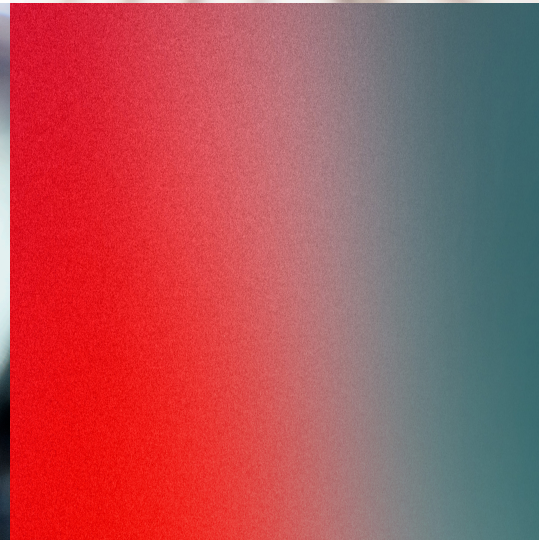




PEOPLE RESULTS

*Solutions For Your Workforce*

# 2024 Labor Activity In Manufacturing Report





# About This Report

---

The 2nd Annual People Results Labor Activity in Manufacturing Report contains the following:

An analysis of national, regional, and state petitions and elections (RC, RD, and RM) as reported by the National Labor Relations Board (NLRB) during 2022 and 2023<sup>1,2</sup>, as well as an overview of labor activity in manufacturing so far in 2024

---

The Labor Law/Activity Update, which includes articles written by labor experts about relevant and timely labor issues impacting employers and the workplace

<sup>1</sup> See Appendix C for detailed definitions of the types of petitions and elections.

<sup>2</sup> NLRB election data describes dynamic case activity that is subject to revision and corrections during the year, and all data should be interpreted with that understanding.

## Dear Manufacturing Leaders,

Union organizing activity in the manufacturing industry steadily increased in 2024 as it had in 2023.

In 2023, there was an uptick in representation petitions filed—largely driven by the International Brotherhood of Teamsters (IBT), the most active union in the industry. IBT also won a majority of its elections and increased its win rate from 2022.

United Auto Workers (UAW) was also a big player, drawing media headlines in November 2023 when it ratified new contracts with General Motors, Ford, and Stellantis—often called the “Big 3” automakers. It later claimed another victory in April 2024 when employees at a nonunion Volkswagen factory in Chattanooga, Tennessee, overwhelmingly voted to join the union.

As you can see, unions are gaining momentum in the manufacturing industry, and many are using their platforms—including digital and social media sites—to posture themselves as fighting for higher wages to offset inflationary pressures, safer working conditions, guaranteed healthcare, secure retirement, and more rights for temporary workers.

Moreover, the National Labor Relations Board (NLRB or Board) continues to rewrite the rules and make organizing easier for unions. In 2023, we saw the Board overturn decades of precedent with its decisions in *Cemex Construction Materials Pacific, Inc.*, and *Stericycle Inc.*

At the end of 2023, the Board changed the election process and reinstated expedited or “quickie” elections, which significantly shortened the timeline for union elections and added new requirements and restrictions for employers.

In late 2024, the Board issued two additional decisions that change the game’s rules:

1. With *Siren Retail Corp d/b/a Starbucks*, the Board overruled its 1985 decision in *Tri-Cast, Inc.* It determined that a comment by management to an employee regarding a possible change to the employee’s relationship with management resulting from unionizing could be perceived as a threat or a loss of an established workplace benefit. To reduce legal risk, management must say that a relationship may change based on terms and conditions negotiated in the collective bargaining agreement—not simply based on unionization.
2. In *Amazon.com Services LLC*, the Board outlawed mandatory educational meetings and ruled that employees have the right to voluntarily participate and the right to not attend and walk out of a meeting. Employers must notify employees in advance what topics will be covered in the meeting and attendance records may not be kept.

Americans’ sentiment toward unions continues to remain favorable even if unionization in the private sector remains in the single digits. Millennials and Gen Z—the generations entering the workforce—hold unions in the highest regard. Their position is the backdrop for a new administration assuming power in Washington. We will see how these forces converge.

In the enclosed Labor Activity in Manufacturing Report, you’ll find data on union organizing and membership nationwide, as well as timely labor and employee relations articles. We look forward to continuing to support manufacturing organizations across the country and providing you with up-to-date and relevant labor information affecting your industry.

Sincerely,



Robert Moll  
People Results, Managing Director

# Table of Contents

---

Executive Summary	5
Union Membership Nationwide	6
NLRB Petition and Election Results	8
National Summaries	9
State Summaries	11
Union Summaries	13
Regional Summaries	15
Strikes in Manufacturing	21
So Far This Year	22
Labor Law/Activity Update	26
<i>"CHEVRON IS OVERRULED": WHAT HAPPENS NEXT? HOW WILL NLRB DECISIONS BE REVIEWED BY THE COURTS?</i>	27
<i>THE UNCERTAIN NEAR FUTURE OF THE NATIONAL LABOR RELATIONS BOARD</i>	33
Appendix A	36
Appendix B	37
Appendix C	38



# Executive Summary

---

## NLRB REPRESENTATION PETITIONS & ELECTIONS

---

In 2023, there were 215 representation petitions filed in the manufacturing industry compared to 166 representation petitions filed in 2022.

