



Employers State Law Alert

Summarizing Significant New Employment Laws & Regs in All 50 States



Analysis

Statutory developments by state, p. 3.
Regulatory developments by state, p. 3.

State right-to-work laws remain common despite public support for unions

by Tammy Binford

Even with one state recently dropping out of the ranks of those with right-to-work laws, more than half the states continue to have such measures. That’s despite polling data showing growing support for unionization.

In 2023, Michigan repealed its right-to-work law—the first state in decades to do so. The state passed a law in 2012, and the repeal took effect February 13, 2024. With Michigan out, the number of states with right-to-work laws stands at 26.

RIGHT TO WORK DEFINED

In right-to-work states, private sector employees can’t be compelled to join a union or pay fees charged by a union even if they work for a unionized employer.

Unions like to be able to charge nonunion members fees when those workers are part of the bargaining unit. Therefore, unions maintain that the nonunion workers benefit from union collective bargaining without paying any of the costs the unions incur on their behalf.

In states without right-to-work laws, unions are free to charge nonunion workers what they often call “fair share” fees.

But right-to-work proponents say union fees most often go to union political endeavors instead of contract negotiations and efforts to protect workers’ rights.

Public sector unions can’t charge fees to nonmembers even in states without right-to-work laws. Those workers can avoid the fees because of a 2018 U.S. Supreme Court ruling in *Janus v. American Federation of State, County, and Municipal Employees (AFSCME), Counsel 31*.

PUBLIC OPINION

Michigan’s repeal of its right-to-work law is in line with recent polling data showing broad public support for unions. In January, polling giant Gallup reported that in 2023, labor union approval exceeded its long-term average for the fifth year in a row.

The Gallup report says the favorable view of unions “is not superficial.” Highlights of the report show that 61% of the public says unions help rather than hurt the U.S. economy. That number was a record high.

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Gallup also found that the value union workers place on their membership is growing. “In 2022, four in 10 union members said their membership was ‘extremely important.’ In 2023, those who saw their membership as ‘extremely important’ rose to five in 10,” the Gallup report says.

Those numbers led Gallup to predict that “More committed union members and surging public support are likely to strengthen unions in the workforce and U.S. economy for the foreseeable future.”

UNION NUMBERS

Despite broad support, the overall union membership rate for 2023 was 10%, essentially the same as 2022, according to data from the U.S. Bureau of Labor Statistics (BLS). The union membership rate is defined as the percent of wage and salary workers who are members of unions.

The BLS figures show that the number of wage and salary workers belonging to unions stood at 14.4 million in 2023—little change from 2022. In 1983, the first year of comparable data, the union membership rate was 20.1%, and there were 17.7 million union workers.

Union membership is more common in the public sector, with a 32.5% union membership rate, according to the BLS 2023 figures. That’s more than five times higher than the rate of private sector workers (6%).

The highest unionization rates were among workers in education, training, and library occupations (32.7%) and protective service occupations (31.9%).

The 2023 figures also show that men (10.5%) continued to have a higher unionization rate than women (9.5%). Also, black workers were more likely to be union members than white, Asian, or Hispanic workers.

The BLS data shows the states with the highest unionization rates were Hawaii (24.1%) and New York (20.6%). Neither is a right-to-work state. South Carolina (2.3%) and North Carolina (2.7%) had the lowest unionization rates. Both states have right-to-work laws.

The BLS 2023 figures also show that nonunion workers had median weekly earnings that were 86% of earnings for workers who were union members—\$1,090 versus \$1,263. The BLS release notes that the comparisons of earnings “are on a broad level and do not control for many factors that can be important in explaining earnings differences.”

RIGHT-TO-WORK STATES

Some right-to-work states have right-to-work statutes, others have right-to-work constitutional amendments, and some have both. Many of the laws and amendments date from the 1940s.

Here’s a list from the National Conference of State Legislatures showing which states have right-to-work laws and/or amendments.

Alabama: Statute enacted in 1953, constitutional amendment adopted in 2016.

Arizona: Statute in 1947, amendment in 1946.

Arkansas: Statute in 1947, amendment in 1944.

Florida: Statute in 1943, amendment in 1968.

Georgia: Statute in 1947.

Idaho: Statute in 1985.

Indiana: Statute in 2012. Indiana passed a different right-to-work statute in 1957, but it was repealed in 1965.

Iowa: Statute in 1947.

Kansas: Amendment in 1958.

Kentucky: Statute in 2017.

Louisiana: Statute in 1976.

Mississippi: Statute in 1954, amendment in 1960.

Nebraska: Statute in 1947, amendment in 1946.

