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Report • By Heidi Shierholz, Celine McNicholas, Margaret Poydock, and Jennifer Sherer • January 23, 2024

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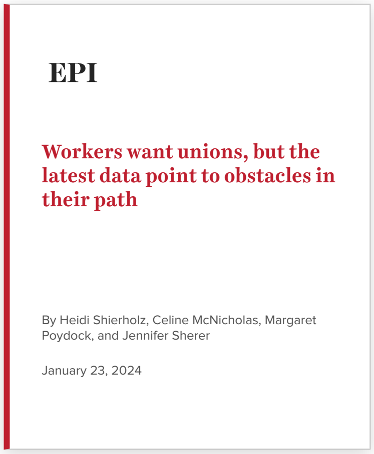
Summary: The recent surge in labor actions has not translated into higher unionization rates in the latest government data. Despite workers' desire for unions, their efforts to organize are being undermined by a broken system that has failed them.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Key findings

- In 2023, 16.2 million workers were represented by a union—an increase of 191,000**.** At the same time, the *percentage* of workers represented by a union decreased from 11.3% to 11.2%, as unionization efforts were unable to keep pace with 2023's strong job growth.
- By sector, private-sector unionization rose to 6.9% in 2023, while public-sector unionization declined to 36.0%.
- Unionization among workers of color accounted for the entire increase in the union level in 2023, and Black workers had the highest unionization rate at 13.1%.
- Unionization among workers younger than 45 grew by 229,000 in 2023, while unionization declined by 38,000 among workers age 45 and over.
- These statistics don't capture the number of workers who want to join unions. Evidence suggests that in 2023, more than 60 million workers wanted to join a union but couldn't do so.

Why this matters

When workers join unions, their wages rise, and their working conditions improve. But more than 50 years of efforts to block access to unions have taken a heavy toll on workers' rights. Employers have been exploiting weaknesses in U.S. labor law for decades, and federal and state policy have failed to prevent this.

How to fix it

Congress should reform a broken system that allows employers to drag their feet on recognizing employee-supported unions and negotiating in good faith. Passing legislation that protects workers is crucial. On the federal level, the Protecting the Right to Organize (PRO) Act and the Public Service Freedom to Negotiate Act would strengthen rights for private- and public-sector workers.

> It is a testament to the efforts of organizers and the enthusiasm of young workers that unionization increased in the private sector by 261,000.

At the state level, policymakers should ensure that all public-sector, domestic, and agricultural workers have full collective bargaining rights. And states with so-called "right-to-work" laws should follow Michigan's lead in repealing these anti-union laws.

The labor movement is in the midst of a resurgence. Unions have seen near record-high favorability in recent years, with the most recent polls showing that 67% of Americans approve of unions (Saad 2023). Recent polling also shows that a majority of workers in the U.S. across all sectors—59%—support unionization in their own workplace (Rosenbaum 2022). Similarly, Americans' desire for unions to have more influence in the country has increased from a record-low 25% in 2009 to 43% today. This marks a new high in the desire for union empowerment, exceeding the prior high of 39% in 2017 and 2018 (Saad 2023). Further, workers are organizing at a pace not seen in recent decades. High-profile campaigns like those at Amazon and Starbucks highlight this momentum.

However, we are not seeing this resurgence translate into significant increases in union density. In 2023, 16.2 million workers in the United States were represented by a union. While that is an increase of 191,000 workers, the share of workers represented by a union declined from 11.3% to 11.2%**.** And though there were gains in private-sector unionization, the public sector experienced losses.

It is important to view this data in context. Union density has consistently declined over the past five decades. There are many factors that contributed to this decline, but at its core the decline reflects an intentional political effort to suppress workers' wage growth and shift income to profits and executive salaries by stripping away the most important leverage that workers have—the right to bargain collectively (Mishel, Rhinehart, and Windham 2020).

Employer opposition to unions significantly intensified in the 1970s, and employers now routinely exploit weaknesses in U.S. labor law to legally and illegally defeat union organizing. For nearly 50 years, federal policy has failed to respond to this dynamic. Except for an expansion of coverage into health care in the 1970s, all the legislative changes to the National Labor Relations Act (NLRA), which governs private-sector labor law in the U.S., since its enactment in the mid-1930s have been changes that weakened unions. As a result, U.S. policy effectively denies workers a meaningful right to a union and collective bargaining. It is a testament to the commitment to organizing efforts and the enthusiasm of young workers for

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unions that we saw unionization increase in the private sector by 261,000 in the face of toothless labor policy. Unfortunately, those gains were diminished by the decline in public-sector unionization where the impact of relentless attacks in some states on workers' right to organize and bargain collectively is being realized.

In this report, we examine the 2023 Bureau of Labor Statistics (BLS) data on unionization. We analyze the decline in the unionization rate and examine the differences in the private and public sectors. Finally, we offer policy recommendations to promote unionization and build on the momentum we see in increased labor actions.

Defining terms: Union membership versus union representation

If a workplace is unionized, all workers in the bargaining unit get the benefits of being represented by the union, even if they are not union members. Thus, the share of workers represented by a union is somewhat higher than the share of workers who are members of a union.

In 2023, the share of workers represented by a union was 11.2%, while the share of workers who were union members was 10.0%. Because all workers in a bargaining unit get the benefit of being represented by the union, union representation is the more relevant statistic when considering the impact of unionization on labor market outcomes. Therefore, we focus on union representation, rather than union membership, in our analyses.

In this report, the term "unionization rate" is shorthand for the union representation rate.

2023 Bureau of Labor Statistics data: Unionization rate rises in the private sector but declines in the public sector

In 2023, 16.2 million workers in the United States were represented by a union—an increase of 191,000 from 2022. But while the unionization *level* increased, the *share* of workers represented by a union—the unionization rate—declined from 11.3% to 11.2%. The unusual situation of the unionization level increasing while the unionization rate decreased is the result of the fact that 2023 saw very strong job growth, with 2.9 million wage and salary jobs added.[1] On net, unionization efforts were unable to keep pace with the flood of new jobs.

The overall unionization numbers mask large differences between the private sector and the public sector. Unionization is much lower in the private sector than the public sector—in 2023, 6.9% of private-sector workers were covered by a union contract, compared with 36.0% of public-sector workers. However, the private-sector unionization rate rose in 2023, while the public sector experienced losses.

In the private sector, the unionization level increased by 261,000, while the unionization rate ticked up from 6.8% to 6.9%. There were particularly large increases in manufacturing (99,000), transportation and warehousing (83,000), private educational services (62,000), and private health care and social assistance (62,000). In the public sector, the number of workers covered by a union contract dropped by 70,000, while the unionization rate dropped from 36.8% to 36.0%.

Of all major racial and ethnic groups, Black workers continued to have the highest unionization rates in 2023 at 13.1%. Black workers also saw a meaningful rate increase in 2023, rising to 13.1% from 12.8%. The 13.1% unionization rate for Black workers in 2023 compares with 11.1% for white workers, 10.0% for Hispanic workers, and 9.0% for Asian workers. Further, the entire increase in the level of unionization in 2023 occurred among workers of color. In particular, workers of color saw an increase of 309,000, while white workers saw a decrease of 119,000.[2] The number of Black workers represented by a union increased by 135,000, the number of Hispanic workers represented by a union increased by 90,000, and the number of Asian workers represented by a union increased by 22,000.