Unions were elected as a result of 59 percent of the 152 representation elections<sup>3</sup> held in 2023. In 2022, unions were elected as a result of 49 percent of the 116 representation elections held.

The International Brotherhood of Teamsters (IBT) is the most active union in the manufacturing industry, accounting for 35 percent of petitions filed and 36 percent of elections held in 2023. IBT won 61 percent of these elections—up from their 45 percent win rate in 2022.

Regional differences in activity levels and active unions are highlighted in the Regional Summaries section of this report. The Pacific region had the most representation elections in 2022 and 2023. Seventy-six elections were held, and unions won 55 percent of them.

Strike activity in the past decade has been distributed throughout the nation with a higher concentration in the Midwest. In 2023, 44 strikes were held in the manufacturing industry, idling 66,685 workers.

<sup>3</sup> Throughout the report, a combination of RC and RM cases are used anytime we discuss representation petitions and elections.

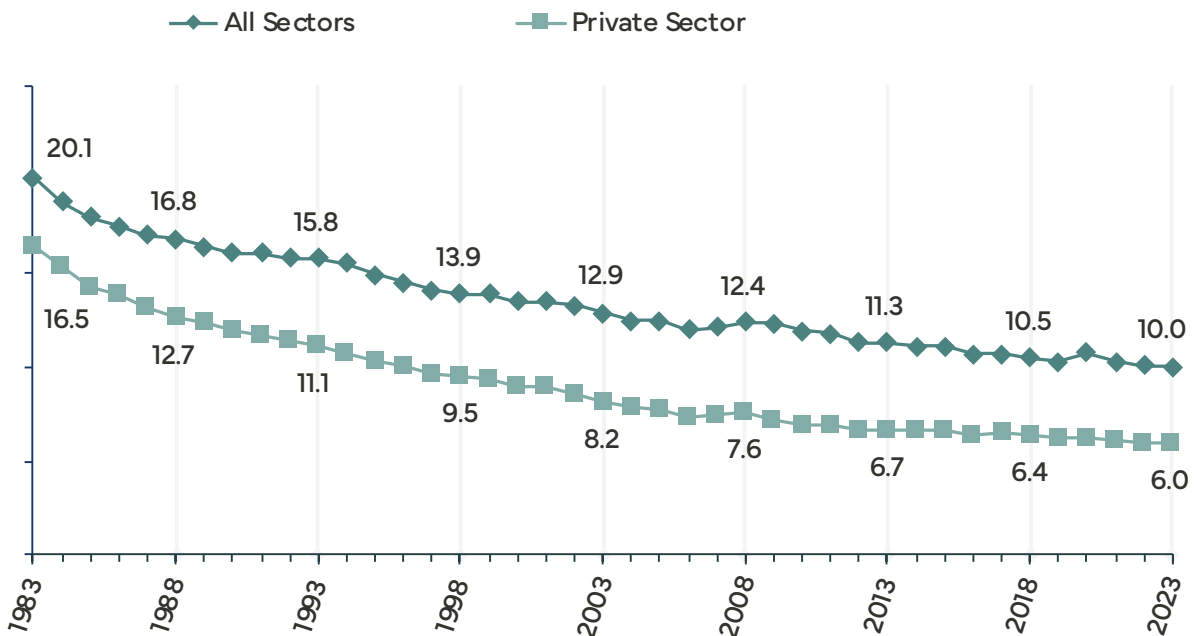
# Union Membership Nationwide

According to the Department of Labor (DOL) Bureau of Labor Statistics' Union Members – 2023 report, the percentage of unionized wage and salary employees decreased to 10.0 percent—the lowest on record. This number is down slightly from 10.1 percent in 2022, although the number of wage and salary workers belonging to unions increased from 2022 to 2023.

