

Testimony in support of SB 170 and SB 171 before the Michigan Senate Labor Committee

Repeal of Michigan laws preempting local labor standards will empower communities to address inequality, boost low wages, and ensure major public investments generate good jobs

Testimony • By [Jennifer Sherer](#) • June 21, 2023

Chair Cherry and members of the Labor Committee: Thank you for the opportunity to testify today in support of SB 170 and 171 on behalf of the Economic Policy Institute (EPI). EPI is a nonprofit, nonpartisan think tank created in 1986 to research the economic status of working America and propose public policies that protect and improve the economic conditions of low- and middle-wage workers.

I am testifying in strong support of SB 170 and SB 171—two bills to repeal Public Act 98 and Public Act 105, respectively. Public Act 98 has prohibited local governments from entering project labor agreements on publicly funded projects since 2011, and Public Act 105 has prohibited local governments from enacting a wide range of important labor standards since 2015.

For several years, EPI has closely tracked the ways in which the spread of abusive forms of “preemption”—state interference in local policymaking—is not only preventing shared prosperity but also deepening economic inequality.¹ Preemption in this context refers to situations in which state lawmakers block local ordinances from taking effect—or dismantle existing local ordinances outright. In the past decade, lawmakers in some states have increasingly misused preemption to interfere with local governments’ ability to set job quality standards. Blocking these local policies results in wage suppression for all workers and contributes to maintaining racial and gender pay gaps.

Preemption of local policymaking is embedded in a racist history

The use of preemption laws to block local labor standards is deeply intertwined with a long history of racism. In the 2020 EPI report *Preempting Progress*, we trace current-day preemption of workers’ rights back to state-sanctioned policies and practices begun in the post-Reconstruction South, which disadvantaged Black and brown workers, as well as women and low-income workers.² In a 2021 EPI report focused on Midwestern states, we looked further at how the abuse of state preemption is entangled in histories of segregation, redlining, and other policy choices that reinforced anti-Black racism and white supremacy following the Great Migration.³ I begin with this background because the deep inequalities plaguing our economy today remain rooted in this history of racism and worker exploitation.

Today, preemption laws are often passed by majority-white legislatures, erecting barriers to economic security in cities whose residents are majority people of color. State lawmakers who have used preemption to disempower local governments are often bending to pressure from corporate interests and right-wing groups such as the American Legislative Exchange Council (ALEC).⁴

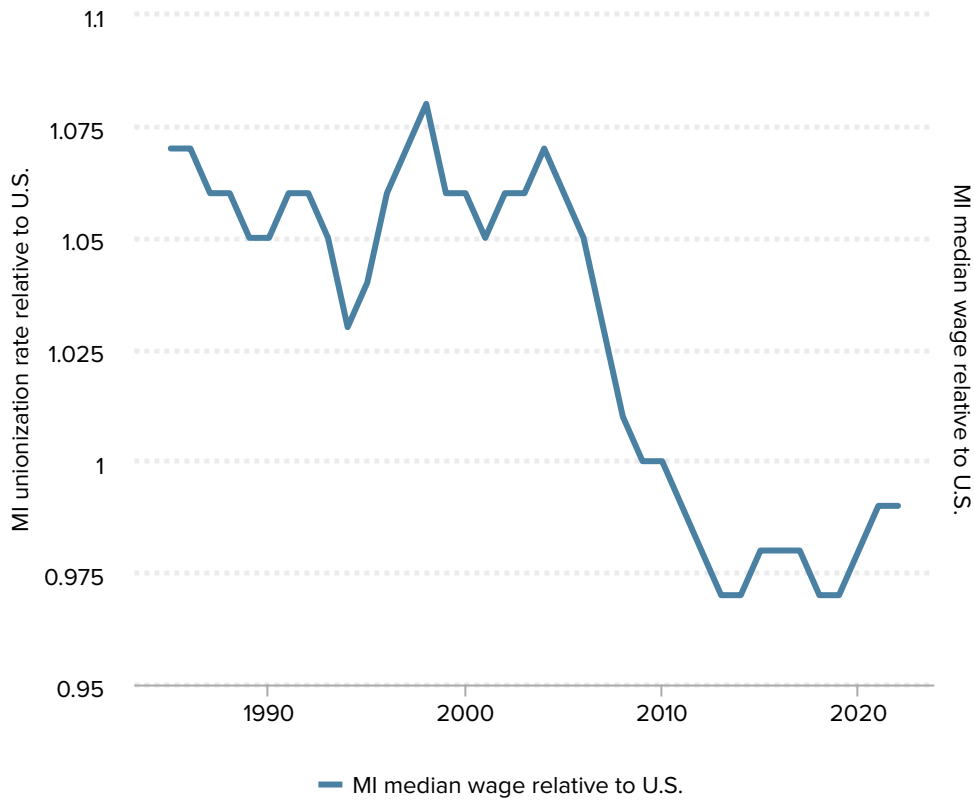
Preemption of local labor standards suppresses wages and increases economic inequality

