. Women also stand to benefit from a fair workweek law focused on these industries, since they make up over half of this workforce both in Atlanta and statewide.

This state interference not only has an outsize impact on Black and women workers, but it also negates the voices of Black voters in Atlanta. Nearly half (48.0%) of the voting-age citizen population in Atlanta is Black, compared with less than one-third (32.0%) statewide (see **Appendix Table 4**). The state legislature, which is 69.5% white, is not representative of Black workers and the population whose authority they are preempting.

Platform 'gig' economy: Kentucky

In 2018, the Kentucky state legislature passed an expansive law classifying workers on "marketplace platforms" as independent contractors, which excludes them from key labor standards.

With the growth of the digital platform ("gig") economy, much attention has focused on the issue of whether individuals performing services through an online platform such as Uber, Lyft, Handy, or TaskRabbit should be considered employees or whether they are independent contractors. The distinction makes a significant difference to workers.

Independent contractors, who are viewed by the law as being in business for themselves, are not covered by unemployment insurance, workers' compensation, minimum wage laws, overtime protections, paid leave laws, anti-discrimination laws, or most health and safety laws, and they do not have the right to form unions and engage in collective bargaining (Carré 2015). Employers do not pay payroll taxes, workers' compensation, or unemployment insurance premiums on independent contractors. The distinction between employees and independent contractors is one of real substance, for workers, employers, and government programs.

Misclassification occurs when businesses deem workers "independent contractors" when those workers should be considered employees. By misclassifying workers, businesses avoid paying payroll and workers' compensation taxes—saving themselves up to 30% while costing states and localities millions of dollars in lost revenue (NELP 2017).

Misclassification affects workers across industries, including construction, restaurants, janitorial services, and trucking. Lately, much attention has been paid to the misclassification of gig economy platform workers. Platform companies such as Uber and Lyft have maintained that their drivers are independent contractors who simply use Uber or Lyft's technology to connect with their own customers. However, platform companies in fact play a large (often unilateral) role in setting pay and determining work hours and conditions. Many platform workers, including ride-share, delivery, and domestic workers, face hazardous workplace conditions and low pay. This makes it particularly egregious to exempt them from minimum wage and workers' compensation protections (Smith 2018).

To protect workers from misclassification, state policymakers can set standards for who can be considered an independent contractor under state law. California adopted such a measure in September 2019, establishing a statewide "ABC" test for determining whether a worker is an employee or an independent contractor. When this California law was passed, however, gig economy companies such as Uber, Instacart, and DoorDash made their opposition clear by pledging to spend \$110 million on a ballot initiative that would exempt them from the law (McNicholas and Poydock 2019). Uber and Lyft have refused to comply with the law and have been sued by the California attorney general and several city attorneys for noncompliance. A San Francisco Superior Court judge ruled against the companies and said they must treat their drivers as employees, although they are allowed to maintain the status quo for now while awaiting a decision by the court of appeals (Bond 2020).

In 2018, Kentucky took an entirely different approach, passing an expansive law prohibiting local governments from treating workers on "marketplace platforms" as employees by deeming them "marketplace contractors," not employees. Any worker who uses a digital network or application to connect with those who are seeking their services—in other words, any gig economy platform worker—is deemed a marketplace contractor under Kentucky law. Nearly identical bills were introduced in nine other states during the 2018 legislative session (Smith 2018). In most of these cases, the legislation was drafted by Handy, an online building services platform (Kessler 2018). Passage of the marketplace contractor legislation is yet another example of businesses lobbying for lax state-level regulation to preempt city laws that would protect workers (James 2018).

The impact of the law on digital platform workers in Kentucky is extensive. The number of digital platform workers has grown significantly in recent years: Between 2012 and 2016 alone, the share of Kentuckians who were doing online platform gig work grew from just 0.01% to nearly half a percent (Collins et al. 2019). In 2016, there were more than 10,000 online platform economy workers in Kentucky—all of whom could potentially be misclassified with the aid of the 2018 law (Collins et al. 2019).

We estimate that as of 2016, there were between 3,822 and 7,527 workers in Louisville who earned money using an online labor platform. These estimates, based on Collins et al. (2019), use the shares of online platform workers in nearby cities.² Our low estimate is based on Memphis, where 1.0% of workers reported earnings from online labor platforms, and the high estimate is based on 2.0% of workers in Columbus. Even this high estimate is likely an undercount, since we use the number of income tax returns filed by Louisville residents (373,690) to estimate its full workforce whereas Collins et al. had access to detailed administrative IRS data including the number of non-filers.

The 2018 law disproportionately impacts workers of color. Black and Latinx adults are more likely to earn money through online platform work than their white peers, so they are more likely to be deprived of important workplace protections because of their misclassification as “marketplace contractors” under the Kentucky law. In 2016, Black adults were nearly three times as likely to have worked using online labor platforms as white adults, and Latinx adults were more than twice as likely to have worked using online labor platforms as their white peers. People of color who have worked using online job platforms are also more likely than white gig workers to see that source of income as essential or important, rather than “nice to have” (Smith 2016).

Gig economy companies conspired with state lawmakers in Kentucky to protect their own interests and to overrule the authority of communities. In Louisville, this represents a silencing of a population that has a higher share of Black people (11.0%) than the state overall (7.8%) and that is not well-represented by the state legislature, which is 92.0% white (see **Appendix Table 5**).

‘Ban-the-box’: Mississippi

“Ban-the-box” policies reduce barriers to employment for the formerly incarcerated. But, since 2014, Mississippi has prohibited localities from adopting laws “that in any way interfere with an employer’s ability to become fully informed of the background of an employee or potential employee.”

As many as four in 10 people in the United States possess a criminal record, which creates barriers to housing, education, voting rights, and employment (Eberstadt 2019). Regarding employment, “ban-the-box” policies reduce barriers for formerly incarcerated people and people with arrest and conviction histories by delaying employer inquiries about an applicant’s criminal record until later stages in the hiring process. These policies prohibit employers from requiring applicants to disclose their criminal history on an initial

application so that the initial employment consideration is made on job-related factors.

According to 2012 guidance issued by the Equal Employment Opportunity Commission, ban-the-box policies reduce employment discrimination based on race and national origin, particularly since Black and Latinx people are arrested, convicted, and incarcerated at higher rates than white people due to structural racism in policing, sentencing, and incarceration (EEOC 2012). Rather than automatically disqualifying candidates based on the stigma of a criminal record, ban-the-box policies allow employers to first evaluate applicants based on their skills and qualifications. At later stages of the hiring process, an employer may then inquire about and assess a relevant criminal record that could impact an applicant in a specific occupation or work setting.

Prompted by a nationwide movement led by a grassroots organization, All of Us or None, based in Oakland, California, ban-the-box laws have been increasingly adopted across the country (Evans 2016). In 2016, the Obama administration directed federal agencies to “ban the box” for federal government jobs (White House 2016). As of July 2019, 35 states and over 150 cities and counties have adopted ban-the-box policies. Currently three-fourths of people living in the U.S. live in an area that has banned the box. This includes several Southern states, including Georgia, Kentucky, Louisiana, Oklahoma, Tennessee, and Virginia, as well as many cities and counties with similar or more expansive policies, including Austin, Dallas County, San Antonio, Birmingham, Jacksonville, Miami-Dade County, Orlando, St. Petersburg, Tampa, Charlotte, Durham County, and Winston-Salem (Avery 2019).

A recent study found that, for people with conviction histories, ban-the-box policies increase the likelihood of obtaining a public-sector job by about 30% on average (Craigie 2017). Furthermore, the study did not find evidence that these policies resulted in discrimination against the very population they are intended to benefit, as some scholars have argued they would. Other studies of cities and counties that have implemented ban-the-box policies—including Durham, the District of Columbia, and Atlanta—have found similar positive employment impacts for people with arrest and conviction histories (Atkinson and Lockwood 2018; Juffras et al. 2016; Emsellem and Avery 2016). Studies show that employment is the single most important factor in reducing the likelihood of returning to jail or prison (Berg and Huebner 2011). Employment after incarceration provides critically important income to allow formerly incarcerated people to support themselves and their families.

In Mississippi, there is growing support for a statewide ban-the-box policy—while recently introduced legislation ultimately failed to pass both chambers, it did receive bipartisan support.³ However, since 2014, Mississippi has prohibited localities from adopting laws “that in any way interfere with an employer’s ability to become fully informed of the background of an employee or potential employee.”⁴ This law interferes with the ability of cities to pass local ordinances to ban the box for public-sector applicants and contractors, as well as for private-sector job applicants, as many neighboring states and cities have done.

The inability of localities to enact ban-the-box policies especially harms employment

prospects for Black and Latinx people, who are more likely than white people to be incarcerated in Mississippi (and in other states) due to over-policing and structural racism (Hinton, Henderson, and Reed 2018). Mississippi has an incarceration rate of 1,039 per 100,000 people, meaning it imprisons a higher percentage of its people any other state in the country excepting Oklahoma and Louisiana (Wagner and Sawyer 2018). This includes those in prisons, jails, immigrant detention centers, and juvenile justice facilities. People from Black and Latinx communities are overrepresented among Mississippi's incarcerated population (at 57% and 12%, respectively), while white people are underrepresented (30%), compared with their overall representation in the state (37%, 3%, and 58%) (PPI 2020).