The gender gap in unionization is small, but it widened slightly in 2023, as the unionization rate for men held steady at 11.6%, while the rate for women declined from 11.0% to 10.7%. With union women disproportionately concentrated in public-sector unions, the increase in the gender gap in unionization is a predictable result of public-sector unionization declining while private-sector unionization grew.

The increase in the overall unionization level occurred disproportionately among workers under 45, with an increase of 229,000, compared with a decline of 38,000 among workers 45 and over.

Overall unionization rates mask large differences across states. In 2023, the states with the highest unionization rates were Hawaii (25.6%), New York (21.5%), Washington state (18.1%), New Jersey (17.3%), Connecticut (16.9%), and California (16.9%). The states with the lowest unionization rates were South Carolina (3.0%), North Carolina (3.3%), South Dakota (4.2%), Arizona (4.8%) and Louisiana (5.2%). The states with the largest increases in the number of workers represented by unions in 2023 were Florida (+67,000), New Jersey (+63,000), Texas (+58,000), Pennsylvania (+55,000), and Virginia (+51,000).

Collective action is on the rise

In 2023, workers organized across a variety of work settings, including higher education, museums, nonprofits, entertainment, retail, and manufacturing (Greenhouse 2023; Shepardson 2023).

This momentum translated into an increase in National Labor Relations Board (NLRB) elections. The NLRB is a small, independent agency tasked with administering the National Labor Relations Act, which guarantees most private-sector employees the right to form unions and collectively bargain. The National Labor Relations Board is responsible for conducting union elections to determine if workers wish to be represented by a union. During the fiscal year (FY) 2023, the NLRB saw a 3% increase in union election petitions (NLRB 2023). This increase builds upon FY 2022's significant uptick (53%) of union election petitions, which was the highest filed since FY 2015 (NLRB 2022). Not only are workers filing elections at increased rates, they are winning them, too. Analysis from Bloomberg Law finds that NLRB-conducted elections saw an 80% win rate during the first half of 2023 (Combs 2023a). Up until the 2010s, average win rates for NLRB- conducted elections were below 60% (Glass 2022; Mishel, Rhinehart, and Windham 2020).

In addition to forming unions, thousands of workers went on strike or threatened to strike in 2023. Preliminary monthly data from the Bureau of Labor Statistics show that the number of workers on strike in 2023 exceeded the number from 2022 (BLS 2023e). From Hollywood writers to autoworkers to nurses, many workers succeeded in winning raises, improving working conditions, and maintaining benefits (Simmons-Duffin and Maucione 2023; Dayen 2023; Whalen 2023). The threat to strike often can be just as powerful as the strike itself, as demonstrated by Teamsters union members during their negotiations to secure a fair contract covering 340,000 UPS drivers in the summer of 2023 (Gurley 2023).

Unions have also captured big gains through contract negotiations. According to analysis by Bloomberg Law, union contracts ratified in the first quarter of 2023 gave workers a 7% average first-year pay raise—the largest quarter increase since 2007 (Combs 2023b). These increases are evident by recent contract wins. Earlier this year, Los Angeles school district workers—the second largest school district in the country—won pay increases of 30% during the length of their four-year contract (Jablon 2023). More than 32,000 hourly Disney World workers won wage increases of 37% over the length of their five-year contract (Isidore and Yurkevich 2023). The largest health care strike in history ended with 75,000 Kaiser Permanente workers agreeing to a contract that included 21% in wage increases over four years (Isidore and Delouya 2023). And in November 2023, the United Auto Workers union ratified a historic contract with Ford, General Motors, and Stellantis that included pay increases ranging from 30% to 160% through the length of the contract for its members (UAW 2023). These recent wins have also resulted in gains for nonunion workers. For example, Toyota, Honda, and Hyundai raised wages for their U.S. workers (none of whom are unionized) shortly after the UAW reached a tentative agreement with General Motors, Ford, and Stellantis (Meyersohn 2023).

Why do workers want unions?

When workers join together in union and collectively bargain, their wages, benefits, and working conditions improve.

Unions improve wages

- Workers covered by a union contract earn **13.5% more** in wages on average than a peer with similar education, occupation, and experience in a nonunionized workplace in the same sector(Bivens et al. 2023).
- Hourly wages for women represented by a union are **9.5% higher** on average than for nonunionized women with comparable characteristics (Bivens et al. 2023).
- When local economies have greater shares of union workers, nonunion workers benefit, because unions effectively set broader standards—including higher wages—which nonunion employers must meet to attract and retain the workers they need (Rosenfeld, Denice, and Laird 2016; Mishel 2021).

Unions provide better benefits

- Union workers have greater access to health care. More than 9 in 10 workers covered by a union contract (95%) have access to employer-sponsored health benefits, compared with just 71% of nonunion workers (BLS 2023a).
- Union workers have greater access to paid sick leave. More than 9 in 10 workers—92%—covered by a union contract have access to paid sick days, compared with 78% of nonunion workers (BLS 2023b).
- Union employers are more likely to offer retirement plans. More than 9 in 10 workers—95%—covered by a union contract have access to employer-sponsored retirement benefits, compared with 70% of nonunion workers. (BLS 2023c).

Unions promote equity

- Black workers represented by a union are paid **14.6% more** than their nonunionized Black peers (Bivens et al. 2023).
- Hispanic workers represented by a union are paid **17.6% more** than their nonunionized Hispanic peers (Bivens et al. 2023).
- Unions provide “just cause” rights, protecting workers from arbitrary and unfair dismissals (Bivens et al. 2023).
- Unions help reduce racial resentment among white workers and promote

support for affirmative action and other policies designed to benefit Black households (Bivens et al. 2023).

Unions improve work conditions

- By negotiating with employers to provide health insurance and paid sick time, requiring safety equipment, and empowering workers to report unsafe conditions without fear of retaliation, unions also help improve health and safety at workplaces (Amick et al. 2015).
- So-called "Right to Work" laws—which are designed to weaken unions—have been associated with a roughly 14% increase in the rate of occupational fatalities (Zoorob 2018).

Unions benefit communities

- High unionization rates are consistently associated with a much broader set of positive spillover effects across multiple dimensions. These include higher state and local minimum wages, better health benefits, easier access to unemployment insurance, access to paid sick leave, access to paid family and medical leave, and unrestricted voting opportunities (Banerjee et al. 2021).
- As an example, county-level union density was associated with greater access to ballot drop boxes during the 2022 midterm elections. Ballot drop boxes are a highly secure way to increase access to voting. (Dean, McCallum, and Grumbach 2023)

More than 60 million workers wanted a union but couldn't get one

The share of nonunion workers who would like to have a union at their workplace is far higher than the share who actually have union representation. In 2023, 11.2% of workers were covered by a union contract. Survey data from 2017 show that *nearly half* of nonunion workers (48%) would vote to unionize their workplace if they could. The 2017 figure is up substantially from previous decades; in 1977 and 1995, only about one-third (32–33%) of nonunion, nonmanagerial workers said they would vote to unionize if they could (Kochan et al. 2018; EPI 2021).