Nevada: Statute in 1952.

North Carolina: Statute in 1947.

North Dakota: Statute in 1947.

Oklahoma: Statute in 2001, amendment in 2001.

South Carolina: Statute in 1954.

South Dakota: Statute in 1947, amendment in 1946.

Tennessee: Statute in 1947, amendment in 2022.

Texas: Statute in 1993.

Utah: Statute in 1955.

Virginia: Statute in 1947.

Wisconsin: Statute in 2015.

West Virginia: Statute in 2016.

Wyoming: Statute in 1963.

STATUTES

South Dakota

Drug Use

Employees use of medical marijuana

This law authorizes employers to take certain actions regarding employees', or prospective employees', use of medical marijuana. The law provides that employers are not prohibited from taking adverse employment action based solely on a positive test result for cannabis metabolites if the person is employed in a safety-sensitive job. Employers also may refuse to hire a person based solely on a positive test result for cannabis metabolites if the person is seeking employment in a safety-sensitive job.

The law also provides that no cause of action is created for employment discrimination or wrongful termination arising from an employer's enforcement of a drug-free workplace policy in compliance with the law.

Cite: 2024 SD SB12 (2 pages)

Enacted: 2/14/2024

Effective: 1/1/2024

<https://mylrc.sdlegislature.gov/api/Documents/264681.pdf>

Workers' Compensation

Program information for injured employees

This law allows the Department of Labor and Regulation to provide to an injured employee, a surviving spouse, or another dependent of an injured employee information on a program offered by a nonprofit organization that offers a benefit specific to a work-related injury and that the injured employee, the surviving spouse, or the other dependent of the injured employee may be eligible to receive.

Cite: 2024 SD SB88 (3 pages)

Enacted: 2/14/2024

Effective: 1/1/2024

<https://mylrc.sdlegislature.gov/api/Documents/264650.pdf>

West Virginia

Public Employers: Pension Benefits

Requires benefits to be paid by EFT

The law requires participating public employers in any retirement plan administered by the Consolidated Public

Retirement Board to remit retirement contributions and fees by electronic funds transfer beginning July 1, 2024. Failure to comply will result in a \$300 surcharge for each paper check submission. The executive director of the board or a designee may waive the surcharge on an emergency basis or for an extenuating circumstance.

Cite: 2024 WV SB605 (2 pages)

Enacted: 2/28/2024

Effective: 5/16/2024

https://www.wvlegislature.gov/Bill_Text_HTML/2024_SESSIONS/RS/bills/sb605%20enr.pdf

REGULATIONS

Alabama

Licensure

Continuing education for athletic trainers

The Board of Athletic Trainers amended rules for continuing education for athletic trainers, changing the dates of the annual renewal period to October 15 through December 31.

Cite: Ala. Admin. Code r. 140-X-4-.03 (Volume XLI, Issue No. 4 AAM, 01/31/2024) (3 pages)

Adopted: 1/31/2024

Effective: 3/16/2024

<https://admincode.legislature.state.al.us/api/filing/6532f0de99171da7e6b04139/filing>

Licensure: Healthcare Professionals

Continuing medical education for physician assistants

The Board of Medical Examiners amended rules governing continuing medical education for physician assistants, changing the requirement from 25 hours each calendar year to 50 hours every two calendar years.

Cite: Ala. Admin. Code r. 540-X-7-.29 (Volume XLI, Issue No. 4 AAM, 01/31/2024) (4 pages)

Adopted: 1/31/2024

Effective: 3/14/2024

<https://admincode.legislature.state.al.us/api/filing/653923b314bd894e836873e0/filing>

Alaska

Workers' Compensation

Appeal procedures

The Workers' Compensation Appeals Commission amended regulations to clarify appeal and petition for review procedures and allow the clerk to issue certain orders.

Cite: 8 AAC 57.010 - .990 (Alaska Weekly Online Public Notice System, 01/06/2024) (48 pages)

Adopted: 1/5/2024

Effective: 2/4/2024

<https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=145669>

Arizona

Licensure

Applications for licensure

The Board of Pharmacy amended rules to delete the distinction between a graduate and pharmacy intern, reduce the fee for licensure by reciprocity, reduce the fee for a nonrenewal registration as a pharmacy technician trainee, clarify that there are multiple jurisprudence examinations, remove an unnecessary requirement that the board provide a copy of the board's rules to applicants, and reduce regulatory burdens for applicants.