National research on pre-incarceration income and unemployment finds that three years before incarceration, just 49% of working-age people were employed, and on average they were paid less than \$15,000 a year (Looney and Turner 2018). This means that, for many, the economic insecurity following incarceration compounds the challenges they were already facing. Incarceration also further highlights income disparities for Black and Latinx formerly incarcerated people, who experience lower incomes when compared with white formerly incarcerated people (Western and Pettit 2010). Among people on probation, two-thirds are paid less than \$20,000 per year (Finkel 2019). Banning the box supports employment opportunities for the formerly incarcerated and for others with arrest and conviction histories, many of whom were already struggling to make ends meet.

Public-sector employment, the sector in which ban-the-box policies are often first applied, has historically been at the forefront of anti-discriminatory employment, initially through measures that regulated the federal government. Eventually, anti-discrimination regulations were extended to state and local governments, making them generally more equitable and inclusive workplaces for women and Black workers (Cooper, Gable, and Austin 2012). As shown in **Figure F** and **Table 7**, Mississippi is no exception. Women account for more than three in five state and local government workers in Mississippi (61.6%), a much greater share than in the private sector. Black workers are also disproportionately represented in Mississippi state and local government, accounting for two in five workers in that sector (40.6%) compared with just over one in three (35.7%) in the private sector.

Banning the box for government employees in Mississippi would once again put the public sector on the front lines of anti-discrimination. While more equitable hiring policies should certainly be extended into the private sector as well, focusing first on passing ordinances in the public sphere can allow localities to pave the way for even more transformative change. If Mississippi localities incorporate these values into their government hiring practices, it could result in larger shares of Black, Latinx and other residents impacted by incarceration in the Mississippi public-sector workforce.

Prevailing wage: New Orleans, Louisiana

Since 2011, Louisiana has prohibited cities and counties from enacting prevailing wage ordinances. Prevailing wage laws ensure that contractors on public construction projects do not drive down local wage standards by underpaying their workers. We estimate that implementation of a prevailing wage law in New Orleans could increase the typical construction worker’s annual earnings by roughly \$5,000.

Since 2011, Louisiana has prohibited cities and counties from enacting prevailing wage ordinances. Such laws govern the construction contracts that cities or counties enter into with private contractors for city or state construction projects, requiring that the contractors pay their workers at least the prevailing wage in the city or county for the type of work being contracted. The policies’ definitions of “prevailing wage” vary from location to location, although they generally reflect a commonly held or dominant wage.

Prevailing wage laws are common throughout much of the United States. Contracting by the federal government has been subject to prevailing wage regulation since 1931, with the passage of the Davis-Bacon Act (Mahalia 2008). As of January 2020, 26 states and the District of Columbia have some form of prevailing wage law (DOL 2020). Louisiana is one of the 24 states without such a law.

The rationale for prevailing wage laws is straightforward: Communities do not want public contracts to drive down local wage standards. Because contractors typically must bid to work on public projects, without a prevailing wage requirement, firms may cut wages in order to win contracts. This obviously harms employees of the individual construction firm and, more importantly, it also pushes down wages throughout the industry as rival firms respond with similar cuts when making their bids. Prevailing wage laws preserve wage levels for construction workers and ensure that contractors compete for government projects based on efficiency, management skill, material costs, and the productivity of a firm’s employees.

Despite the clear benefits of prevailing wage laws, in June 2011, then-Governor Bobby Jindal signed a bill passed by the Republican majority in the Louisiana legislature prohibiting any public entity in the state from establishing standards—such as requiring certain wage rates—on any public contracts (NCSL 2020a). Louisiana is one of the nine states that Diller (2012) classifies as “home rule, but skeptical of local authority.”⁵ Notwithstanding Louisiana’s home rule tradition, the state legislature stripped local communities’ ability to establish wage standards on publicly funded projects. This is not the only time that the legislature has gone against the home rule tradition. In fact, in 1997 Louisiana became the first state to pass a law preempting local minimum wage ordinances. Community, faith, and labor groups in Louisiana have joined together to advocate for the repeal of the 1997 minimum wage preemption law, as well as paid sick leave preemption, in the “Unleash Local” campaign (Barber 2019).

Research shows that construction workers in jurisdictions with prevailing wage laws earn substantially more than their counterparts in places without such laws. Eisenbrey and Kroeger (2017) find that construction workers in states with prevailing wage laws are typically paid 13% to 22% more per hour than construction workers in states without prevailing wage laws.⁶ This wage premium benefits not only construction workers on public projects in a state, but also construction workers across the state. It is thus not surprising that the median wage of construction workers in Louisiana is lower than the median for construction workers nationwide. The national median was \$22.80 per hour in May 2019, 7.2% higher than Louisiana’s median of \$21.27.⁷

If cities in Louisiana were permitted to adopt prevailing wage standards, these laws would raise the pay of thousands of local construction workers, including workers of color. Consider, as an example, wages for construction workers in New Orleans. As shown in **Table 8**, the median hourly wage of construction workers in the New Orleans Metropolitan Statistical Area (MSA) in 2019 was \$20.46 per hour—3.8% less than the statewide median and 10.3% less than the national median. A New Orleans prevailing wage law would have the potential to lift pay for over 35,000 construction workers in the area. If wages rose by the 13% difference identified by Eisenbrey and Kroeger (2017) (the lower end of their range), that would translate into a wage increase of \$2.66 per hour, or—applied to the median annual wages reported by construction workers in the New Orleans MSA—a roughly \$5,000 increase in annual earnings.

Table 8 also shows the differences between the racial and ethnic composition of the construction workforce in New Orleans and that of the statewide construction workforce, as well as the differences in wage levels by race and ethnicity. The construction workforce in the New Orleans area is majority people of color—only 41.1% of area construction workers are white. Statewide, 64.7% of construction workers are white. Both statewide and in New Orleans, white construction workers are typically paid more than Black and Latinx construction workers, although median wages for Black construction workers are slightly higher in the New Orleans MSA than they are for the state.

Louisiana’s legislature is 76.4% white (see **Appendix Table 7**). The state population overall is 58.4% white. By restricting the ability of localities to set prevailing wage standards, the majority-white state legislature is denying the local government of New Orleans—a city that is 69.6% people of color—from establishing a policy that would raise wages for all local construction workers, the majority of whom (58.9%) are workers of color. For a Black construction worker in New Orleans, a pay raise equivalent to the 13% prevailing wage premium identified by Eisenbrey and Kroeger (2017) would mean a \$5,000 increase in annual wages. For Latinx construction workers, it would be a \$3,300 raise.

By banning cities and counties from enacting any prevailing wage ordinances, the Louisiana state legislature is suppressing pay for construction workers throughout the state. State lawmakers are tying the hands of local leaders, preventing them from enacting policies that would strengthen pay for workers of all races and ethnicities. And with white construction workers being paid considerably more than Black and Latinx construction workers—even in cities where white construction workers are in the minority—the inability to set local standards only further exacerbates racial inequities.

Case studies: Preemption fights on the horizon

Since 2010, state interference in local governance has continued to expand rapidly across the country, particularly in the South (von Wilpert 2017). In what was clearly a coordinated strategy to push corporate-friendly legislation in as many state houses as possible, historically high numbers of preemption bills were filed in many states in 2019 (Haddow, Gad, and Fleury 2019). And while not all of the bills that were introduced became law, there is every reason to believe that the bills will be introduced again in future sessions.

The following case studies describe instances in which anti-regulatory groups and right-wing lawmakers have tried to block local actions that protect workers but have not yet succeeded in doing so.

Wage theft protections: Miami-Dade County, Florida

In 2010, Miami-Dade County became the first county in the country to enact a wage theft ordinance. Within two years, the county had recovered more than \$500,000 in stolen wages for nearly 400 workers. However, in 2019, Florida state lawmakers attempted to pass a bill negating Miami-Dade’s wage theft ordinance and preventing other counties in Florida from following Miami-Dade’s lead.

Wage theft occurs when an employer fails to pay a worker the full compensation to which the worker is legally entitled. As Cooper and Kroeger (2017) explain, wage theft can take many forms, from the explicit—such as refusing to pay promised wages, paying less than legally mandated minimums, or failing to pay overtime premiums—to less visible exploitation, such as requiring staff to work off the clock, making illegal deductions from paychecks, or intentionally misclassifying employees as independent contractors to avoid paying minimum wages, payroll taxes, or other required benefits.

In 2010, Miami-Dade made history by becoming the first county in the country to enact a county wage theft ordinance. Florida is a “permissive home rule” state, rather than a Dillon’s Rule state, meaning that there is a settled understanding that local governments have broad authority to enact policies on any issue where there is no state or federal prohibition. Miami-Dade’s ordinance created a mechanism within the county’s Small Business Development Agency for workers to file wage theft claims that the agency would then investigate, attempt to reconcile, and refer to a hearing examiner when needed. Within the first two years after the ordinance passed, the Miami-Dade Small Business Development Agency’s wage theft enforcement actions had already recovered more than \$500,000 for nearly 400 workers in the county (Hernandez 2012).