While 2017 is the most recent year the survey of nonunion workers was conducted, we presume that the share of nonunion workers who would like to unionize was *at least* 48% in 2023, if not higher, given the rise in the popularity of unions since 2017.[3] There were 128.3 million wage and salary workers in 2023 who were not represented by a union; 48% of that is 61.6 million. *That means that more than 60 million workers in 2023 wanted to* *join a union but couldn't.*

Attacks on unions have created a long-term decline

Despite the continued popularity of unions among workers and the public, we have yet to see this momentum translate into substantial increases in the number of workers represented by a union. It's worth noting that the current trend is still unfolding. It takes time to organize and win union elections, and not all of the union activity of the last couple of years will have yet translated into increased unionization. However, it does not explain the long-term trend of declining unionization. In fact, today's overall union density is lower than before the National Labor Relations Act was passed in 1935.[4] What is causing this disconnect? Simply put, decades of policy decisions have made it harder for workers to form unions and bargain collectively.

Private-sector workers face barriers to union membership under weak federal law

In the private sector, decades of federal policy and court decisions have weakened labor law. Most notably, the passage of the Taft-Hartley Act in 1947 allowed new legalized forms of employer anti-union activity. Under Taft-Hartley, an "employer free speech" clause was added, mandatory captive audience meetings were allowed, and employers were given the right to file representation petitions to determine whether their workers want to form a union.

Starting in the 1970s, when the overall unionization rate was over 25%, employers began to exploit the weaknesses in the National Labor Relations Act (EPI 2023a). For example, employers use the lack of civil monetary penalties for breaking labor law to their advantage and interfere with workers' right to organize with little to no repercussions. Today, employers continue to engage in aggressive, coercive, and intimidating opposition toward workers' efforts to unionize. EPI research estimates that employers are charged with violating federal law in 41.5% of all union election campaigns (McNicholas et al. 2019).

The organizing effort at Starbucks stores is a prime example of how employers are willing to break labor law. Since December 2021, more than 370 Starbucks stores in 42 states have voted in favor of unionizing (More Perfect Union 2023). Over the last two years, the National Labor Relations Board has fielded hundreds of unfair labor practice charges from Starbucks workers and from Starbucks Workers United (Jamieson 2023). Further, employers spend more than $400 million a year on consultants to dissuade and weaken workers' unionization efforts (McNicholas 2023). In the case of Starbucks, the company has retained Littler Mendelson, a law firm notorious for its union avoidance services (Wise and Iafolla 2023).

As a result of the growing employer opposition to unions and the failure of policy to stem it, workers are unable to organize new union members fast enough under current labor law to keep pace with the natural “churning out” of unionized jobs. Every year in the U.S. economy—even during times when the aggregate economy is healthy—hundreds of thousands of establishments close, leading to millions of workers losing their jobs (BLS 2023d). Some of these business closings and employment losses fall on unionized workers. When the economy is healthy, hundreds of thousands of establishments also open each year, leading to millions of workers finding new jobs. However, employer hostility and our dysfunctional system of labor law keeps new jobs from becoming unionized at anywhere near the rate at which unionized jobs are disappearing.

In the private sector, workers can form a union in two ways: They can ask their employer to voluntarily recognize their union (after a majority of workers have indicated interest in unionizing), or they can file a petition for a union election with the National Labor Relations Board. The NLRB election process can be lengthy and can involve employer interference.

The breakdown of the National Labor Relations Board election process as a tool that protects workers’ rights to unionize can be seen along two broad dimensions—far fewer workers have been *participating* in NLRB elections in recent decades and the share of elections resulting in a win for unions declined substantially from 1951 to 2000. While the win rate for workers who managed to force an NLRB election began increasing a bit after 2000—and has risen substantially in more recent years—the share of workers *participating* in an NLRB election has remained radically lower than it was in the mid to late 20th century (Mishel, Rhinehart, and Windham 2020). This decline in union election activity meant fewer new union members entering the labor market. As a result, the natural job losses that are part of the labor market’s churn every year reduce unionization rates as union jobs are lost and there is no effective mechanism to replace the lost unionized jobs with new unionized jobs.

Policies in many states continue to suppress union membership

As noted above, union membership levels vary widely among states.

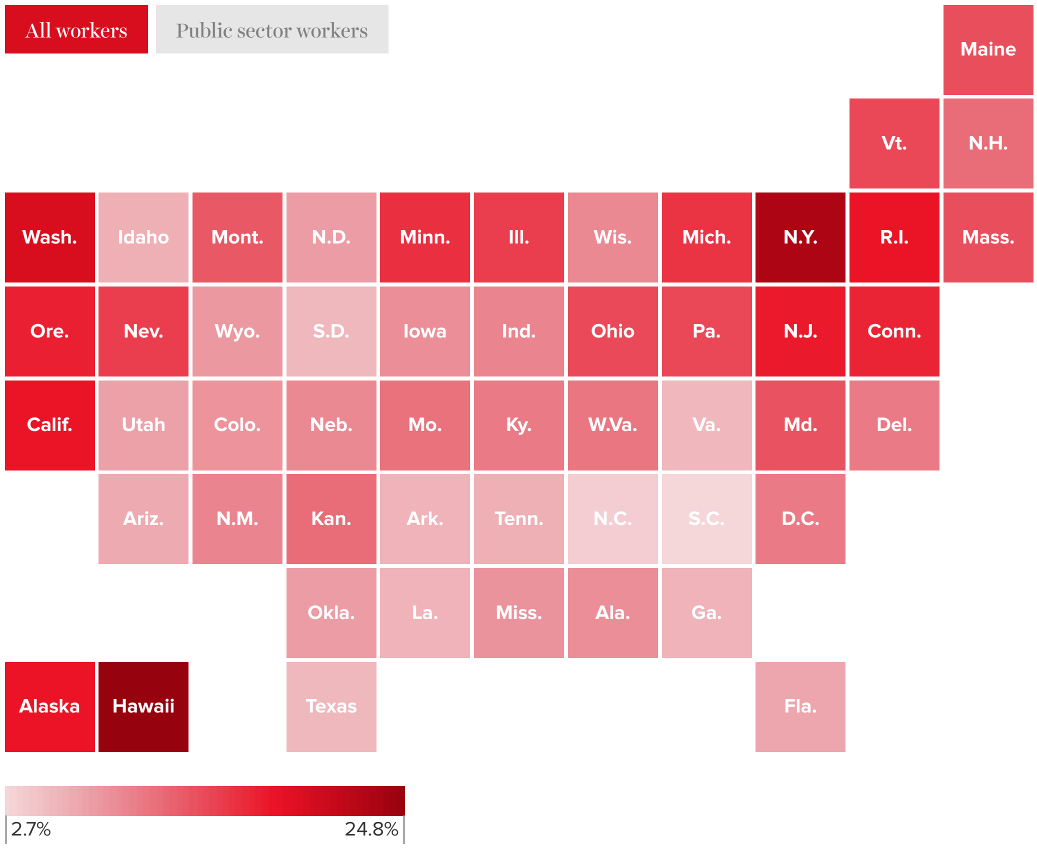
State policies continue to play centrally important roles in shaping union membership levels. Occupational carveouts in federal labor law leave millions of public-sector, agricultural, and domestic workers without union rights unless states act. And even for private-sector workers covered under the National Labor Relations Act, the passage of Taft-Hartley in 1947 has allowed states to constrain (but not expand) workers’ collective bargaining rights through so-called “right-to-work” (RTW) laws.