Michigan’s legislature in 2015 used preemption to deny local governments the ability to

Figure A

Michigan's wage advantage eroded in past decade

MI median wage relative to U.S. median, 1985–2022



Note: The relative median wage is the median wage in Michigan divided by the national median wage. Unionization and median wage data are rolling three-year averages.

Source: EPI analysis of Economic Policy Institute. 2023. Current Population Survey Extracts, Version 1.0.38, <https://microdata.epi.org>.

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improve job quality by passing *Public Act 105*, nicknamed the “*Death Star Bill*” for its complete destruction of localities’ power to enact nearly any policy that could benefit workers —ranging from minimum wage increases to fair scheduling laws, paid leave, and a host of other standards.

The result stripped cities and counties of their ability to address growing inequality and declining worker wages. As recently as 2005, Michigan boasted a relative state median wage that was 7% above the national median. But as **Figure A** illustrates, Michigan’s wage advantage has since disappeared, and for the past decade Michigan’s relative median wage has remained below the U.S. median.

During this same period, state preemption deprived local Michigan communities of policy tools that could have improved the lives of workers and their families.

For example, in our 2021 report, we examined the fair scheduling prohibition included in

Table 1

Most of the workers who would benefit from a fair scheduling ordinance in Detroit are Black

Number and demographic shares of nonmanagerial workers in the retail and food service industries in Detroit

	Retail		Food service		Retail and food service	
	Number of workers	Share of industry	Number of workers	Share of industry	Number of workers	Share of industry
Total	21,013	100.0%	17,689	100.0%	38,702	100.0%
Gender						
Women	12,026	57.2%	9,208	52.1%	21,234	54.9%
Men	8,987	42.8%	8,481	47.9%	17,468	45.1%
Race/ethnicity						
White	2,332	11.1%	2,590	14.6%	4,922	12.7%
Black	16,844	80.2%	13,099	74.1%	29,943	77.4%
Latinx	1,254	6.0%	1,376	7.8%	2,630	6.8%
Other	583	2.8%	624	3.5%	1,207	3.1%

Source: EPI analysis of five-year 2019 American Community Survey microdata.

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Michigan's preemption law to assess preemption's direct impact on workers. Unfair scheduling practices can take many forms. Some employers use computer algorithms to make last-minute staffing decisions. Others use on-call scheduling, where workers are asked to stay available without pay, but are not told whether they are required to come in until immediately before a shift. Alternatively, workers may be scheduled for full shifts but then sent home early with no notice, depriving them of income while still requiring them to pay for child care, transportation, or other arrangements. Such practices are widespread in retail and food service jobs also characterized by low wages and meager benefits.⁵

Fair scheduling laws mitigate these practices by ensuring workers receive advance notice of schedules or additional pay when schedules change without notice. Because of the importance of predictable schedules for workers and families, cities from New York to Chicago to San Francisco have adopted fair workweek ordinances.⁶

But in Michigan, state legislation has denied local governments the opportunity to adopt similar policies that could especially benefit women and workers of color, who are far more likely to hold low-wage jobs subject to erratic schedules.⁷ For example, if Detroit were able to enact fair workweek legislation, we estimate that 38,702 workers in retail and food service would benefit. As **Table 1** shows, the vast majority (29,943 or 77.4%) of those workers are Black. Women would particularly benefit from a fair workweek ordinance focused on retail and food service, where they make up over half the workforce.

Empowering local government to set job quality standards is especially critical at a time of unprecedented opportunity for Michigan communities to compete for historic federal investments in infrastructure, clean energy, and manufacturing

Massive federal investments now flowing to state and local governments via scores of programs created by the Bipartisan Infrastructure Law (BIL), the CHIPS and Science Act, and the Inflation Reduction Act (IRA) present huge opportunities to accelerate the transition to clean energy while creating good jobs in communities that need them most.