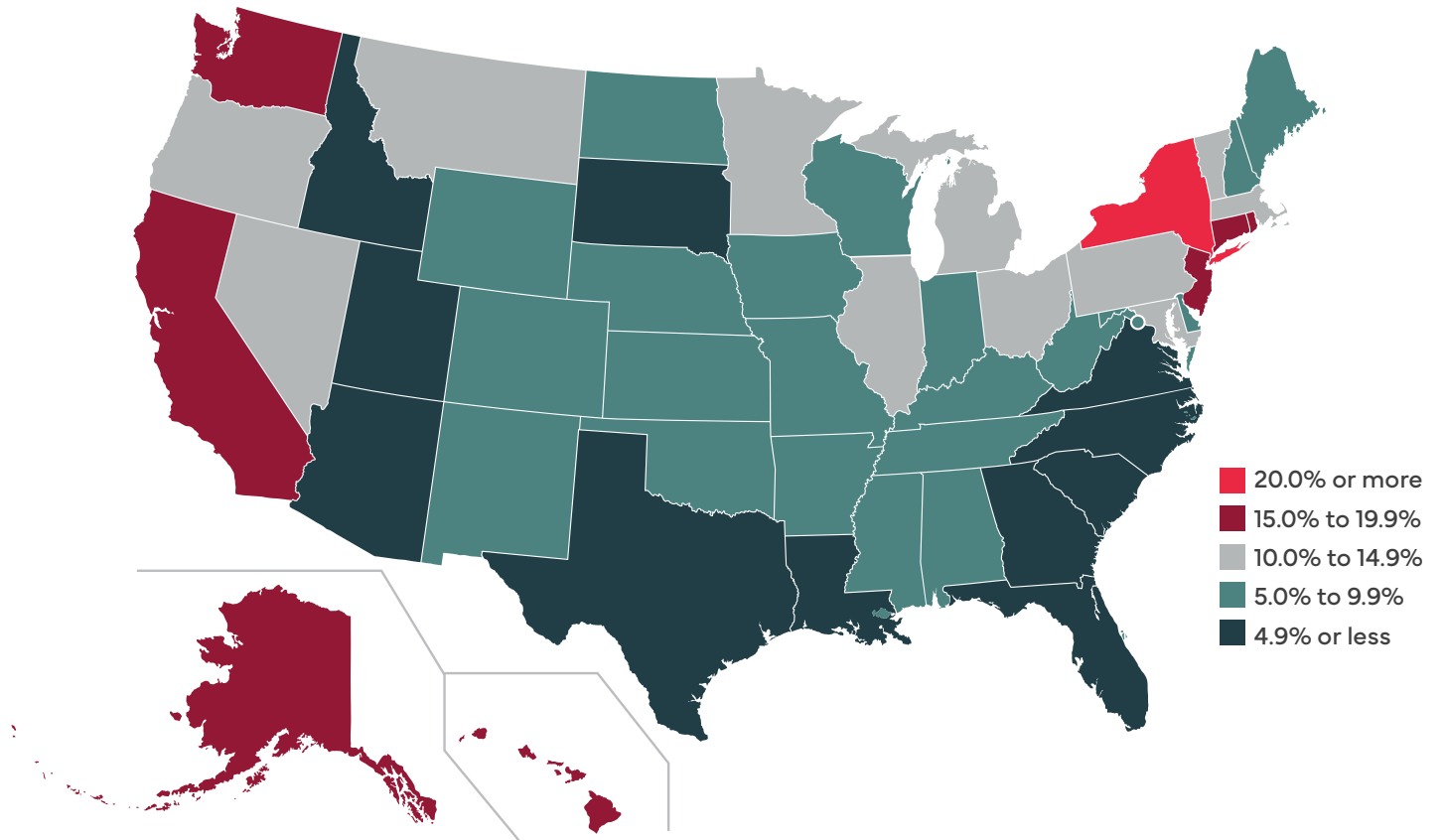
## DATA FROM THE DOL REPORT INCLUDE THE FOLLOWING HIGHLIGHTS:

- The union membership rate was 10.0 percent in 2023—down from 10.1 percent in 2022
- Public sector employees continue to be more than 5 times as likely to be members of unions as private sector employees (32.5 percent versus 6.0 percent, respectively)
- Black workers continued to have the highest union membership rate in 2023 (11.8 percent), followed by Whites (9.8 percent), Hispanics (9.0 percent), and Asians (7.8 percent)
- The highest union membership rate is among men aged 45 to 54 (12.9 percent), while the lowest is among women aged 16 to 24 (3.4 percent)
- Among states, Hawaii maintains the highest union membership rate (24.1 percent), and South Carolina has the lowest rate (2.3 percent)
- Union membership rates increased in 27 states, decreased in 21 states, and remained unchanged in 2 states and the District of Columbia

## UNION MEMBERSHIP RATE SUMMARY



UNION MEMBERSHIP RATES BY STATE, 2023





# NLRB Petition and Election Results

---

## THIS SECTION INCLUDES THE FOLLOWING:

---

### National summaries

- Comparison of manufacturing versus all non-manufacturing representation (RC and RM) election results
- Comparison of manufacturing versus all non-manufacturing decertification (RD) results
- Manufacturing industry – Overview of elections
- Manufacturing industry – Union successes in representation elections

### State summaries

- Most active states – representation petitions filed and representation election results
- All states – representation petitions filed
- All states – representation election results

### Union summaries

- Most active unions – representation petitions filed
- Most active unions – representation elections held
- Union success rates – representation election results

### Regional summaries

- Representation petitions, elections, and most active unions by geographic regions

### Strikes in manufacturing

- Strikes held by year in manufacturing

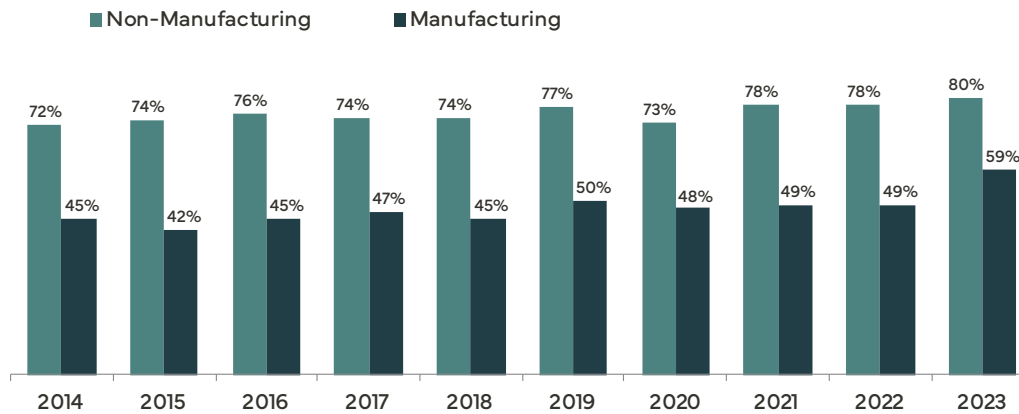
# National Summaries

The following information summarizes petition activity and elections held during the past decade as reported by the NLRB.