Cite: A.A.C. R4-23-101, 119, 201, 202, 203, 205, 301, 302, 303, 304, 305; Article 3 (30 A.A.R. 155, 01/26/2024) (9 pages)

Adopted: 1/26/2024

Effective: 3/4/2024

https://apps.azsos.gov/public_services/register/2024/4/contents.pdf

California

Licensure

Continuing education for architects

The California Architects Board amended rules related to continuing education requirements, adopting a definition for zero net carbon design, establishing requirements for continuing education course qualification and completion, providing for the issuance of certificates of completion, and including rules for enforcement of education requirements for license renewal.

Cite: 16 CCR 166 (CRNR 2024, No. 2-Z, 01/12/2024, page 44) (3 pages)

Adopted: 12/28/2023

Effective: 12/28/2023

<https://govt.westlaw.com/calregs/Search/Index>

Occupational Safety

Exposure to respirable crystalline silica

The Occupational Safety and Health Standards Board amended regulations relating to occupational exposure to respirable crystalline silica, with rules for scope and definitions, exposure limits and assessment, regulated areas and compliance, and other related requirements.

Cite: 8 CCR 5204 (CRNR 2024, No. 2-Z, 01/12/2024, page 43) (10 pages)

Adopted: 12/29/2023

Effective: 12/29/2023

<https://govt.westlaw.com/calregs/Search/Index>

Wages

Agricultural wages and hours

The Department of Industrial Relations amended rules regarding wages and working conditions for agricultural operations, including making statutorily mandated conforming changes relating to sheep herders and goat herders.

Cite: 8 CCR § 11140 (CRNR 2024, No. 2-Z, 01/12/2024, page 43) (10 pages)

Adopted: 1/2/2024

Effective: 1/2/2024

<https://govt.westlaw.com/calregs/Search/Index>

Delaware

Licensure

Elevator mechanics license

The Board of Elevator Mechanics adopted rules to set forth the process whereby applicants may be eligible for licensure under the grandfathering provision; standards for licensure, practice, and continuing education; and a list of crimes substantially related to the practice of providing elevator services.

Cite: 24 DE Admin. Code 6100 (27 DE Reg. 539, 01/01/2024) (8 pages)

Adopted: 12/14/2023

Effective: 1/11/2024

<https://regulations.delaware.gov/register/january2024/final/27%20DE%20Reg%20539%2001-01-24.htm>

Florida

Licensure

Disciplinary guidelines

The Board of Professional Engineers amended rules to clarify disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners, including the range of penalties and aggravating and mitigating circumstances to be considered.

Cite: Fla. Admin. Code R. 61G15-19.004 (50 faw 190, 01/17/2024) (11 pages)

Adopted: 1/10/2024

Effective: 1/30/2024

<https://www.flrules.org/gateway/readFile.asp?sid=0&tid=27938830&type=1&file=61G15-19.004.doc>

Illinois

Occupational Safety

Elevator safety rules

The Elevator Safety Review Board updated safety rules for elevators, listing certain exceptions, inspection requirements, fees, and registration requirements.

Cite: 41 Ill. Adm. Code 1000 (48 Ill. Reg. 825, 01/12/2024) (7 pages)

Adopted: 1/12/2024

Effective: 12/28/2023

https://www.ilsos.gov/departments/index/register/volume48/register_volume48_2.pdf

Kansas

Licensure

Biennial renewal for optometry

The Board of Examiners in Optometry amended rules for licensees to require a biennial renewal based on the license number, with a one-year renewal period as needed for the cycle to adjust.

Cite: K.A.R. 65-5-14 (43-3 kan reg 51, 01/18/2024) (2 pages)

Adopted: 1/18/2024

Effective: 2/2/2024

<https://sos.ks.gov/publications/Register/Volume-43/PDF/Vol-43-No-03-January-18-2024.pdf>

Louisiana

Licensure

Apprenticeship, licensure, and insurance

The Plumbing Board amended rules to provide a pathway to licensure for individuals not enrolled in an apprenticeship program approved by the Workforce Commission; require that all journeyman plumbers be employed by a master plumber licensed by the board; increase the minimum in comprehensive general liability and property damage insurance for master plumbers and master gas fitters to \$500,000; provide flexibility in establishing testing locations; and establish a five-year period for journeyman plumbers not working under the supervision of a master plumber before January 1, 2024, to obtain a master plumber license.

Cite: LAC 46:LV.101, 301, 303, 305, 307, 309, 311, 508 (50 LR 41, January 2024) (3 pages)

Adopted: 1/20/2024

Effective: 1/20/2024

<https://www.doa.la.gov/media/kizppm3v/2401.pdf>

Michigan

Occupational Safety

Construction safety

The Department of Labor and Economic Opportunity amended safety rules for excavation, trenching, and shoring, covering sections for scope and referenced standards, definitions, excavation procedures and standards, and supporting systems.