To maximize the benefits of federally-funded projects, cities, counties, and school boards need immediate access to a full range of implementation tools including local policy options that Michigan state preemption laws currently prohibit. Specific local policy tools like project labor agreements (PLAs), prevailing wage standards, and apprentice utilization thresholds are especially important for shaping job outcomes on public infrastructure and green energy projects.⁸

PLAs can also serve as the foundation for broader agreements—known as community workforce or community benefits agreements—through which local governments can ensure that major public construction projects target priority community needs. A host of competitive grant programs administered by federal agencies (Departments of Energy, Labor, Transportation, and others) explicitly encourage state and local applicants for funds to use project labor agreements or more expansive community benefits agreements to set minimum standards for all jobs on a project.

To illustrate with just one example, the Department of Energy’s Regional Clean Hydrogen Hub program (created by the Bipartisan Infrastructure Law) designates \$7 billion for 6–10 regional projects to advance clean hydrogen production and use. The program requires applicants for these funds to submit a Workforce and Community Agreement Statement describing any plans to negotiate a project labor agreement or community benefits agreement to ensure projects generate high-quality jobs. Proposals including strong plans are scored higher, increasing their chances of drawing down the largest federal funding awards for their communities.⁹

To take a second—potentially transformative—example: Under the Inflation Reduction Act, cities, counties, and school districts can maximize their access to direct payments from the IRS to recoup the cost of clean energy projects *only if* the projects pay workers a prevailing wage and utilize a certain percentage of registered apprentices.

Cities like Boston, Chicago, Los Angeles, New York, or Seattle—in states where local governments have not been restricted by preemption—have long experience using these policy tools to maximize high-road economic impacts of major projects. These cities are already exercising their competitive advantage in drawing down new rounds of federal funds via competitive grant programs.¹⁰

Given current opportunities for local governments to leverage federal funds toward good

jobs, there is no time to waste in empowering Michigan cities, counties, and school districts to attach prevailing wage, PLAs, and apprenticeship requirements to upcoming infrastructure and green energy projects.

Reversing preemption of local standard-setting is the next essential step in restoring Michigan’s role as leader in good job creation

Workers, advocates, and policymakers across the country have begun to push back on the trend of harmful state preemption after years of observing its economic damage. There was a time when the Midwest was a leader in incubating local laboratories of democracy—including progressive cities, counties, and school districts that enacted innovative policies to support working families. By taking steps today toward passage of SB 170 and 171, Michigan can restore its position as a regional leader on the path back to a high-road economy. Michigan workers need and deserve better jobs and opportunities, and passage of these two bills will restore the critical ability of local governments to enact labor standards necessary to help reverse inequality and build local economies that work for everyone.

Notes

1. The Economic Policy Institute’s *Workers’ Rights Preemption in the U.S.: A Map of the Campaign to Suppress Workers’ Rights in the States*, last updated in August 2019, tracks state legislation that preempts local action on key worker rights including minimum wage, fair scheduling, project labor agreements, prevailing wage, paid leave, and labor standards in the gig economy.
2. Hunter Blair et al., *Preempting Progress: State Interference in Local Policymaking Prevents People of Color, Women, and Low-Income Workers from Making Ends Meet in the South*, Economic Policy Institute, September 30, 2020.
3. Julia Wolfe et al., *Preempting Progress in the Heartland: State Lawmakers in the Midwest Prevent Shared Prosperity and Racial, Gender, and Immigrant Justice by Interfering in Local Policymaking*, Economic Policy Institute, October 14, 2021.
4. Lisa Graves, *ALEC, “Model” Legislation, and Preemption*, Local Solutions Support Center, March 15, 2023.
5. Daniel Schneider and Kristen Harknett, *It’s About Time: How Work Schedule Instability Matters for Workers, Families, and Racial Inequality*, The Shift Project at the Institute for Research on Labor and Employment, University of California at Berkeley and University of California at San Francisco, October 2019.
6. HR Dive, “[Predictive Scheduling Laws: A Running List of States and Localities That Have Adopted Predictive Scheduling Requirements](#)” (web page), last modified February 13, 2023.
7. Leila Morsy and Richard Rothstein, *Parents’ Non-Standard Work Schedules Make Adequate Childrearing Difficult: Reforming Labor Market Practices Can Improve Children’s Cognitive and Behavioral Outcomes*, Economic Policy Institute, August 6, 2015.

8. Karla Walter, *4 Job Quality Questions All Applicants for Federal Funds Should Answer*, Center for American Progress, June 20, 2023.
9. U.S. Department of Energy, Office of Clean Energy Demonstrations, *Guidance for Creating a Community Benefits Plan for the Regional Clean Hydrogen Energy Hubs*, last updated October 17, 2022.
10. U.S. Department of Labor, *Project Labor Agreements as Tools for Equity*; New York City Mayor's Office of Contract Services, "[Project Labor Agreements](#)" (web page).