In creating a local system for wage theft victims to seek restitution, county commissioners were responding to a widespread and deeply harmful problem that the state had failed to remedy. McNicholas, Mokhiber, and Chaikof (2017) estimate that low-wage workers across the country lose more than \$50 billion to wage theft annually. Cooper and Kroeger (2017) describe how minimum wage violations alone cost workers an estimated \$15 billion each year, including over \$1.1 billion in Florida. In fact, Cooper and Kroeger find that Florida has the highest rate of minimum wage violations among the 10 most populous states in the country, with nearly a quarter (24.9%) of low-wage workers reporting being paid less than the state minimum wage.

This exceptionally high rate of minimum wage violations is likely caused, in part, by the fact that employers in Florida have little reason to think they will be caught if they engage in wage theft. Galvin (2016) explains that Florida has very weak state labor laws and no state enforcement agency to investigate alleged abuse. A conservative majority of the state legislature, along with then-Governor Jeb Bush, eliminated Florida's Department of Labor and Employment Security in 2002. By establishing its own investigatory body, Miami-Dade stepped in to address an issue on which the state had explicitly decided to no longer act.

Despite a clear problem with wage theft in Florida—as illustrated by the success of the Miami-Dade ordinance—state lawmakers in 2019 attempted to negate Miami-Dade's wage theft ordinance and prohibit all counties in Florida from enacting measures to combat wage theft. The bill would have overturned wage theft ordinances across the state and prevented local governments from establishing any ordinance governing the conditions of employment within that jurisdiction.⁸ The legislation would have prohibited local laws on everything from minimum wage, paid sick days, and fair scheduling laws to ban-the-box policies and wage theft victims' rights (Haddow, Gad, and Fleury 2019). The bill died in committee, although similar legislation has passed in other Southern states (Riverstone-Newell 2017).

Table 9 displays the number of workers in Florida and in Miami-Dade County who are likely experiencing minimum wage violations. Of the 456,177 workers in Florida who are likely subject to minimum wage violations, 223,983 are women. Substantial numbers are also Black (72,076) and Latinx (128,642). The failed bill to prohibit wage theft measures would have denied communities the opportunity to protect these workers from this egregious exploitation.

For the city of Miami, this bill represented an even more direct attack on Black and Latinx workers. Of the estimated 44,914 Miamians who experience minimum wage violations, 32,338—or nearly three-quarters—are Latinx. There are also more Black workers than white workers experiencing minimum wage violations in Miami.

The estimates in Table 9 apply the statewide *overall* share of minimum-wage-eligible workers who have experienced minimum wage violations—7.3%—from Cooper and Kroeger 2017 to the number of minimum-wage-eligible workers in each demographic group. This likely results in an undercount of the number of women and workers of color who experience minimum wage violations, since they actually experience these unfair practices at higher rates than the overall workforce. Women in Florida experience these

violations more often than men (8.4% of minimum-wage-eligible workers vs. 6.4%), as do Black and Latinx workers (Cooper and Kroeger 2017).

It is also possible that the prevalence of wage theft is lower in Miami than in the rest of the state, thanks to the wage theft ordinance. However, there is evidence that many cases of wage theft in Miami go unreported and that the agency tasked with enforcement does not have adequate resources or a broad enough jurisdiction to handle cases efficiently (Hernandez 2012). In any case, eliminating Miami-Dade’s authority to regulate wage theft would disproportionately leave women and Black and Latinx workers worse off; policymakers must defend against this. At the same time, policymakers should prioritize strengthening the enforcement mechanisms for the ordinance.

Salary history bans: West Virginia

In 2019, the West Virginia state legislature sought to block cities from enacting salary history bans. Disclosing prior salaries during the hiring process can perpetuate and compound salary inequities throughout a worker’s career by undermining their ability to bargain during salary negotiations. Research has shown that salary history bans raise wages for all workers, in particular women and Black workers.

To close racial and gender pay gaps, policymakers across the country have begun to ban employer questions about pay history (Douglas 2019). However, as with wage theft, some lawmakers have tried to proactively preempt local action on this issue. In West Virginia, this led to a bill that would have—in addition to interfering with a whole host of other local labor standards and nondiscrimination regulations—blocked cities in West Virginia from enacting salary history bans (Haddow, Gad, and Fleury 2019). Although this sweeping bill died in committee, it signals a clear desire from lawmakers to interfere with local action on worker’s rights issues.⁹

Gender and racial wage gaps are real, large, and persistent. In 2019, the typical woman worker was paid just 85.0% of what her male peers were. These inequalities persist, and are in fact larger, between women and men with more education. Racial wage gaps are even more egregious, with the typical Black and Latinx worker being paid about three-quarters the hourly wages of white workers, 75.6% and 74.6%, respectively (Gould 2020).

When workers face lower pay from the beginning of their career, disclosing their prior salaries during a hiring process can perpetuate and compound these inequalities throughout their career by undermining their ability to bargain over pay during negotiations over a job.

A recent report confirmed the effectiveness of salary history bans and found that these bans also make employers more likely to include salary ranges in their job postings. Among all “job-changers,” workers experienced a 5% increase in pay after salary history bans were enacted. Women and Black workers saw particularly strong effects, with

women who change jobs seeing an 8% increase in pay and Black workers seeing a 13% increase (Bessen, Meng, and Denk 2020). Since Black workers and women experience outsized effects, these policies help shrink existing pay gaps. The report estimates that salary history bans reduce the gender wage gap by 48% for job-changers and found an even stronger effect for the Black–white wage gap.

As shown in **Figure G**, the gender wage gap in West Virginia is apparent among workers at all wage levels. The typical woman in West Virginia is paid just 78.8% of what the typical man in West Virginia is paid. And even for those who earn the most, the gender wage gap is inescapable. At the 90th percentile, male wage earners in West Virginia are paid \$40.07 an hour, which translates into \$83,300 for a full-time, full-year worker. This is 20.7% more than their female peers, who are paid \$33.19 an hour, or \$69,000 annually.

A salary history ban would boost the wages of West Virginian workers by helping to even the playing field as workers go into wage negotiations. This, along with the related mitigating effects on pay inequalities, are strong reasons why legislators should champion salary history bans at the state and local levels. Preempting local action on salary history bans would harm workers in West Virginia—and particularly women and workers of color.

Preemption and the pandemic

Many Southern states that relied on limiting the authority of local governments before the onset of the pandemic in 2020 have made broad use of preemption during the pandemic. Many executive orders issued since by Southern governors have outlawed local public health measures that were stricter than the standards set by the state:

- A Mississippi executive order issued on March 24, 2020, forbade political subdivisions (including cities and counties) from imposing social distancing regulations or business shutdowns stricter than the state’s (LSSC 2020a).
- On April 7, 2020, the governor of South Carolina issued an executive order explicitly disallowing local stay-at-home orders stricter than the state’s.¹⁰
- In Florida, an executive order issued on April 1, 2020, “clarified” that state-level orders superseded local ones. The next day, the governor explained that cities could still enact stricter coronavirus-related protections. The ensuing confusion resulted in local officials being reluctant to enact stay-at-home orders or require businesses to close (Lemongello, Man, and Rohrer 2020).
- On March 26, 2020, the governor of Arkansas issued an executive order prohibiting local stay-at-home requirements, arguing that such regulations would interfere with essential operations and commerce (LSSC 2020b).
- On May 11, 2020, Texas Attorney General Ken Paxton threatened to sue city officials in Austin, Dallas, and San Antonio unless they rolled back “unlawful” local emergency orders that imposed stricter public health safety measures than the state allowed (Platoff 2020).

The pandemic, far from being a “great equalizer,” is deepening existing inequalities along racial lines. The virus has taken the lives of Black, Indigenous, Pacific Islander, and Latinx people at higher rates than white people (APM 2020). This inequality of health outcomes is coupled with an economic crisis that is disproportionately affecting communities of color. Black and Latinx workers face economic conditions that have left them particularly vulnerable to this crisis. They are paid less, are more likely to be living in poverty, and are less likely to have access to paid sick leave than white workers (Gould and Wilson 2020; Gould, Perez, and Wilson 2020).

Black workers are more likely to be front-line workers—employed in essential industries such as health care, child care and social services, and grocery, convenience, and drug stores—putting them and their families at even greater risk and compounding the existing health inequalities they face. About one in six front-line workers are Black, even though only one in nine workers are Black in the overall workforce. At the same time, Black workers are less likely to have health insurance and to have paid leave than white workers (Gould and Wilson 2020).