## UNION WINS IN REPRESENTATION ELECTIONS

In 2023, unions won 59 percent of all representation elections held in the manufacturing industry—far lower than the 80 percent win rate in all other industries.

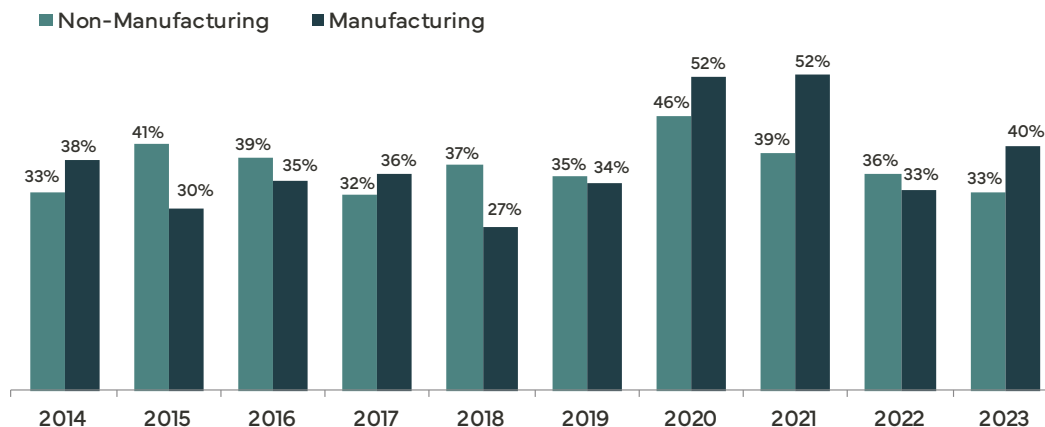
Manufacturing vs. Non-Manufacturing Industries (2014–2023)



## UNION WINS IN DECERTIFICATION ELECTIONS

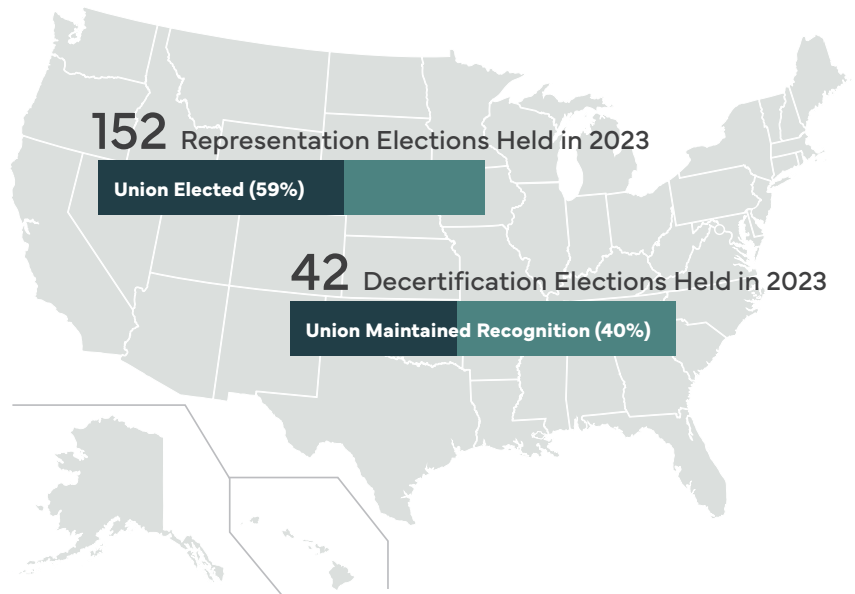
Unions maintained recognition in 40 percent of decertification elections held in the manufacturing industry in 2023—higher than the 33 percent rate in all other industries.

Manufacturing vs. Non-Manufacturing Industries (2014–2023)



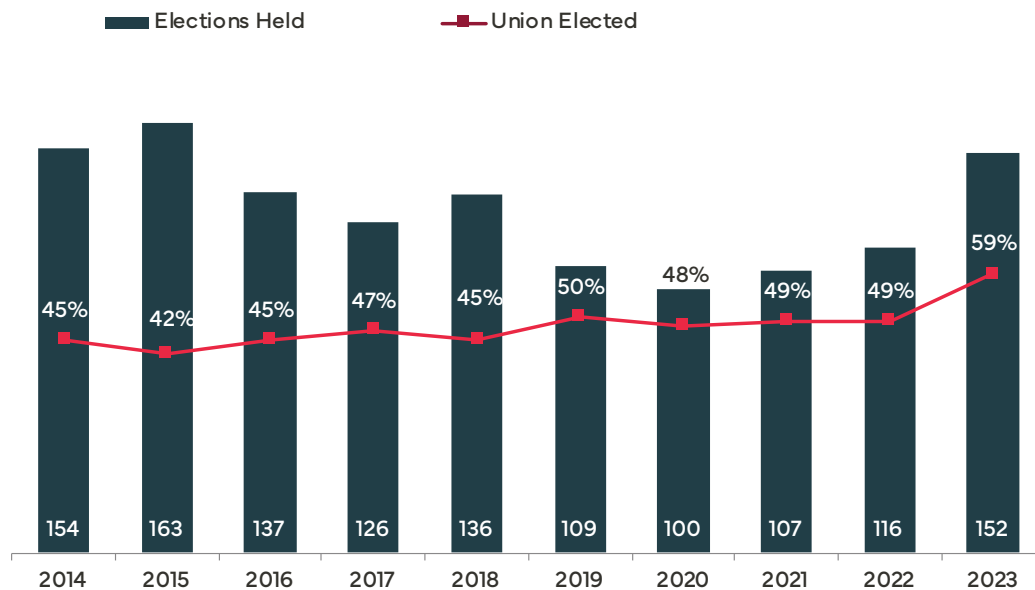
## MANUFACTURING INDUSTRY – ELECTIONS OVERVIEW

In 2023, there were 152 representation elections held in the manufacturing industry and unions were elected as a result of 59 percent of them. During the same time period, 42 decertification elections were held and unions maintained recognition in just 40 percent.