State RTW laws first emerged as part of anti-union industry campaigns to suppress multiracial worker organizing and maintain Jim Crow labor relations in Southern states following the passage of the National Labor Relations Act. RTW laws are designed to diminish workers’ collective power by prohibiting unions and employers from negotiating union security clauses into collective bargaining agreements, making it harder for workers to join, form, and sustain unions (Cooper and Wolfe 2021; Sherer and Gould 2023). As a

Figure A

Unionization rates vary widely by state

Union density for all workers and public sector workers by state, 2019–2023 average



Notes: Data refers to workers 16+. Self-employed and self-incorporated workers are excluded. Union density is defined as the share of workers in the state who are represented by a union, including union members and other workers who are covered by a union contract, based on the variable "union" from EPI extracts of CPS-ORG microdata. We average union density data across 2019 to 2023 for each state to give a more accurate estimate of states' typical unionization rates in recent years.

Source: Economic Policy Institute. 2023. Current Population Survey Extracts, Version 1.0.47, https://microdata.epi.org, 2019–2023 data.

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result, states with RTW laws have lower unionization rates and higher income inequality, and workers in RTW states on average have lower wages and benefits (Fortin, Lemieux, and Lloyd 2022).

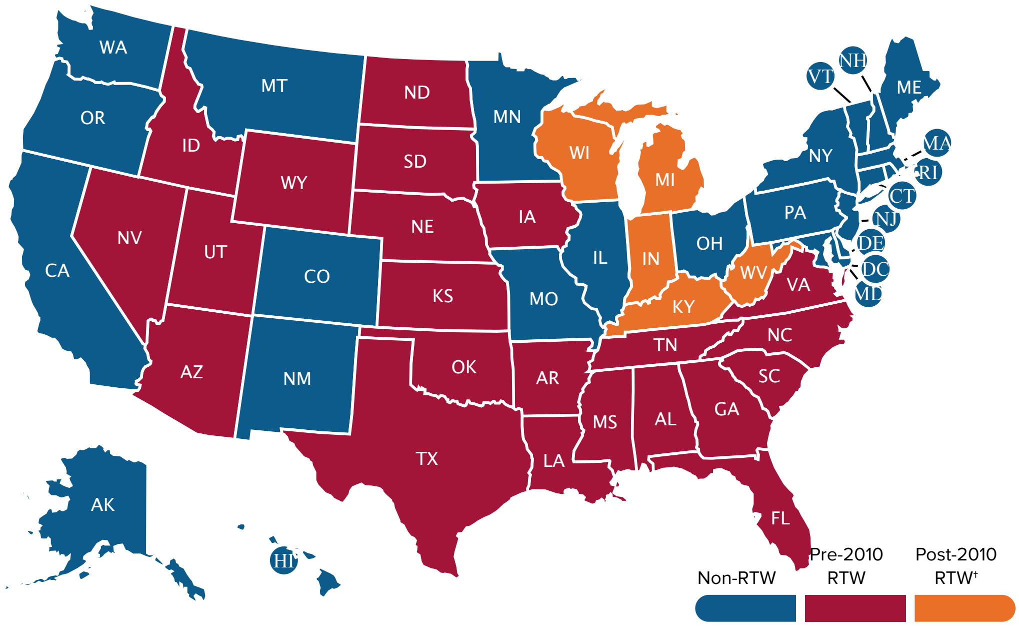
Most state RTW laws were adopted in the mid-20th century in Southern, Midwestern, and Western states. But in the past decade five additional states with historically higher unionization rates—Indiana, Kentucky, Michigan, West Virginia, and Wisconsin—adopted RTW laws, newly limiting workers' collective bargaining rights in those states.[5] These five new RTW states joined 22 states that already had RTW laws in place. Then in 2023, Michigan became the first of these states to repeal its RTW law.

Data show unionization declined far faster than the national average in the states that adopted RTW in the past decade, falling 3.8 percentage points between 2010 and 2023.

Figure B

States with RTW laws limiting worker power

States with statutory restrictions on all workers' collective bargaining rights due to so-called "right-to-work" laws



Notes: † Michigan enacted RTW in 2013, then in 2023 became the first state in nearly 60 years to repeal a RTW law. This change will take effect in February 2024.

Source: Author's analysis of "Right-to-Work States," National Conference of State Legislatures.

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By 2023, unionization rates were 5.0% in states that had adopted RTW prior to 2010, 9.7% in states that adopted RTW after 2010, and 14.3% in non-RTW states.

A decade of attacks on public employees has weakened public-sector labor laws, creating major barriers to union membership in many states

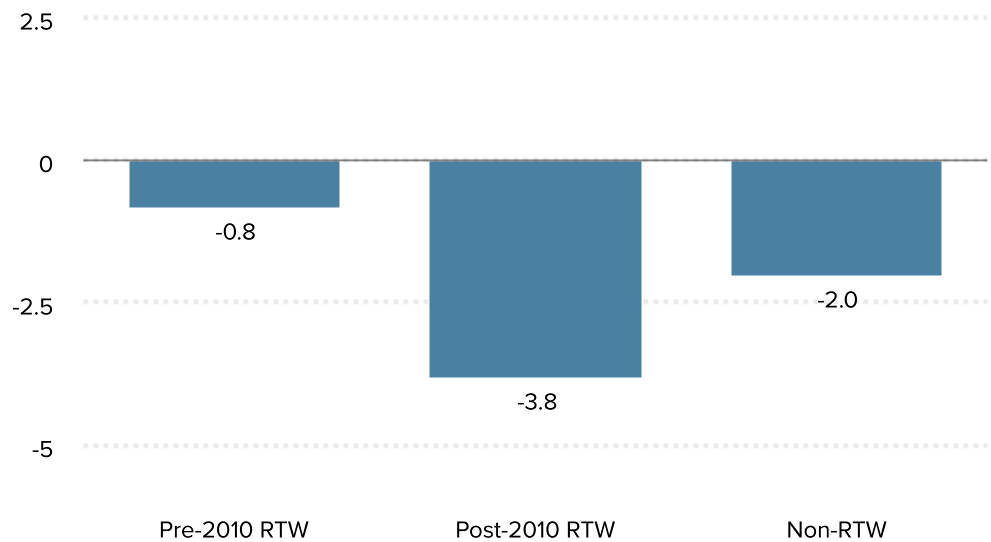
Federal labor law excludes public-sector, agricultural, and domestic workers from coverage, as well as supervisors and independent contractors. This leaves states to set policy on union and collective bargaining rights for these occupations. As a result, collective bargaining rights for different types of public employees vary widely both across and within states (Morrissey and Sherer 2022), while farmworkers and domestic workers (including millions of direct home care and child care workers) continue to lack collective bargaining rights in all but a few contexts (National Agricultural Law Center 2023; Zundl and Rodgers 2021).