Latinx workers are less likely than other workers to be able to work from home, leaving them prone to job loss or exposure to coronavirus on the job. In particular, Latinx workers are disproportionately employed in the leisure and hospitality industry, which experienced the largest job losses of any industry at the beginning of the pandemic. Latina workers, who already had a higher unemployment rate than white workers, experienced the largest spike in unemployment between February and April of any group (Gould, Perez, and Wilson 2020).¹¹

Preemption plays a role in reinforcing these inequalities when it is used to directly hamper local policies intended to mitigate the public health and economic fallout of the pandemic. It could instead be used to ensure that health and economic equity is being advanced evenly across a state. Misuse of preemption has also prevented localities in some states from enacting policies that would have made them better equipped to deal with the pandemic, including paid sick leave, eviction moratoria, and municipal broadband. As a result, these localities are unable to ensure that their residents have access to sick leave during a pandemic, secure housing during an economic crisis, and better internet access when it is needed to attend work and school (Haddow et al. 2020).

Conclusion

In the face of the COVID-19 pandemic and resulting economic crisis, cities and states should be working together to enact policies that will protect their residents’ health and promote equity during both the crisis and the recovery. Instead, some state policymakers continue to interfere with local policymakers’ authority to enact and enforce policies to protect their residents. During this pandemic, preemption has too often stifled local responses and generated confusion.

The public health and economic crises stemming from COVID-19 have disproportionately impacted the same communities that had already seen their power limited by state

government interference in local democracy. Poor wages and working conditions, limited public investments, and higher rates of incarceration resulting in higher poverty rates have left Southern populations particularly vulnerable to the current economic crisis (Blair and Worker 2020a). Southern policymakers have also ensured that the region has particularly low access to unemployment insurance, paid sick leave, and health care (Blair and Worker 2020b).

In the cases outlined here, Southern lawmakers prevented local action that would have improved economic outcomes for low-income workers, especially low-income women and people of color. These are populations that had already been left particularly economically vulnerable by American institutions, and now these populations are suffering disproportionately from a dual public health and economic crisis (Wilson 2020). As discussed earlier, the present-day failures of American institutions are also rooted in historical policies and practices intended to limit the rights and freedoms of Black people and entrench white supremacy.

Rather than allowing for policies that would improve employment outcomes, wages, and working conditions, state lawmakers and corporate interests have collaborated to prevent progress. State interference fundamentally undermines the ability of cities to address problems with targeted solutions that address the needs and reflect the values of their communities. Because of the deliberate, long-time use of preemption to maintain the racial and economic order, workers in the South who were already vulnerable before the pandemic are now struggling with the effects of widening and deepening inequities.

Acknowledgments

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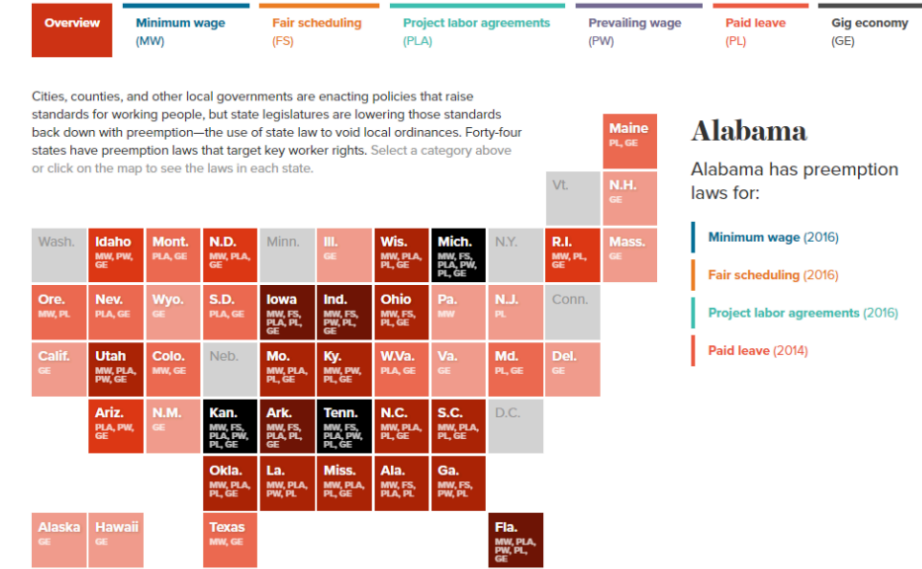
Notes

1. In this section, Nashville refers to the consolidated city-county metro of Nashville-Davidson County. Nashville accounts for the vast majority of Davidson County's population and the city and county governments have been consolidated since 1963 (Bucy n.d.). Unless otherwise noted, statistics for "Nashville" represent Nashville-Davidson County.
2. Since data for Louisville are not included in Collins et al., we use nearby cities (Cincinnati, Cleveland, Columbus, and Memphis) to get a range of estimates. Of that group, Memphis had the lowest share of gig workers (1.0%) and Columbus had the highest (2.0%). Number of tax filers retrieved from <https://www.irs.gov/statistics/soi-tax-stats-county-data-2016>, August 3, 2020.
3. *Comm. Substitute for S.B. 2112, 2020 Sen., Reg. Sess. (Miss. 2020)*.
4. *S.B. 2689, 2014 Sen., Reg. Sess. (Miss. 2014)*.
5. Diller explains that the Louisiana constitution states that "[n]o local governmental subdivision shall...except as provided by law, enact an ordinance governing private or civil relationships." Yet despite this strong language, courts in Louisiana have generally weakened or struck down local measures based on other grounds, rarely invoking the state constitution.
6. In straight, nominal terms, the median wage for construction workers was 21.9% higher in prevailing wage states versus states without prevailing wage laws. When the wage values are adjusted using the Bureau of Economic Analysis's Regional Price Parities to account for regional price differences, the gap narrows to 13.0%.
7. Nationally, the May 2019 median wage for construction workers was \$22.80 hourly and \$47,430 annually. Median hourly wages by race/ethnicity are calculated by applying the ratio of each race/ethnicity's median annual wages to the overall annual median and hourly median from the Occupational Employment Statistics.
8. *S.B. 432, Sen. (Fla. 2019)*.
9. *H.B. 2708, House (W.V. 2019), bill status*.
10. *S.C. Exec. Order 2020-22*.
11. For a detailed exploration of the dual health and economic crises that are deepening the inequalities faced by Black and Latinx workers, see *Black Workers Face Two of the Most Lethal Preexisting Conditions for Coronavirus—Racism and Economic Inequality* and *Latinx Workers—Particularly Women—Face Devastating Job Losses in the COVID-19 Recession*.

Figure A

Preemption of worker rights is widespread in the South

Map of the campaign to suppress worker rights in the states, 1984–2019



Notes: For an interactive version of this map, visit <https://www.epi.org/preemption-map/>. Last updated August 2019.

Source: EPI analysis of preemption laws in all 50 states.

Economic Policy Institute

Table 1

Preemption in the South is intertwined with Confederate history and anti-Black racism

Removal of Confederate symbols in states with 'statue statutes'

State	Total erected	Total still standing	Removed so far in 2020	Total removed	Total share removed
<i>Alabama</i>	125	121	2	4	3.2%
<i>Georgia</i>	207	199	2	8	3.9%
<i>Kentucky</i>	42	37	2	5	11.9%
<i>Mississippi</i>	146	145	1	1	0.7%
<i>North Carolina</i>	176	158	10	18	10.2%
<i>South Carolina</i>	196	194	0	2	1.0%
<i>Tennessee</i>	113	104	0	9	8.0%
Total	1,005	958	17	47	4.7%

Notes: Share removed is calculated as the number of Confederate statues removed over the total number of Confederate statues erected (as of August 2, 2020).

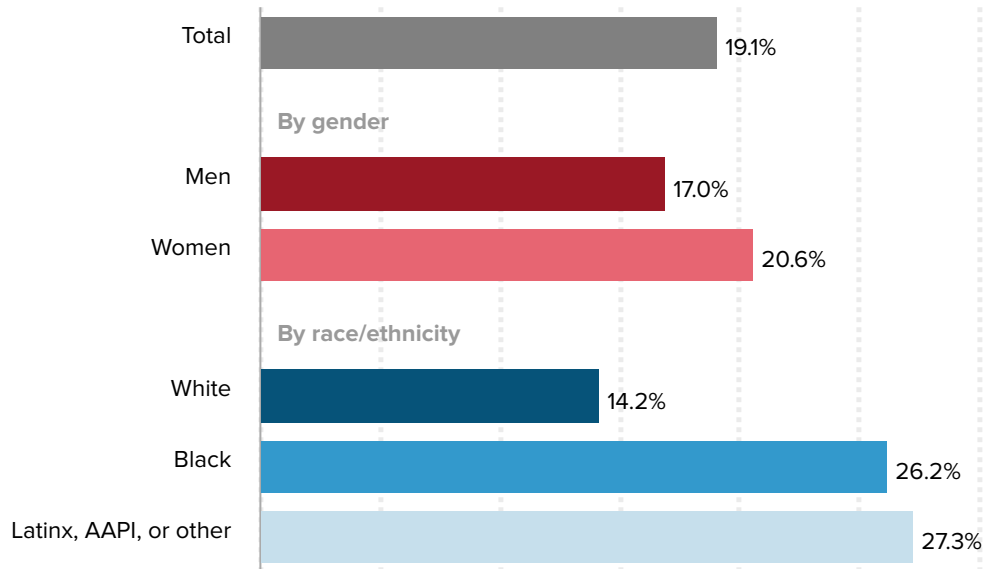
Source: EPI analysis of [Whose Heritage? Public Symbols of the Confederacy](#) [data set], retrieved from Southern Poverty Law Center, August 2, 2020.