## UNION SUCCESS IN REPRESENTATION ELECTIONS COMPARED TO NUMBER OF ELECTIONS

The chart below illustrates the number of representation elections held over the past decade, along with the percentage of elections won by unions. Unions were elected as a result of 59 percent of the 152 elections held in the manufacturing industry in 2023. This was the highest win rate unions have experienced in the industry in the last decade.





# State Summaries

This section provides an overview of state-level organizing activity in the manufacturing industry and is based on representation petitions filed and elections held. The data include all reported petitions and elections for 2022 and 2023 at the time of publication.

## ALL STATES – REPRESENTATION PETITIONS IN MANUFACTURING

The table below details the number of representation petitions filed in each state in manufacturing during 2022 and 2023.

State	2022	2023	State	2022	2023	State	2022	2023
Alabama	5	7	Kentucky	1	5	Ohio	6	7
Alaska	1	-	Louisiana	1	1	Oklahoma	2	2
Arizona	1	1	Maine	-	2	Oregon	5	9
Arkansas	-	2	Maryland	-	2	Pennsylvania	4	9
California	30	34	Massachusetts	-	2	Puerto Rico	1	3
Colorado	2	2	Michigan	7	20	Rhode Island	3	-
Connecticut	3	1	Minnesota	3	9	Tennessee	1	3
DC	1	-	Mississippi	3	2	Texas	9	12
Florida	2	5	Missouri	7	5	Utah	2	1
Georgia	2	4	Nevada	4	-	Vermont	-	2
Idaho	3	-	New Jersey	8	7	Virginia	4	5
Illinois	13	15	New Mexico	4	-	Washington	11	12
Indiana	2	5	New York	8	6	West Virginia	2	2
Iowa	2	-	North Carolina	2	5	Wisconsin	-	3
Kansas	-	1	North Dakota	1	2	<b>Total</b>	<b>166</b>	<b>215</b>

Note: States are not included in the table if no petitions were filed in 2022 or 2023.

**ALL STATES – REPRESENTATION ELECTION RESULTS IN MANUFACTURING**

The table below details the number of representation elections held in each state in manufacturing during 2022 and 2023.

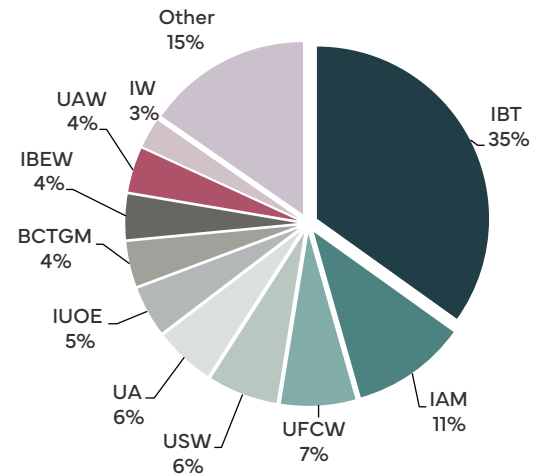
State	2022					2023				
	Total	Union Wins	% of Elections	Union Losses	% of Elections	Total	Union Wins	% of Elections	Union Losses	% of Elections
Alabama	-	0	0%	1	100%	4	1	25%	3	75%
Alaska	1	-	-	-	-	-	-	-	-	-
Arizona	1	-	-	-	-	1	1	100%	0	0%
California	20	0	0%	2	100%	25	19	76%	6	24%
Colorado	2	5	56%	4	44%	2	2	100%	0	0%
Connecticut	1	1	100%	0	0%	-	-	-	-	-
Florida	2	-	-	-	-	3	2	67%	1	33%
Georgia	1	0	0%	2	100%	3	1	33%	2	67%
Idaho	2	0	0%	2	100%	-	-	-	-	-
Illinois	8	1	50%	1	50%	13	10	77%	3	23%
Indiana	3	0	0%	1	100%	4	3	75%	1	25%
Iowa	2	-	-	-	-	-	-	-	-	-
Kansas	-	9	69%	4	31%	1	0	0%	1	100%
Kentucky	1	1	14%	6	86%	5	2	40%	3	60%
Louisiana	-	1	100%	0	0%	2	1	50%	1	50%
Maine	-	0	0%	1	100%	1	1	100%	0	0%
Maryland	-	3	75%	1	25%	1	1	100%	0	0%
Massachusetts	-	1	100%	0	0%	1	1	100%	0	0%
Michigan	4	2	67%	1	33%	13	6	46%	7	54%
Minnesota	2	0	0%	1	100%	8	3	38%	5	63%
Mississippi	-	1	100%	0	0%	3	0	0%	3	100%
Missouri	4	1	50%	1	50%	5	3	60%	2	40%
Nevada	2	0	0%	1	100%	-	-	-	-	-
New Jersey	5	3	75%	1	25%	4	3	75%	1	25%
New Mexico	3	-	-	-	-	-	-	-	-	-
New York	7	9	75%	3	25%	3	1	33%	2	67%
North Carolina	2	0	0%	2	100%	3	1	33%	2	67%
North Dakota	1	-	-	-	-	1	1	100%	0	0%
Ohio	6	1	20%	4	80%	4	2	50%	2	50%
Oklahoma	1	-	-	-	-	1	1	100%	0	0%
Oregon	5	0	0%	1	100%	3	2	67%	1	33%
Pennsylvania	5	1	100%	0	0%	4	0	0%	4	100%
Puerto Rico	1	0	0%	3	100%	3	3	100%	0	0%
Tennessee	1	3	75%	1	25%	3	0	0%	3	100%
Texas	2	0	0%	1	100%	9	6	67%	3	33%
Utah	1	0	0%	2	100%	1	0	0%	1	100%
Vermont	-	0	0%	1	100%	1	0	0%	1	100%
Virginia	4	1	50%	1	50%	4	3	75%	1	25%
Washington	13	10	91%	1	9%	9	6	67%	3	33%
West Virginia	2	0	0%	1	100%	2	2	100%	0	0%
Wisconsin	1	0	0%	1	100%	2	1	50%	1	50%
<b>Total</b>	<b>116</b>	<b>54</b>	<b>51%</b>	<b>52</b>	<b>49%</b>	<b>152</b>	<b>89</b>	<b>59%</b>	<b>63</b>	<b>41%</b>