Overall, the public sector has remained more heavily unionized than the private sector in

Figure C

Recent RTW-adopting states have seen a large decline in union membership

Percentage point change in share of workers who are members of a union between 2010 and 2023



Source: Economic Policy Institute. 2023. Current Population Survey Extracts, Version 1.0.47, https://microdata.epi.org, 2010 and 2023 data.

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recent decades, but these numbers mask enormous differences across states. State variations in unionization rates are highly correlated with vast differences in state policies on collective bargaining rights, which vary widely across and even within states for different types of public employees. Currently, some states maintain public employee collective bargaining laws with provisions somewhat similar to those covering private-sector workers under federal law, while other states completely prohibit public employees and employers from entering into collective bargaining agreements, and more than half of states lack comprehensive collective bargaining laws for public-sector workers (McNicholas et al. 2020).

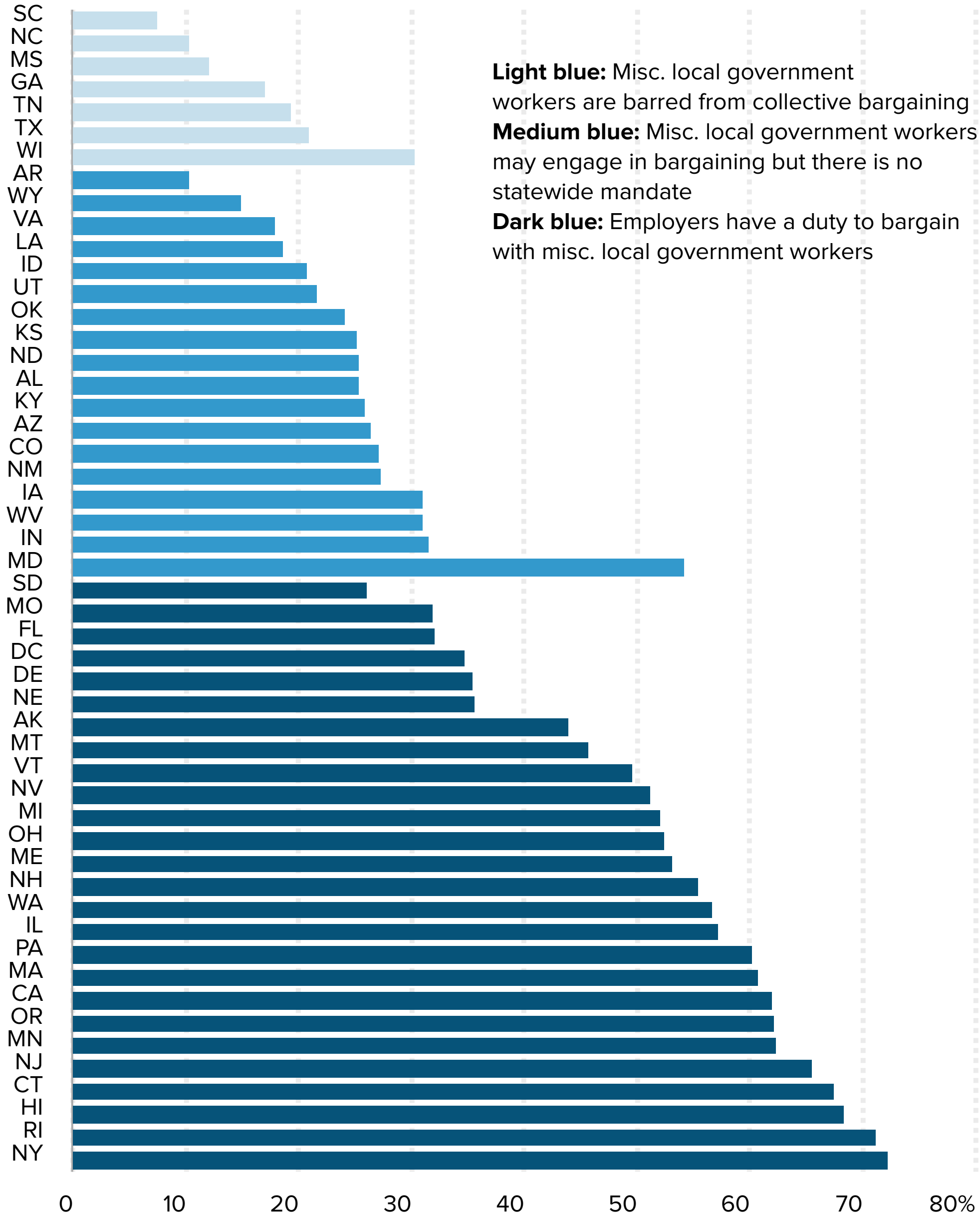
Figure D illustrates the highly predictive relationship between the strength (or weakness) of state policies on public sector collective bargaining, and rates of unionization among local government workers.

Recently, a few states (including Colorado, Nevada, New Mexico, and Virginia) have taken important steps to establish or expand collective bargaining rights for some public employees. But in far more states over the past decade, public-sector workers and their unions have faced sustained attacks. For example, following the 2010 midterm elections, EPI analysis documented a clear pattern of cookie-cutter anti-union bills introduced in state legislatures and driven largely by politics rather than economics (Lafer 2013). These bills were supported by a network of wealthy individuals and corporate-backed lobby groups including the Chamber of Commerce, the National Association of Manufacturers,

Figure D

States that ban or limit collective bargaining rights for miscellaneous local government workers have fewer union members

Share of all local government workers represented by a union, by state
2019–2023



Notes: Data refer to full-time workers, ages 18–64 who are represented by a union. Collective bargaining rights are based on rights for miscellaneous local government workers. Teachers, police, and firefighters may have different rights. Union density is defined as the share of workers in the state who are represented by a union, including union members and other workers who are covered by a union contract.

Sources: Updated from Figure A in Morrissey and Sherer, *Unions can Reduce the Public-Sector Pay Gap*. Union density based on authors' analysis of Economic Policy Institute. 2023. Current Population Survey Extracts, Version 1.0.47, https://microdata.epi.org, 2019–2023 pooled.

Americans for Prosperity, and the American Legislative Exchange Council (ALEC). These legislative proposals aimed to change state labor policies in ways that would result in lower public-sector unionization rates and limit the collective power of workers (Hertel-Fernandez 2014).