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Figure B

Preemption of the Birmingham minimum wage ordinance disproportionately harms workers of color and women

Workers directly affected by minimum wage increase from \$7.25 to \$10.10 by July 2017 in Birmingham’s Jefferson County, Alabama, by demographic



Notes: To update these estimates of affected workers from 2014 to 2017, we assume annual working-age population growth of 1.09% based on 2012–2022 annualized labor force growth rate projections for Workforce Development Region 4 from the [Alabama Department of Labor](#) and annual nominal wage growth of 1.44% from 2014–2017 (Alabama average annual wage growth of bottom 20% of wage earners from 2013–2015, according to EPI analysis of CPS-ORG microdata).

Source: Economic Policy Institute analysis of American Community Survey microdata, 2014.

Economic Policy Institute

Table 2

Most workers who would directly benefit from raising the minimum wage are people of color

Workers directly affected by minimum wage increase from \$7.25 to \$10.10 by July 2017 in Birmingham's Jefferson County, Alabama, by demographic

Category	Estimated workforce	Category's share of workforce	Directly affected workers	Share of category directly affected	Category's share of directly affected
Total	340,000	100.0%	65,000	19.1%	100.0%
Race/ethnicity					
White	211,000	62.1%	30,000	14.2%	46.2%
Black	107,000	31.5%	28,000	26.2%	43.1%
Latinx, AAPI, or other	22,000	6.5%	6,000	27.3%	9.2%
Gender					
Women	170,000	50.0%	35,000	20.6%	53.8%
Men	171,000	50.3%	29,000	17.0%	44.6%

Notes: Numbers shown in table may not sum due to rounding. To update these estimates of affected workers from 2014 to 2017, we assume annual working-age population growth of 1.09% based on 2012–2022 annualized labor force growth rate projections for Workforce Development Region 4 from the [Alabama Department of Labor](#) and annual nominal wage growth of 1.44% from 2014–2017 (Alabama average annual wage growth of bottom 20% of wage earners from 2013–2015, according to EPI analysis of CPS-ORG microdata).

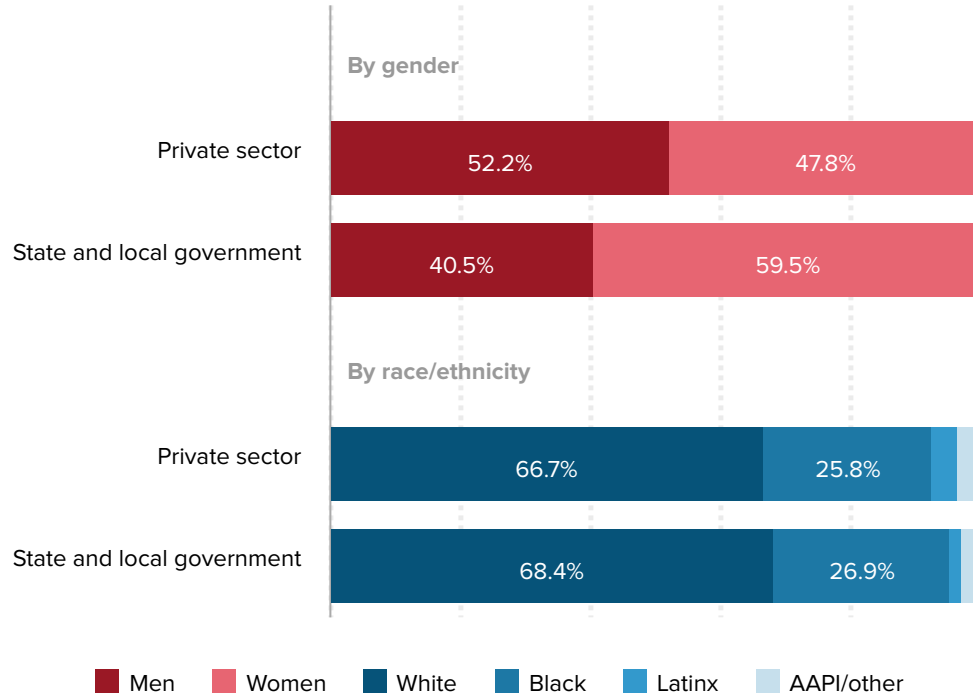
Source: Economic Policy Institute analysis of American Community Survey microdata, 2014.

Economic Policy Institute

Figure C

Women and Black workers are disproportionately employed in state and local government in Alabama

Demographic comparison of the private-sector and state and local government workforces in Alabama



Source: EPI analysis of American Community Survey microdata, pooled years 2017–2018.

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Table 3

Women make up a majority of Alabama's state and local government workers

Demographics of the overall, private-sector, and state and local public-sector workforces in Alabama

	Total workforce		Private sector		State and local government	
	Workers	Share of sector	Workers	Share of sector	Workers	Share of sector
All	1,894,700	100.0%	1,584,900	100.0%	246,500	100.0%
Gender						
Men	962,500	50.8%	826,900	52.2%	99,800	40.5%
Women	932,200	49.2%	758,000	47.8%	146,700	59.5%
Race/ethnicity						
White	1,266,300	66.8%	1,057,600	66.7%	168,700	68.4%
Black	494,400	26.1%	408,400	25.8%	66,200	26.9%
Latinx	70,800	3.7%	65,000	4.1%	4,400	1.8%
AAPI/other	63,200	3.3%	53,900	3.4%	7,100	2.9%
Men of color	294,300	15.5%	255,500	16.1%	29,200	11.8%
Women of color	334,100	17.6%	271,800	17.1%	48,500	19.7%
Not a person of color	1,266,300	66.8%	1,057,600	66.7%	168,700	68.4%
Educational attainment						
Less than high school	164,200	8.7%	153,000	9.7%	10,300	4.2%
High school	525,000	27.7%	473,100	29.9%	42,300	17.2%
Some college	467,800	24.7%	408,800	25.8%	44,800	18.2%
Associate degree	187,800	9.9%	162,000	10.2%	20,500	8.3%
Bachelor's or advanced degree	549,900	29.0%	388,100	24.5%	128,600	52.2%

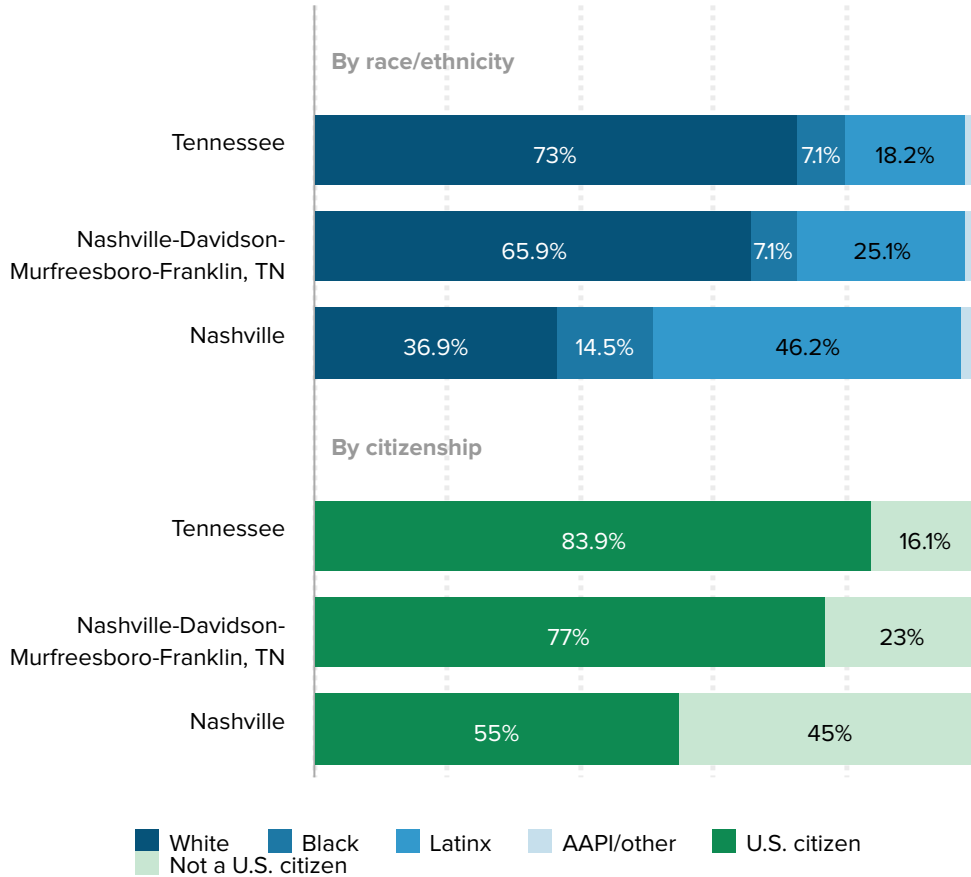
Source: EPI analysis of American Community Survey microdata, pooled years 2017–2018.