Note: States are not included in the table if no elections were held in 2022 or 2023.

# Union Summaries

## MOST ACTIVE UNIONS – REPRESENTATION PETITIONS IN MANUFACTURING IN 2023

IBT remains the most active union in the manufacturing industry. In 2023, IBT accounted for 35 percent of representation petitions filed. The next most active union, the International Association of Machinists and Aerospace Workers (IAM), accounted for 11 percent of representation petitions filed.



Abbreviation	Union Name	Petitions Filed	
		2022	2023
IBT	International Brotherhood of Teamsters	44	75
IAM	International Association of Machinists and Aerospace Workers	13	23
UFCW	United Food and Commercial Workers International Union	27	15
USW	United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union	9	14
UA	United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry	3	12
IUOE	International Union of Operating Engineers	9	10
BCTGM	Bakery, Confectionery, Tobacco Workers and Grain Millers International Union	4	9
IBEW	International Brotherhood of Electrical Workers	9	9
UAW	International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America	6	9
IW	International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers Union	5	6

The following table includes unions that are also active in the manufacturing industry and referenced in the following pages.

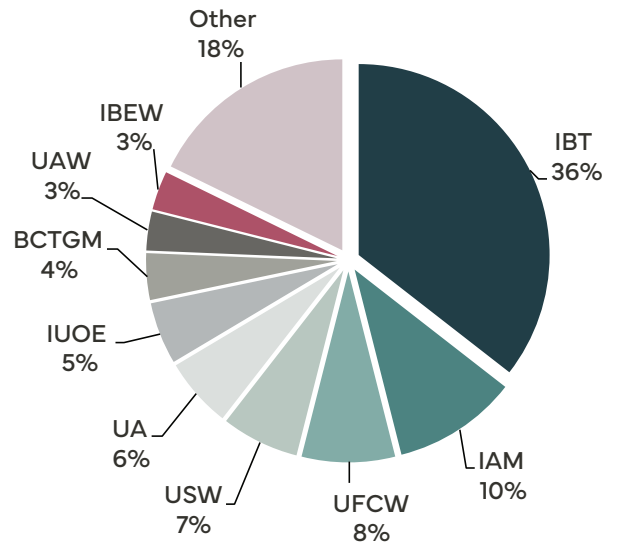
Abbreviation	Union Name
IWW	Industrial Workers of the World
SMART	International Association of Sheet Metal, Air, Rail and Transportation Workers
OPEIU	Office and Professional Employees International Union
IAFF	International Association of Fire Fighters
LIUNA	Laborers' International Union of North America
CWA	Communication Workers of America
UNITE HERE	UNITE HERE

Abbreviation	Union Name
UBC	United Brotherhood of Carpenters and Joiners of America
IUJAT	International Union of Journeymen and Allied Trades
SEIU	Service Employees International Union
UE	United Electrical, Radio and Machine Workers of America
TWU	Transport Workers Union of America



**MOST ACTIVE UNIONS – REPRESENTATION ELECTIONS HELD IN MANUFACTURING IN 2023**

As expected, IBT also accounts for the most representation elections held in the manufacturing industry. In 2023, IBT was involved in 54 elections and was elected as a result of 61 percent of them—this is a significant increase from the 45 percent of elections IBT won in 2022.