In 2011, newly elected Wisconsin Governor Scott Walker championed passage of Act 10, legislation designed to severely limit public employee union rights in a state that for decades had in place a strong statutory framework for public-sector collective bargaining and relatively high overall unionization rates. Act 10's sweeping changes nullified existing public-sector collective bargaining agreements across the state and created numerous administrative barriers to maintaining union membership. Among other changes, Act 10 prohibited negotiations on any subject other than base wages (while capping negotiated increases at the rate of inflation), outlawed fair share fees or payroll deduction of union dues, and required a new state-administered election each year in order for a local union to maintain legal certification (University of Wisconsin-Madison 2019).

Following Wisconsin's example, since 2011 Republican statehouse majorities in at least a dozen more states have passed legislation to substantially restrict or prohibit collective bargaining rights of some or all public-sector workers. In a handful of these states, such legislative attacks were blocked by voter referendum or court action, or later reversed by additional legislative action to restore aspects of public-sector workers' rights stripped during this wave of attacks (Morrissey and Sherer 2022). Yet overall, public-sector workers in multiple states across the country today have far fewer protections to unionize and collectively bargain than they did in 2010. And over a decade after passage, laws like Wisconsin's Act 10 have begun to show devastating impacts on worker wages, public education, and unionization levels (Wisconsin Watch 2022; University of Wisconsin-Madison 2019; Garcia and Han 2021).

Since 2010, the same constellation of anti-union organizations has prioritized litigation attempting to erode public employee union rights in multiple states—including a suit filed to weaken Illinois's public-sector union laws, which in 2018 became the Supreme Court case *Janus v. AFSCME Council 31*. In this case the court ruled that public-sector unions across the country could no longer negotiate union security agreements requiring all workers covered by a collective bargaining agreement to pay agency fees to cover the costs of representation (McNicholas and Shierholz 2018). Though the *Janus* decision did not immediately have the predicted effect of reducing union membership in states where fair share fees had previously been legal, it has forced unions to expend additional resources on outreach efforts in those states while simultaneously responding to multiple legislative attacks on members' rights in other states (McNicholas, Shierholz, and Poydock 2021).

In the past year, these attacks have continued and, in some states, intensified. In 2023, Florida Governor Ron DeSantis prioritized intertwined attacks on public education and public educators, promoting a package of legislative proposals aimed at eroding public employees' union rights (Governor Ron DeSantis 2023). In May, DeSantis signed into law

SB 256, a bill filled with numerous new legal and administrative hurdles intended to make it difficult for Florida public employees to join or sustain unions. For example, the new law bans workers from paying their union dues via payroll deduction (making it harder to maintain or document membership levels from month to month) while at the same time requiring that each local public employee union submit evidence that a 60% supermajority of eligible employees is paying dues in order to maintain a legal certification from the state.[6]

A related factor contributing to decreases in unionization rates in the past decade and a half is the extremely weak growth in overall public-sector employment. In the wake of the Great Recession, many state and local governments slashed budgets and made deep cuts to staffing that have never been fully restored in the sense of returning to their former level relative to the size of the population. Coming out of the more recent pandemic recession, private-sector job recovery has been strong, and employment levels now exceed pre-pandemic levels. In contrast, state and local government employment did not recover to pre-pandemic levels until the very end of 2023 (EPI 2024). Given that during this period the U.S. population increased 1.2%, it would take another 274,000 state and local government jobs to restore state and local public employment to pre-pandemic levels on a per capita basis. And of course, even a return to pre-pandemic levels will not restore the shortfall in state and local government jobs still remaining from the Great Recession.

Policy solutions

Policy change is necessary to provide U.S. workers a meaningful right to a union and collective bargaining. High-profile organizing campaigns at Amazon and Starbucks have exposed the reality of a broken and undemocratic union election system where workers are routinely coerced, threatened, and retaliated against for supporting a union. Under the most conservative measures, employers are charged with illegally firing workers in one-fifth of all elections. Using more comprehensive measures, employers are charged with illegally firing workers in nearly a third of all NLRB-supervised elections (McNicholas et al. 2019). Labor law should not give employers the power to require U.S. workers to win a union only through a broken election process that leaves workers vulnerable to intimidation, harassment, and illegal firing.The law should be changed to require that when a majority of employees have signed authorizations designating the union as its bargaining representative, the union will be certified by the NLRB.

When workers win unions, they should be able to bargain a first contract fairly and in a timely manner. Employers routinely try to delay negotiating in an effort to weaken union support in the hopes of decertifying the union (McNicholas, Poydock, and Schmitt 2023). A recent study found that the average time-to-contract was 465 days—or well over a year. And an analysis of data from 2020–2022 found that the mean time to contract ratification was over 500 days (Combs 2022). In the case of Starbucks, none of the more than 370 unionized stores has reached a first contract after two years of organizing. Only recently has Starbucks announced that they wanted to resume talks with the union and reach a contract in 2024 (Lucas 2023). The law should provide a mediation and binding arbitration process when employers are refusing to bargain in good faith.

Employers should not be permitted to violate with impunity their workers' right to organize and bargain collectively. Under current law, there are no civil monetary penalties for employers who violate labor law. So, there is little incentive for companies to follow the law and respect workers' rights to organize and bargain collectively. Labor law should be changed to provide civil penalties for violating the law. These penalties should be commensurate to penalties associated with violations of financial and corporate law (McNicholas et al. 2021).

The law should be changed to provide workers whose rights are violated a meaningful remedy. Current law requires only that an illegally discharged worker receive backpay—minus any earnings they receive from other employment. The National Labor Relations Act should be amended to allow for treble damages for workers who are illegally discharged.

At the federal level, the Protecting the Right to Organize (PRO) Act provides for most of the reforms outlined here and would strengthen private-sector workers' right to form a union and engage in collective bargaining. The Public Service Freedom to Negotiate Act guarantees public-sector workers the right to form a union and engage in collective bargaining.

States also have important roles to play. More states should restore private-sector workers' full bargaining rights by repealing so-called right-to-work laws, as Michigan did in 2023. States can further safeguard workers' basic union rights from ongoing political attacks with constitutional language like the Workers' Rights Amendment approved by Illinois voters in 2022 (Sherer 2022).

Every state has room to improve policies applying to workers in occupations left out of federal labor law who lack a clear legal pathway to winning a union contract. Millions of agricultural and domestic workers remain wholly excluded from collective bargaining laws except in states that have passed legislation to specifically cover them. Currently, more than half of U.S. states lack comprehensive collective bargaining laws for state and local public-sector workers (Morrissey and Sherer 2022). While a few states have made progress on improving aspects of public employee collective bargaining laws in recent years, a larger number of states significantly weakened their existing laws. States must cease attacks on public-employee union rights and prioritize ensuring that all workers, regardless of occupation, have rights at least equivalent to those guaranteed to private-sector workers under federal law.

To generate an economy that works for everyone, workers must be able to win unions. Policy changes at the federal and state levels are crucial to restoring a fair balance of power between workers and employers. Congress and state legislatures must institute policies that promote the right to union representation and collective bargaining.

Notes

1. For consistency, the employment change here refers to the change in employment of wage and salary workers in the Current Population Survey, the survey used to calculate union membership. "Wage and salary workers" include employees in both the private and public sector, and exclude self-employed workers and unpaid family workers.