Cite: AC, R 408.40901, R 408.40925, R 408.40926, R 408.40927, R 408.40932, R 408.40933, R 408.40941, R 408.40942, R 408.40943, R 408.40945, R 408.40951, R 408.40953 (2023 MR 24, 01/15/2024, page 5) (7 pages)

Adopted: 12/27/2023

Effective: 1/3/2024

https://www.michigan.gov/lara/-/media/Project/Websites/lara/moahr/ARD/2023-Michigan-Register/MR24_011524.pdf?rev=0dc930e7f2b44a109363a251ad468a34&hash=EB9CFE0A6425194D023CB52D4D250E30

North Carolina

Licensure

Classification

The Licensing Board for General Contractors updated rules for the five classifications in which general contractors may be certified, including subclassifications for specialty contractors, amended requirements for applicants submitting character references, and amended rules in which witnesses in a hearing may appear in person or via live face-to-face video.

Cite: 21 NCAC 12A.0202, .0308, .0828 (38:13 NCR 892, 01/02/2024) (5 pages)

Adopted: 12/1/2023

Effective: 12/1/2023

https://files.nc.gov/oah/documents/2024-01/Volume-38-Issue-13-January-2-2024.pdf?VersionId=dX28.IldmNWwc_2IIApM1cjgay3TrOi2

Licensure

Clinical nurse specialist practice

The Board of Nursing amended rules for clinical nurse specialist applicant approval, continuing education, and biennial renewals.

Cite: 21 NCAC 36.0228 (38:13 NCR 897, 01/02/2024) (3 pages)

Adopted: 12/1/2023

Effective: 12/1/2023

https://files.nc.gov/oah/documents/2024-01/Volume-38-Issue-13-January-2-2024.pdf?VersionId=dX28.IldmNWwc_2IIApM1cjgay3TrOi2

Texas

Workplace Violence

Reporting workplace violence

The Texas Workforce Commission adopted a new subchapter to rules for general administration to require employers to post a notice to employees providing contact information so that employees can anonymously report their concerns regarding workplace violence or suspicious activities to the Texas Department of Public Safety.

Cite: 40 TAC § 800.600 (49 TexReg 59, 01/05/2024) (1 page)

Adopted: 12/19/2023

Return to TOC

Effective: 1/8/2024

<https://www.sos.state.tx.us/texreg/archive/January52024/Adopted%20Rules/40.SOCIAL%20SERVICES%20AND%20ASSISTANCE.html#56>

Utah

Workers' Compensation

Burial expenses

The Labor Commission amended rules for the filing and paying of claims for industrial accidents such that if death results from a work injury, an insurance carrier or employer shall pay burial expenses up to \$12,500 or more depending upon unusual circumstances.

Cite: Utah Admin. Code r. 612-200-6 (24-02 utah bull 56, 01/15/2024) (5 pages)

Adopted: 11/15/2023

Effective: 12/27/2023

<https://adminrules.utah.gov/public/rule/R612-200/Current%20Rules?searchText=burial%20expenses>

Workers' Compensation

Premium rates for uninsured and reinsured employers

The Labor Commission amended rules governing premium rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund, updating the rates to 0.50% for the Uninsured Employers' Fund and 0.0% for the Employers' Reinsurance Fund.

Cite: Utah Admin. Code r. 612-400-5 (24-02 utah bull 56, 01/15/2024) (4 pages)

Adopted: 11/15/2023

Effective: 12/27/2023

<https://adminrules.utah.gov/public/rule/R612-400/Current%20Rules?searchText=premium%20rates>

Washington

Employment Security

Conditional payments

The Employment Security Department amended rules for conditional payments issued during a period in which the department questions a claimant's eligibility, establishing beginning and ending criteria and limitations for such a period.

Cite: WAC 192-100-070 (WSR 24-01-017) (1 page)

Adopted: 12/7/2023

Effective: 1/7/2024

lawfilesexternal.wa.gov/law/wsr/2024/01/24-01-017.htm

Occupational Safety

Wildfire smoke protection

The Department of Labor and Industries adopted a new chapter of rules for the protection of workers against wildfire

smoke, with duplication of standards into safety standards for agriculture.

Cite: WAC 296-820; WAC 296-307 (WSR 24-01-070) (30 pages)

Adopted: 12/14/2023

Effective: 12/15/2024

lawfilesexternal.wa.gov/law/wsr/2024/01/24-01-070.htm