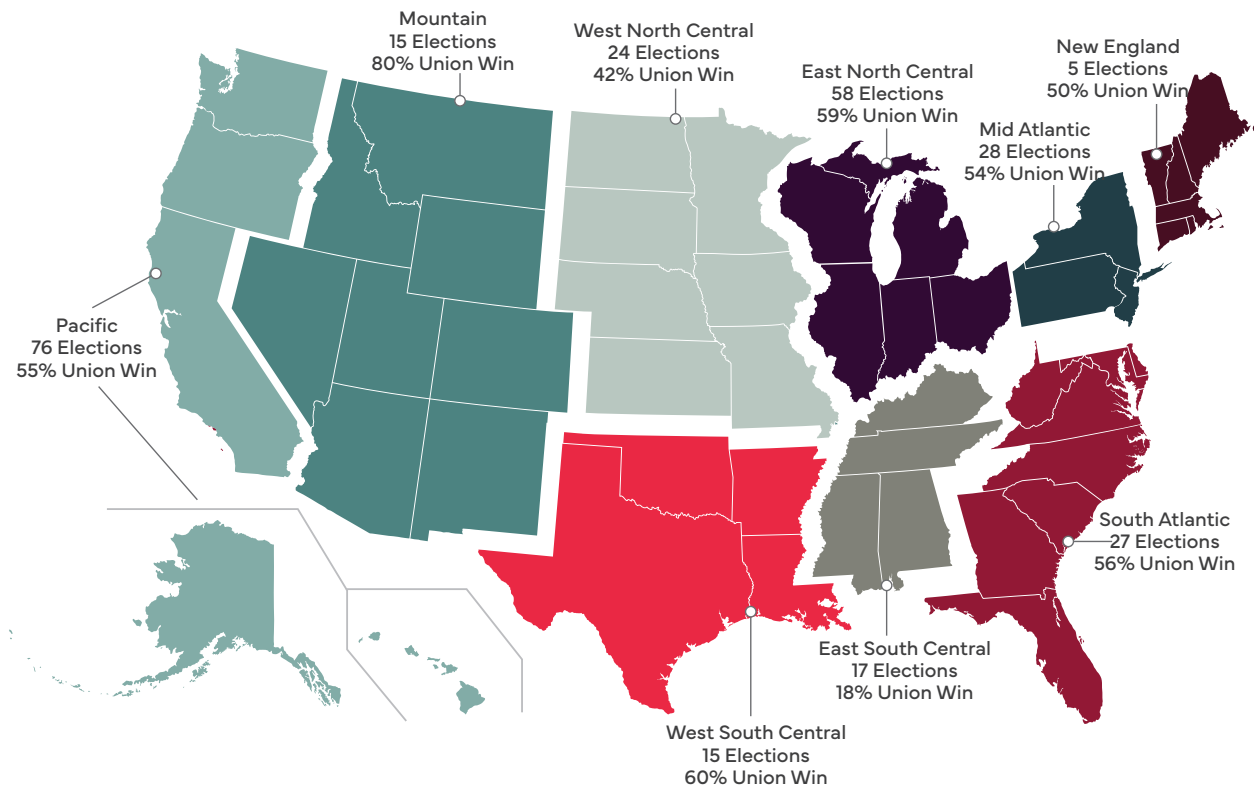


	2022			2023		
	Total Elections	Union Elected %	Union Not Elected %	Total Elections	Union Elected %	Union Not Elected %
IBT	33	45%	55%	54	61%	39%
IAM	10	20%	80%	16	38%	63%
UFCW	19	47%	53%	12	50%	50%
USW	6	33%	67%	10	70%	30%
UA	1	0%	100%	9	33%	67%
IUOE	9	67%	33%	8	50%	50%
BCTGM	4	50%	50%	6	17%	83%
IBEW	7	57%	43%	5	100%	0%
UAW	4	75%	25%	5	80%	20%

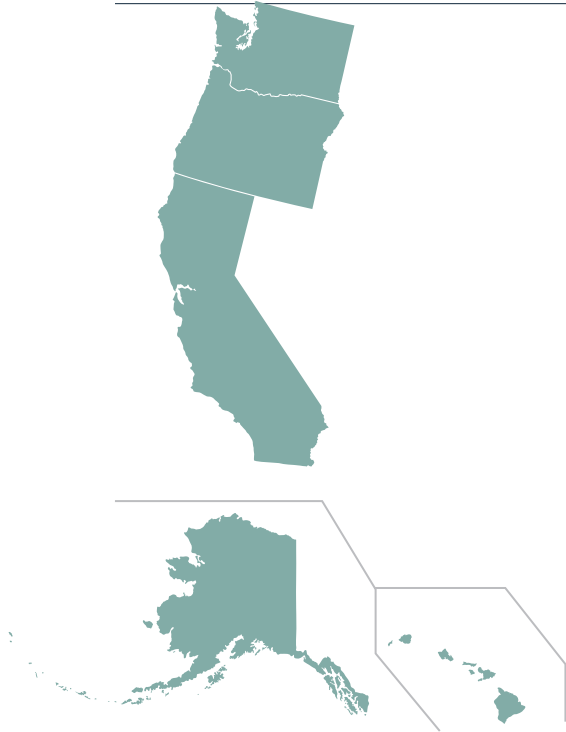
# Regional Summaries

For the purposes of this analysis, we have categorized the nation into nine regions as illustrated in the map below. The following sections provide an overview of activity in each region in 2022 and 2023 and a breakdown of the most active unions in the region based on representation petitions filed in the same time period.

The map below shows the number of elections and the union win rate in each region in 2022 and 2023 combined.