2. These numbers are our own calculations from Current Population Survey microdata (EPI 2023b). We used our own calculations in this sentence only, in order to create nonoverlapping categories of "workers of color" and "white workers." BLS's race/ethnicity categorizations overlap—for example, white Hispanic workers are counted as both white and Hispanic—so do not allow for the desired breakdown. All other numbers cited are BLS's published calculations.

3. Gallup polls indicate that public approval of unions grew from 61% to 67% between 2017 and 2023 (Saad 2023). (Note that the share of the public who approves of unions is related to—but not the same measure as—the share of nonunionized workers who would join a union if they could.)

4. See Figure 1 in Romero and Whittaker 2023.

5. In 2017 Missouri also enacted a so-called "right-to-work" law, but it was overturned by a 2018 voter referendum before taking effect.

6. CS/CS/SB 256 (2023)

References

Amick, Benjamin C., Sheilah Hogg-Johnson, Desiree Latour-Villamil, and Ron Saunders. 2015. "Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union Safety Effect." *Journal of Occupational and Environmental Medicine* 57, no. 12: 1337–1342. https://doi.org/10.1097/JOM.0000000000000562.

Banerjee, Asha, Margaret Poydock, Celine McNicholas, Ihna Mangundayao, and Ali Sait. 2021. *Unions Are Not Only Good for Workers, They're Good for Communities and for Democracy*. Economic Policy Institute, December 2021.

Bivens, Josh, Celine McNicholas, Kyle K. Moore, and Margaret Poydock. 2023. *Unions Promote Racial Equity*, Economic Policy Institute, July 31, 2023.

Brannick, Priya. 2019. *The Janus Impact and Grading of State Public Sector Labor Laws*. Commonwealth Foundation, August 2019.

Bureau of Labor Statistics (BLS). 2023a. "Table 2. Medical Care Benefits: Access, Participation, and Take-Up Rates, March 2023." *Employee Benefits in the United States*. Last modified September 21, 2023.

Bureau of Labor Statistics (BLS). 2023b. "Table 6. Selected Paid Leave Benefits: Access, March 2023." *Employee Benefits in the United States*. Last modified September 21, 2023.

Bureau of Labor Statistics (BLS). 2023c. "Table 1. Retirement Benefits: Access, Participation, and Take-Up Rates." *Employee Benefits in the United States*. Last modified September 21, 2023.

Bureau of Labor Statistics (BLS). 2023d. "Table 8. Private Sector Establishment Births And Deaths, Seasonally Adjusted." *Business Employment Dynamics*. Last modified October 25, 2023.

Bureau of Labor Statistics (BLS). 2023e. "Detailed Monthly Listing, 2023," Worker Stoppages [Excel file], accessed December 19, 2023.

Bureau of Labor Statistics (BLS). 2024. "Union Members Summary" (economic news release). January 23, 2024**.**

Combs, Robert. 2022. "Now It Takes 465 Days to Sign a Union's First Contract" *Bloomberg Law*, August 2, 2022.

Combs, Robert. 2023a. "Unions, on a Roll, Are Reeling in the Workers" *Bloomberg Law*, August 21, 2023.

Combs, Robert. 2023b. "Union-Negotiated Pay Raises Hit 7% for the First Time." *Bloomberg Law*, June 20, 2023.

Cooper, David, and Julia Wolfe. 2021. *So-Called Right-to-Work Is Wrong for Montana*. Economic Policy Institute, February 2021.

Dayen, David. 2023. "What the Writers Won." *The American Prospect*, September 29, 2023.

Dean, Adam, Jamie McCallum, and Jake Grumbach. *Labor Unions and the Defense of American Democracy.* Economic Policy Institute, December 2023.

DeSantis, Ron. 2023. "Governor Ron DeSantis Announces Unprecedented Legislation to Empower Educators, Protect Teachers from Overreaching School Unions and Raise Teacher Pay" (press release). January 23, 2023.

Dippel, Christian, and Zachary Sauers. 2019. "Does Increased Union Power Cause Pension Under-Funding in the Public Sector?" (preliminary draft). September 23, 2019.

Economic Policy Institute (EPI). 2021. "Working People Want a Voice at Work." April 21, 2021.

Economic Policy Institute (EPI). 2023a. "Union Coverage." State of Working America Data Library. Last modified March 2023.

Economic Policy Institute. 2023b. Current Population Survey Extracts, Version 1.0.47, https://microdata.epi.org.

Economic Policy Institute (EPI). 2024. "Jobs and Unemployment" (web page). Last modified January 5, 2024.

Fortin, Nicole, Thomas Lemieux, and Neil Lloyd. 2022. "Right-to-Work Laws, Unionization, and Wage Setting." National Bureau of Labor Research, Working Paper no. 30098 (June). http://www.nber.org/papers/w30098.

Frandsen, Brigham R., and Michael Webb. 2017. "Public Employee Pensions and Collective Bargaining Rights: Evidence from State and Local Government Finances." Hutchins Center Working Paper no. 35, Brookings Institution, October 2017.

Garcia, Emma, and Eunice Han. 2021. *The Impact of Changes In Public-Sector Bargaining Laws on Districts' Spending on Teacher Compensation*. Economic Policy Institute, April 29, 2021.

Glass, Aurelia. 2022. "The NLRB Protects Workers' Right to Organize, Yet Remains Underfunded." Center for American Progress, December 5, 2022.

Greenhouse, Steven. 2023. "Focus Organizing Drives on Workers Without College Degrees, US Unions Told." *Guardian*, May 5, 2023.

Gurley, Lauren Kaori. 2023. "5 Wins for UPS Workers That Could Influence Pay and Standards for Others." *Washington Post*, August 20, 2023.

Hertel-Fernandez, Alexander. 2014. "How ALEC Helped Undermine Public Unions." *Washington Post*, December 17, 2014.

Isidore, Chris, and Samantha Delouya. 2023. "Union Workers Reach a Tentative Deal with Kaiser Permanente After the Largest-Ever US Health Care Strike." CNN, October 13, 2023.

Isidore, Chris, and Vanessa Yurkevich. 2023. "Unions at Disney World Win 37% Pay Hikes in Tentative Labor Deal." CNN, March 23, 2023.

Jablon, Robert. 2023. "Los Angeles Schools, Union Leaders Reach Deal on Worker Pay and Benefits After Strike." Associated Press, March 24, 2023.

Jamieson, Dave. 2023. "Starbucks Insists It Isn't Union-Busting. A Growing List of Rulings Say Otherwise." *Huffington Post,* November 14, 2023.

Kochan, Thomas A., Duanyi Yang, William T. Kimball, and Erin L. Kelly. 2018. "Worker Voice in America: Is There a Gap Between What Workers Expect and What They Experience?" *ILR Review* 72, no. 1 (January): 3–38. https://doi.org/10.1177/0019793918806250.

Lafer, Gordon. 2013. *The Legislative Attack on American Wages and Labor Standards, 2011–2012*. Economic Policy Institute, October 31, 2013.