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Figure D

Nashville’s preempted local hire ballot measure would have secured more jobs for workers of color

Demographic comparison of construction workers in Nashville, the Nashville metro area, and Tennessee



Note: Nashville refers to the consolidated city-county metro of Nashville-Davidson County. Nashville accounts for the vast majority of Davidson County’s population and the city and county governments have been consolidated since 1963 (Bucy n.d.).

Source: EPI analysis of five-year 2018 American Community Survey microdata.

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Table 4

A majority of Nashville's construction workers are people of color and half were born outside of the U.S.

Demographics of construction workers in Tennessee

	Tennessee		Nashville-Davidson-Murfreesboro-Franklin, TN		Nashville-Davidson County	
	Workers	Share	Workers	Share	Workers	Share
All construction workers	139,400	100.0%	51,200	100.0%	17,000	100.0%
Race/ethnicity						
<i>White</i>	101,800	73.0%	33,700	65.9%	6,300	36.9%
<i>Black</i>	9,900	7.1%	3,600	7.1%	2,500	14.5%
<i>Latinx</i>	25,300	18.2%	12,800	25.1%	7,900	46.2%
<i>AAPI/other</i>	2,400	1.7%	1,000	1.9%	400	2.5%
Gender						
<i>Men</i>	126,200	90.5%	46,000	89.9%	15,500	90.9%
<i>Women</i>	13,200	9.5%	5,200	10.1%	1,500	9.1%
Citizenship						
<i>U.S.-born</i>	114,500	82.1%	38,000	74.3%	8,600	50.5%
<i>Naturalized U.S. citizen</i>	2,600	1.8%	1,400	2.7%	800	4.6%
<i>Not a U.S. citizen</i>	22,400	16.1%	11,800	23.0%	7,700	45.0%

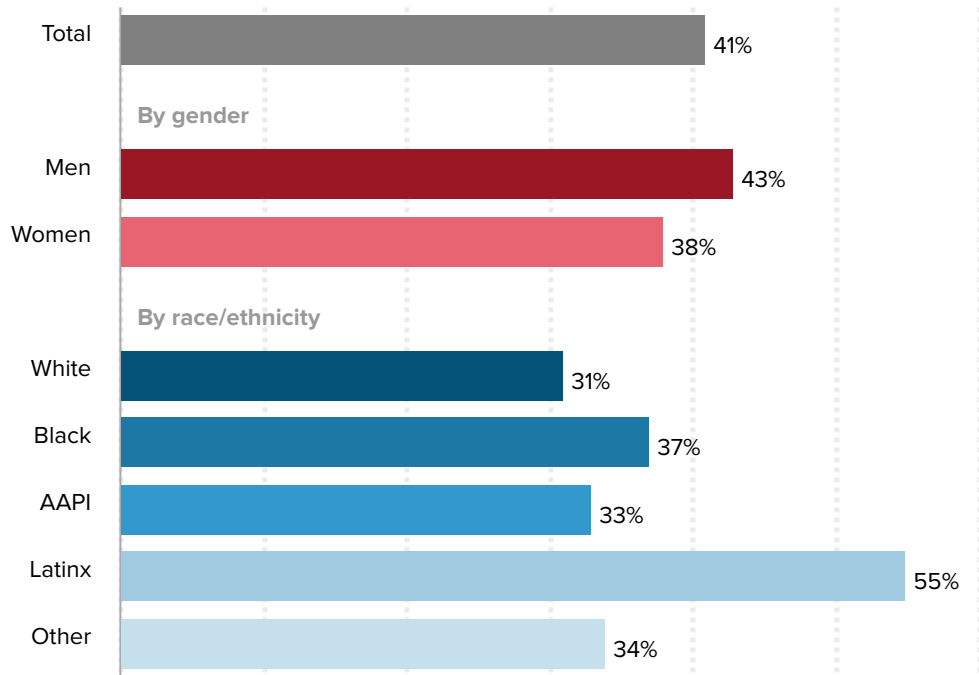
Source: EPI analysis of five-year 2018 American Community Survey microdata.

Economic Policy Institute

Figure E

The preemption of Dallas’s paid sick leave ordinance is particularly harmful to Black and Latinx workers

Share of workers without access to paid sick leave in Dallas, by demographic, 2016



Source: Institute for Women’s Policy Research analysis of 2014–2016 National Health Interview Survey (NHIS) and 2016 IPUMS American Community Survey (ACS).

Economic Policy Institute

Table 5

A majority of Latinx workers and one in three Black workers in Dallas do not have access to paid sick leave

Number and share of workers without access to paid sick leave in Dallas, 2016

	Number in the Dallas workforce	Number without sick leave	Share without sick leave
Total	736,190	301,838	41%
Gender			
Men	401,602	172,689	43%
Women	339,866	129,149	38%
Race/ethnicity			
White	285,481	88,499	31%
Black	141,578	52,384	37%
AAPI	43,027	14,199	33%
Latinx	257,129	141,421	55%
Other	15,691	5,335	34%

Source: Institute for Women's Policy Research analysis of 2014–2016 National Health Interview Survey (NHIS) and 2016 IPUMS American Community Survey (ACS).

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Table 6

Half of the retail and food service workers that preempted fair scheduling laws in Atlanta would protect are Black

Demographics of nonmanagerial retail and food service workers in Georgia and Atlanta

	Georgia		Atlanta	
	Workers	Share	Workers	Share
All	750,926	100.0%	28,991	100.0%
Race/ethnicity				
White	374,454	49.9%	11,050	38.1%
Black	255,405	34.0%	14,627	50.5%
Latinx	69,077	9.2%	1,938	6.7%
AAPI/other	51,990	6.9%	1,376	4.7%
Gender				
Men	354,720	47.2%	14,127	48.7%
Women	396,206	52.8%	14,864	51.3%

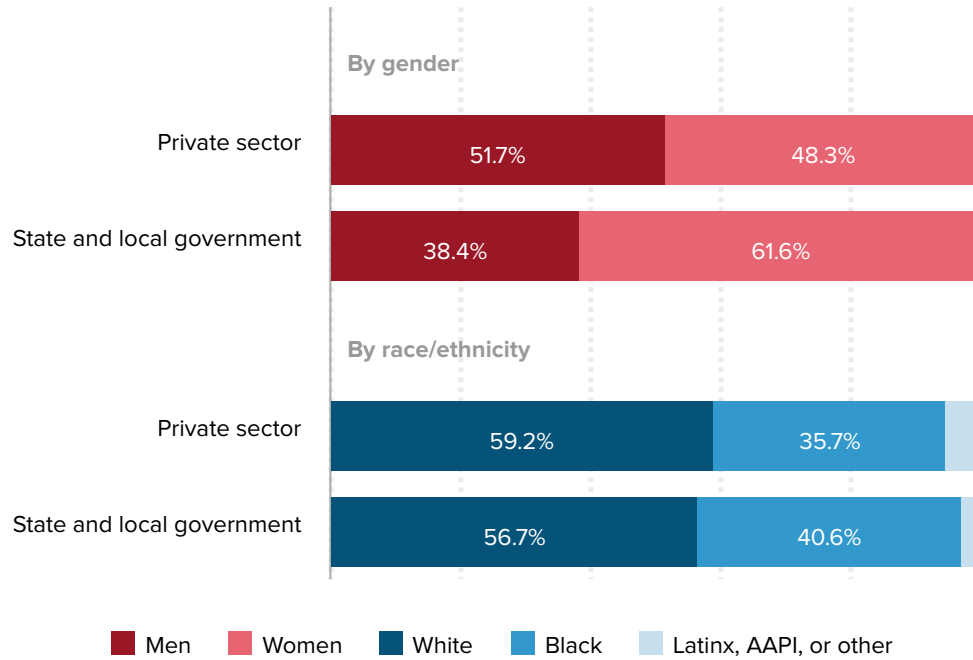
Source: EPI analysis of five-year 2018 American Community Survey microdata.

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Figure F

Banning the box for public-sector workers could lead to even higher shares of Black workers in state and local government in Mississippi

Demographic comparison of the private-sector and state and local government workforces in Mississippi



Source: EPI analysis of American Community Survey and Current Population Survey Outgoing Rotation Group microdata, pooled years 2017–2018.

Economic Policy Institute

Table 7

State and local governments disproportionately employ Black workers and women in Mississippi

Demographics of the overall, private-sector, and state and local public-sector workforces in Mississippi

	Total workforce		Private sector		State and local government	
	Workers	Share of sector	Workers	Share of sector	Workers	Share of sector
All	1,123,700	100.0%	900,200	100.0%	186,000	100.0%
Gender						
Men	557,400	49.6%	465,500	51.7%	71,400	38.4%
Women	566,300	50.4%	434,700	48.3%	114,500	61.6%
Race/ethnicity						
White	658,500	58.6%	532,900	59.2%	105,400	56.7%
Black	409,200	36.4%	321,100	35.7%	75,500	40.6%
Latinx	30,600	2.7%	27,500	3.1%	*	*
AAPI/ other	25,400	2.3%	18,800	2.1%	*	*
Men of color	211,500	18.8%	175,400	19.5%	28,400	15.3%
Women of color	253,700	22.6%	192,000	21.3%	52,100	28.0%
Not a person of color	658,500	58.6%	532,900	59.2%	105,400	56.7%
Educational attainment						
Less than high school	95,500	8.5%	87,700	9.7%	6,600	3.5%
High school	300,600	26.8%	262,600	29.2%	32,400	17.4%
Some college, no degree	284,300	25.3%	241,200	26.8%	33,200	17.8%
Associate degree	147,200	13.1%	119,100	13.2%	21,300	11.5%
Bachelor's degree or higher	296,100	26.4%	189,600	21.1%	92,400	49.7%

Note: *Value not available due to insufficient sample size.

Source: EPI analysis of American Community Survey microdata, pooled years 2017–2018.

Economic Policy Institute

Table 8

Preemption prevents prevailing wage laws from increasing economic security, especially for Black and Latinx workers

Count, shares, and wages of construction workers, by race/ethnicity, in Louisiana and the New Orleans–Metairie metropolitan statistical area

	Statewide			New Orleans–Metairie MSA		
	Count / Shares	Median annual wages (2019\$)	Median hourly wage (2019\$)	Count / Shares	Median annual wages (2019\$)	Median hourly wage (2019\$)
Total	129,565	\$40,726	\$21.27	35,271	\$38,690	\$20.46
White	64.7%	\$47,854	\$24.99	41.1%	\$46,835	\$24.77
Black	17.4%	\$35,636	\$18.61	25.2%	\$38,690	\$20.46
Latinx	16.1%	\$25,454	\$13.29	30.2%	\$25,454	\$13.46
AAPI/other	1.8%	\$50,908	\$26.59	3.6%	\$32,581	\$17.23

Notes: Nationally, the May 2019 median wage for construction workers was \$22.80 hourly and \$47,430 annually. Median hourly wages by race/ethnicity are calculated by applying the ratio of each group's median annual wages, calculated from American Community Survey microdata, to the overall annual median and hourly median from the Occupational Employment Statistics.

Source: EPI analysis of 2018 American Community Survey microdata and May 2019 Occupational Employment Statistics.

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Table 9

Attempted preemption of Miami’s wage theft ordinance would worsen the widespread problem of minimum wage violations

Number of workers experiencing minimum wage violations in Miami-Dade County and Florida

	Number of workers experiencing minimum wage violations	
	Florida statewide	Miami-Dade County
All	456,177	44,914
Gender		
Men	232,194	22,996
Women	223,983	21,918
Race/ethnicity		
White	232,194	5,210
Black	72,076	6,243
Latinx	128,642	32,338
AAPI/other	23,721	1,123

Note: For calculations for both the statewide and Miami-Dade estimates, we use the statewide estimates from Cooper and Kroeger 2017 of the share of the workforce that is minimum-wage-eligible and the share of minimum-wage-eligible workers that experience minimum wage violations in each demographic group.

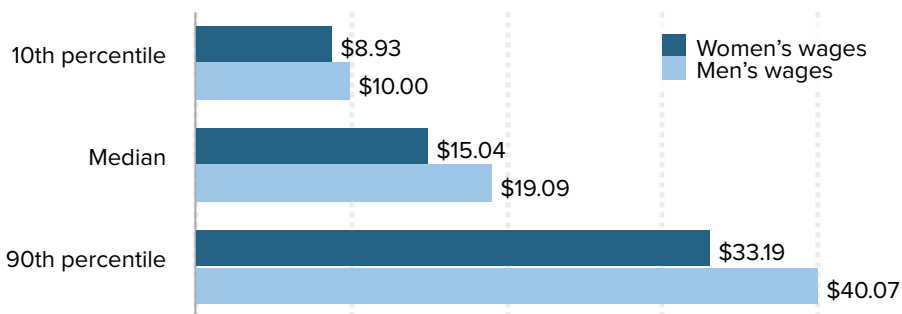
Source: EPI analysis of 2018 American Community Survey microdata data and Cooper and Kroeger 2017.

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Figure G

The gender wage gap in West Virginia persists and salary history bans could help to close it

Hourly wages by gender and wage decile, West Virginia



Source: EPI analysis of Current Population Survey Outgoing Rotation Group microdata, 2019.

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Demographic comparison of the state of Alabama, the city of Birmingham, the city of Montgomery, and the Alabama state legislature

	Total population			Voting-age citizen population			State legislature
	Alabama	Birmingham	Montgomery	Alabama	Birmingham	Montgomery	
Total	4,887,871	189,807	195,469	3,712,212	160,034	145,638	140
Race/ethnicity							
White	65.3%	22.1%	31.1%	68.7%	26.3%	33.4%	75.0%
Black	26.7%	69.2%	60.8%	26.3%	69.2%	63.8%	22.1%
Latinx	4.3%	5.5%	3.2%	2.2%	1.8%	1.2%	0.0%
AAPI/other	3.7%	3.2%	4.9%	2.8%	2.7%	1.6%	0.7%
Gender							
Men	48.4%	47.1%	47.0%	47.5%	44.9%	45.7%	84.3%
Women	51.6%	52.9%	53.0%	52.5%	55.1%	54.3%	15.7%
Age							
17 and under	22.2%	20.8%	23.8%	–	–	–	–
18–29	16.3%	19.8%	18.0%	20.7%	25.6%	24.0%	–
30–44	18.4%	18.7%	19.6%	23.1%	23.1%	25.1%	–
45–64	26.1%	25.0%	24.7%	33.9%	31.5%	31.9%	–
65 and over	17.0%	15.6%	13.9%	22.2%	19.8%	18.9%	–
Citizenship							
U.S.-born	96.7%	95.7%	94.8%	–	–	–	–
Naturalized citizen	1.3%	0.8%	2.1%	–	–	–	–
Not a citizen	2.0%	3.5%	3.1%	–	–	–	–
Poverty status							
Poverty level	800,422	54,536	40,590	524,972	36,269	23,459	–
Poverty rate	16.8%	27.1%	21.2%	14.5%	23.7%	16.8%	–

Note: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

Demographic comparison of the state of Tennessee, the city of Nashville, and the Tennessee state legislature

	Total population		Voting-age citizen population		State legislature
	Tennessee	Nashville	Tennessee	Nashville	
Total	6,770,010	693,426	5,075,166	479,814	132
Race/ethnicity					
White	73.6%	55.9%	78.4%	64.8%	82.6%
Black	16.7%	26.6%	16.3%	26.2%	12.9%
Latinx	5.5%	10.4%	2.5%	3.9%	0.8%
AAPI/other	4.2%	7.1%	2.8%	5.1%	2.3%
Gender					
Men	48.8%	48.1%	47.8%	47.1%	84.8%
Women	51.2%	51.9%	52.2%	52.9%	14.4%
Age					
17 and under	22.3%	20.6%	–	–	–
18–29	16.3%	20.7%	20.8%	25.8%	–
30–44	18.9%	22.9%	23.5%	27.8%	–
45–64	26.3%	23.5%	34.1%	30.0%	–
65 and over	16.3%	12.2%	21.6%	16.3%	–
Citizenship					
U.S.-born	94.7%	85.5%	–	–	–
Naturalized citizen	2.1%	5.9%	–	–	–
Not a citizen	3.2%	8.6%	–	–	–
Poverty status					
Poverty level	1,011,016	100,253	638,676	52,137	–
Poverty rate	15.3%	15.6%	12.9%	11.3%	–

Note: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

Demographic comparison of the state of Texas, the city of Dallas, and the Texas state legislature

	Total population		Voting-age citizen population		State legislature
	Texas	Dallas	Texas	Dallas	
Total	28,701,845	1,102,996	18,502,334	784,799	181
Race/ethnicity					
White	41.4%	30.8%	50.8%	41.4%	64.6%
Black	11.9%	22.5%	13.1%	27.5%	9.9%
Latinx	39.6%	42.5%	30.4%	23.8%	23.8%
AAPI/other	7.1%	4.2%	5.7%	7.3%	1.7%
Gender					
Men	49.7%	50.3%	48.9%	48.1%	76.2%
Women	50.3%	49.7%	51.1%	51.9%	23.8%
Age					
17 and under	25.8%	25.0%	–	–	–
18–29	17.2%	19.1%	23.8%	26.4%	–
30–44	20.8%	22.6%	26.1%	27.2%	–
45–64	23.7%	22.3%	32.0%	29.7%	–
65 and over	12.5%	11.1%	18.2%	16.7%	–
Citizenship					
U.S.-born	82.8%	76.0%	–	–	–
Naturalized citizen	6.5%	6.1%	–	–	–
Not a citizen	10.7%	17.8%	–	–	–
Poverty status					
Poverty level	4,180,675	187,361	2,057,713	110,860	–
Poverty rate	14.9%	17.0%	11.4%	14.3%	–