Lucas, Amelia. 2023. "Starbucks Tells Union It Wants to Resume Contract Talks in January." CNBC, December 8, 2023.

McNicholas, Celine, Margaret Poydock, Ihna Mangundayao, and Ali Sait. 2021 "Civil Monetary Penalties for Labor Violations Are Woefully Insufficient to Protect Workers" *Working Economics Blog* (Economic Policy Institute), July 15, 2021.

McNicholas, Celine, Margaret Poydock, Samantha Sanders, and Ben Zipperer. 2023. *Employers Spend More Than $400 Million per Year on 'Union-Avoidance' Consultants to Bolster Their Union-Busting Efforts*. Economic Policy Institute, March 29, 2023.

McNicholas, Celine, Margaret Poydock, and John Schmitt. 2023. *Workers Are Winning Union Elections, but It Can Take Years to Get Their First Contract*. Economic Policy Institute, May 1, 2023.

McNicholas, Celine, Margaret Poydock, Julia Wolfe, Ben Zipperer, Gordon Lafer, and Lola Loustaunau. 2019. *Unlawful: U.S. Employers Are Charged with Violating Federal Law in 41.5% of All Union Election Campaigns*. Economic Policy Institute, December 11, 2019.

McNicholas, Celine, Lynn Rhinehart, Margaret Poydock, Heidi Shierholz, and Daniel Perez. 2020. *Why Unions Are Good for Workers—Especially in a Crisis Like COVID-19: 12 Policies That Would Boost Worker Rights, Safety, and Wages*. Economic Policy Institute, August 2020.

McNicholas, Celine, and Heidi Shierholz. 2018. *Supreme Court Decision in Janus Threatens the Quality of Public-Sector Jobs and Public Services*. Economic Policy Institute, June 2018.

McNicholas, Celine, Heidi Shierholz, and Margaret Poydock. 2021. *Union Workers Had More Job Security During the Pandemic, but Unionization Remains Historically Low*. Economic Policy Institute, January 2021.

Meyersohn, Nathaniel. 2023. "'UAW Bump': Toyota, Honda and Hyundai Are Raising Wages." CNN, November 14, 2023.

Mishel, Lawrence. 2021. *The Enormous Impact of Eroded Collective Bargaining on Wages*. Economic Policy Institute, April 2021.

Mishel, Lawrence, Lynn Rhinehart, and Lane Windham. 2020. *Explaining the Erosion of Private-Sector Unions: How Corporate Practices and Legal Changes Have Undercut the Ability of Workers to Organize and Bargain*. Economic Policy Institute, November 2020.

More Perfect Union. 2023. "Map: Where Are Starbucks Workers Unionizing?" (web page). Last updated December 30, 2023.

Morrissey, Monique, and Jennifer Sherer. 2022. *Unions Can Reduce the Public-Sector Pay Gap*. Economic Policy Institute, March 2022.

National Agricultural Law Center. 2023. "Collective Bargaining Rights for Farmworkers" (web page), accessed on December 19, 2023.

National Council on Teacher Quality (NCTQ). 2019. Collective Bargaining Laws. Database updated January 2019.

National Education Association (NEA). 2020. "Collective Bargaining Laws for Public Sector Education Employees." November 2020 (unpublished document used by permission).

National Labor Relations Board (NLRB). 2022. "Election Petitions Up 53%, Board Continues to Reduce Case Processing Time in FY22" (news release). October 6, 2022.

National Labor Relations Board (NLRB). 2023. "Unfair Labor Practices Charge Filings Up 10%, Union Petitions Up 3% in Fiscal Year 2023" (news release). October 13, 2023.

Romero, Paul D., and Julie M. Whittaker. 2023. *A Brief Examination of Union Membership Data*. Congressional Research Service, June 16, 2023.

Rosenbaum, Eric. 2022. "The Amazon, Starbucks, Apple Union Push Is Capturing What a Majority of All American Workers Now Say They Want." CNBC, June 2, 2022.

Rosenfeld, Jake, Patrick Denice, and Jennifer Laird. 2016. *Union Decline Lowers Wages of Nonunion Workers*. Economic Policy Institute, August 2016.

Rueben, Kim. 1996. *Extended NBER Public Sector Collective Bargaining Law Data Set*. Downloadable data available at www.nber.org/research/data/nber-public-sector-collective-bargaining-law-data-set (see last paragraph on this web page).

Saad, Lydia. 2023. "More in U.S. See Unions Strengthening and Want It That Way." Gallup, August 30, 2023.

Schmitt, John, and Milla Sanes. 2014. *Regulation of Public Sector Collective Bargaining in the States*. Center for Economic and Policy Research, March 2014.

Shepardson, David. 2023. "UAW Launches Bid to Organize Tesla and 'Entire Non-Union Auto Sector' in US." Reuters, November 29, 2023.

Sherer, Jennifer. 2022. "Illinois Workers' Rights Amendment Sets New Bar for State Worker Power Policy." *Working Economics Blog* (Economic Policy Institute), December 7, 2022.

Sherer, Jennifer, and Elise Gould. 2023. “Why ‘Right-To-Work’ Was Always Wrong for Michigan.” *Working Economics Blog* (Economic Policy Institute), March 13, 2023.

Simmons-Duffin, Selena, and Scott Maucione. 2023. “After Historic Strike, Kaiser Permanente Workers Win 21% Raise over 4 Years.” NPR, October 14, 2023.

United Auto Workers (UAW). 2023. “UAW Members Ratify Historic Contracts at Ford, General Motors and Stellantis.” Accessed December 19, 2023.

University of Wisconsin-Madison. 2019. “Wisconsin Public Worker Unions Post Act 10.” School for Workers, September 19, 2019.

Valletta, Robert G., and Richard B. Freeman. 1988. “The NBER Public Sector Collective Bargaining Law Data Set.” Appendix B in *When Public Employees Unionize*, edited by Richard B. Freeman and Casey Ichniowski. NBER and University of Chicago Press.

Whalen, Jeanne. 2023. “UAW Members Ratify Record Contracts with Big 3 Automakers.” *Washington Post*, November 20, 2023.

Wisconsin Watch. 2022. “Workers Lost Ground on Wages in Wake of Wisconsin’s Anti-Labor Laws.” PBS Wisconsin, October 19, 2022.

Wise, Justin, and Robert Iafolla. 2023. “Littler Cashes in on Starbucks’ Sprawling Anti-Union Campaign.” *Bloomberg Law*, June 28, 2023.

Zoorob, Michael. 2018. “Does ‘Right to Work’ Imperil the Right to Health? The Effect of Labour Unions on Workplace Fatalities.” *Occupational and Environmental Medicine* 75, no. 10 (June): 736–738. https://dx.doi.org/10.1136/oemed-2017-104747.

Zundl, Elaine, and Yana van der Meulen Rodgers. 2021. *The Future of Work for Domestic Workers in the United States: Innovations in Technology, Organizing, and Laws*. Center for Women and Work at Rutgers University’s School of Management and Labor Relations, January 2021.