Note: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

Demographic comparison of the state of Georgia, the city of Atlanta, and the Georgia state legislature

	Total population		Voting-age citizen population		State legislature
	Georgia	Atlanta	Georgia	Atlanta	
Total	10,519,475	419,820	7,486,799	383,740	236
Race/ethnicity					
White	52.2%	40.5%	58.2%	43.1%	69.5%
Black	31.2%	47.2%	32.0%	48.0%	25.4%
Latinx	9.7%	5.0%	5.0%	3.4%	1.3%
AAPI/other	6.9%	7.3%	4.8%	5.5%	2.50%
Gender					
Men	48.7%	50.2%	47.5%	48.3%	69.1%
Women	51.3%	49.8%	52.5%	51.7%	30.5%
Age					
Under 17	23.8%	17.7%	–	–	–
18–29	16.9%	26.5%	22.3%	30.6%	–
30–44	20.0%	24.9%	24.9%	28.4%	–
45–64	25.4%	20.8%	33.8%	26.8%	–
65 and over	13.9%	10.2%	19.0%	14.20%	–
Citizenship					
U.S.-born	89.9%	91.5%	–	–	–
Naturalized citizen	4.5%	3.0%	–	–	–
Not a citizen	5.6%	5.5%	–	–	–
Poverty status					
Poverty level	1,468,642	93,612	879,107	60,538	–
Poverty rate	14.3%	20.2%	12.1%	17.1%	–

Note: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

Demographic comparison of the state of Kentucky, the city of Louisville, and the Kentucky state legislature

	Total population		Voting-age citizen population		State legislature
	Kentucky	Louisville	Kentucky	Louisville	
Total	4,468,402	375,577	3,368,919	273,484	138
Race/ethnicity					
White	84.5%	79.9%	88.1%	71.3%	92.0%
Black	7.8%	11.0%	7.7%	23.8%	5.8%
Latinx	3.6%	3.7%	1.7%	1.2%	1.4%
AAPI/other	4.0%	5.4%	2.5%	3.7%	0.0%
Gender					
Men	49.1%	47.2%	48.5%	47.5%	77.5%
Women	50.9%	52.8%	51.5%	52.5%	22.5%
Age					
17 and under	22.5%	20.1%	–	–	–
18–29	16.3%	14.8%	20.9%	21.5%	–
30–44	18.5%	20.4%	23.3%	23.8%	–
45–64	26.2%	26.2%	34.3%	33.1%	–
65 and over	16.4%	18.4%	21.6%	21.7%	–
Citizenship					
U.S.-born	96.2%	92.2%	–	–	–
Naturalized citizen	1.6%	3.9%	–	–	–
Not a citizen	2.2%	3.9%	–	–	–
Poverty status					
Poverty level	730,408	26,384	483,797	49,584	–
Poverty rate	16.9%	7.0%	14.9%	18.1%	–

Note: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

Demographic comparison of the state of Mississippi, the city of Jackson, and the Mississippi state legislature

	Total population		Voting-age citizen population		State legislature
	Mississippi	Jackson	Mississippi	Jackson	
Total	2,986,530	231,297	2,240,658	124,238	174
Race/ethnicity					
White	56.4%	23.5%	59.3%	23.5%	69.0%
Black	37.9%	72.8%	37.2%	74.0%	28.7%
Latinx	2.9%	2.1%	1.6%	1.3%	0.6%
AAPI/other	2.8%	1.6%	1.8%	1.2%	1.1%
Gender					
Men	48.4%	45.8%	47.4%	45.2%	83.9%
Women	51.6%	54.2%	52.6%	54.8%	14.9%
Age					
17 and under	23.6%	23.8%	–	–	–
18–29	16.8%	20.1%	21.9%	27.3%	–
30–44	18.8%	20.2%	24.3%	25.8%	–
45–64	24.9%	22.5%	32.8%	29.3%	–
65 and over	15.9%	13.3%	21.1%	17.6%	–
Citizenship					
U.S.-born	97.5%	98.4%	–	–	–
Naturalized citizen	0.9%	0.5%	–	–	–
Not a citizen	1.5%	1.1%	–	–	–
Poverty status					
Poverty level	567,645	34,484	366,921	19,168	–
Poverty rate	19.7%	21.9%	17.0%	16.3%	–

Note: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

Demographic comparison of the state of Louisiana, the city of New Orleans, and the Louisiana state legislature

	Total population		Voting-age citizen population		State legislature
	Louisiana	New Orleans	Louisiana	New Orleans	
Total	4,659,978	391,307	3,459,079	302,759	144
Race/ethnicity					
White	58.4%	30.4%	62.2%	33.7%	76.4%
Black	32.1%	58.6%	31.7%	57.9%	22.9%
Latinx	5.1%	5.6%	3.1%	3.8%	0.7%
AAPI/other	4.4%	5.5%	3.0%	4.7%	0.0%
Gender					
Men	48.9%	47.4%	47.9%	46.3%	83.3%
Women	51.1%	52.6%	52.1%	53.7%	14.6%
Age					
17 and under	23.5%	20.0%	–	–	–
18–29	16.5%	17.3%	21.3%	21.6%	–
30–44	19.4%	22.9%	25.0%	27.9%	–
45–64	25.1%	25.0%	33.0%	31.6%	–
65 and over	15.5%	14.8%	20.6%	18.9%	–
Citizenship					
U.S.-born	95.9%	94.4%	–	–	–
Naturalized citizen	1.7%	2.9%	–	–	–
Not a citizen	2.4%	2.7%	–	–	–
Poverty status					
Poverty level	843,626	89,130	535,282	61,692	–
Poverty rate	18.6%	23.8%	16.0%	21.5%	–

Note: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

Demographic comparison of the state of Florida, Miami-Dade County, and the Florida state legislature

	Total population		Voting-age citizen population		
	Florida	Miami-Dade County	Florida	Miami-Dade County	State legislature
Total	21,299,325	2,725,542	15,327,815	1,641,740	160
Race/ethnicity					
White	53.3%	12.8%	60.8%	14.8%	63.1%
Black	15.3%	15.3%	14.4%	17.3%	16.3%
Latinx	26.1%	69.2%	20.5%	65.2%	15.6%
AAPI/other	5.3%	2.7%	4.3%	2.7%	1.3%
Gender					
Men	48.8%	48.5%	48.1%	46.6%	70.6%
Women	51.2%	51.5%	51.9%	53.4%	29.4%
Age					
17 and under	19.8%	20.1%	–	–	–
18–29	15.0%	15.5%	18.7%	20.6%	–
30–44	18.4%	20.8%	21.6%	23.4%	–
45–64	26.3%	27.3%	32.8%	32.8%	–
65 and over	20.5%	16.3%	27.0%	23.2%	–
Citizenship					
U.S.-born	79.0%	45.7%	–	–	–
Naturalized citizen	12.0%	31.7%	–	–	–
Not a citizen	9.0%	22.6%	–	–	–
Poverty status					
Poverty level	2,840,977	434,812	1,699,386	212,200	–
Poverty rate	13.6%	16.0%	11.3%	13.1%	–

Note: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

Demographic comparison of the state of West Virginia, the city of Charleston, and the state West Virginia legislature

	Total population		Voting-age citizen population		State legislature
	West Virginia	Charleston	West Virginia	Charleston	
Total	1,805,832	189,583	1,431,158	151,750	134
Race/ethnicity					
White	92.0%	88.2%	93.2%	89.1%	94.8%
Black	3.9%	7.5%	3.9%	6.8%	1.5%
Latinx	1.4%	1.1%	1.1%	1.4%	2.2%
AAPI/other	2.8%	3.3%	1.8%	2.7%	0.7%
Gender					
Men	49.5%	48.5%	49.0%	47.7%	85.8%
Women	50.5%	51.5%	51.0%	52.3%	14.2%
Age					
17 and under	20.1%	19.4%	–	–	–
18–29	14.9%	14.4%	18.7%	17.8%	–
30–44	17.7%	17.8%	22.0%	22.1%	–
45–64	27.1%	27.3%	34.2%	34.1%	–
65 and over	20.0%	21.0%	25.2%	26.1%	–
Citizenship					
U.S.-born	98.5%	97.9%	–	–	–
Naturalized citizen	0.8%	1.5%	–	–	–
Not a citizen	0.7%	0.5%	–	–	–
Poverty status					
Poverty level	312,188	34,435	222,590	26,049	–
Poverty rate	17.8%	18.2%	16.0%	17.2%	–

Notes: Blank cells indicate demographic breakdowns that are not applicable to the voting-age citizen population or not available for all state legislators.

Sources: National Conference of State Legislatures (NCSL), [Legislatures at a Glance](#); EPI analysis of American Community Survey microdata.

Economic Policy Institute

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