**PACIFIC**



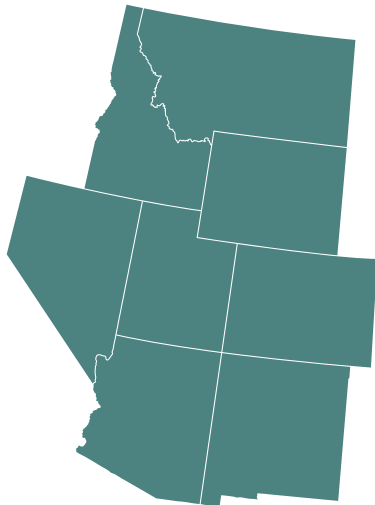
State	2022		
	Petitions Filed	Elections Held	Union Win Rate
Alaska	1	1	100%
California	30	20	40%
Hawaii	0	0	-
Oregon	5	5	20%
Washington	11	13	38%

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
Alaska	0	0	-
California	34	25	76%
Hawaii	0	0	-
Oregon	9	3	67%
Washington	12	9	67%

**Most Active Unions**  
 IBT, IAM, UFCW, IWW, IBEW, UA, SMART, USW, OPEIU, IW

**MOUNTAIN**



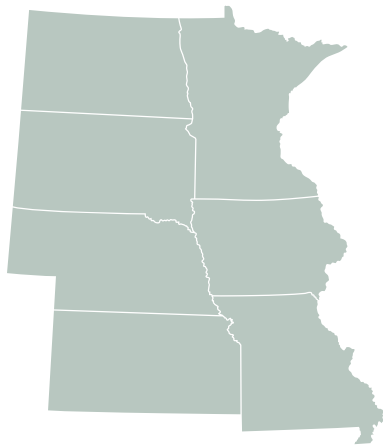
State	2022		
	Petitions Filed	Elections Held	Union Win Rate
Arizona	1	1	100%
Colorado	2	2	100%
Idaho	3	2	100%
Montana	0	0	-
Nevada	4	2	100%
New Mexico	4	3	67%
Utah	2	1	0%
Wyoming	0	0	-

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
Arizona	1	1	100%
Colorado	2	2	100%
Idaho	0	0	-
Montana	0	0	-
Nevada	0	0	-
New Mexico	0	0	-
Utah	1	1	0%
Wyoming	0	0	-

**Most Active Unions**  
 IBT, UFCW, IAFF, IUOE, IBEW, LIUNA, IW, IAM, CWA

**WEST NORTH CENTRAL**



State	2022		
	Petitions Filed	Elections Held	Union Win Rate
Iowa	2	2	0%
Kansas	0	0	-
Minnesota	3	2	50%
Missouri	7	4	25%
Nebraska	0	0	-
North Dakota	1	1	100%
South Dakota	0	0	-

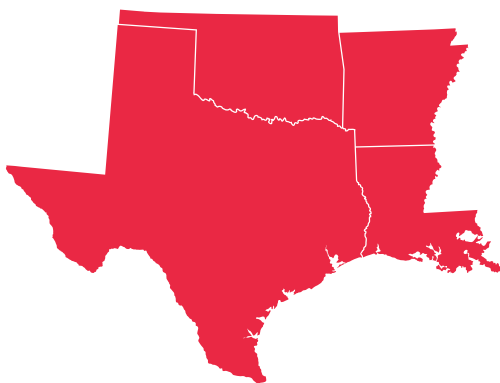
  

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
Iowa	0	0	-
Kansas	1	1	0%
Minnesota	9	9	38%
Missouri	5	5	60%
Nebraska	0	0	-
North Dakota	2	1	100%
South Dakota	0	0	-

**Most Active Unions**

IBT, IAM, UA, USW, UFCW, IBEW, CWA, UNITE HERE, UBC, UAW

**WEST SOUTH CENTRAL**



State	2022		
	Petitions Filed	Elections Held	Union Win Rate
Arkansas	0	0	-
Louisiana	1	0	-
Oklahoma	2	1	100%
Texas	9	2	0%

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
Arkansas	2	0	-
Louisiana	1	2	50%
Oklahoma	2	1	100%
Texas	12	9	67%

**Most Active Unions**

IBT, USW, Independent Unions, BCTGM, SMART, IBEW, UBC, UA

**EAST NORTH CENTRAL**



State	2022		
	Petitions Filed	Elections Held	Union Win Rate
Illinois	13	8	50%
Indiana	2	3	67%
Michigan	7	4	75%
Ohio	6	6	50%
Wisconsin	0	1	0%

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
Illinois	15	13	77%
Indiana	5	4	75%
Michigan	20	13	46%
Ohio	7	4	50%
Wisconsin	3	2	50%

**Most Active Unions**

IBT, UAW, IUOE, IAM, UFCW, BCTGM, USW, UA, IW, IBEW

**EAST SOUTH CENTRAL**



State	2022		
	Petitions Filed	Elections Held	Union Win Rate
Alabama	5	0	-
Kentucky	1	1	0%
Mississippi	3	0	-
Tennessee	1	1	0%

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
Alabama	7	4	25%
Kentucky	5	5	40%
Mississippi	2	3	0%
Tennessee	3	3	0%

**Most Active Unions**

UFCW, USW, IAM, UA, IBT, CWA, IUJAT, IBEW, IBB, IAFF



**NEW ENGLAND**



State	2022		
	Petitions Filed	Elections Held	Union Win Rate
Connecticut	3	1	0%
Maine	0	0	-
Massachusetts	0	0	-
New Hampshire	0	0	-
Rhode Island	3	0	-
Vermont	0	0	-

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
Connecticut	1	0	-
Maine	2	1	100%
Massachusetts	2	1	100%
New Hampshire	0	0	-
Rhode Island	0	0	-
Vermont	2	1	0%

**Most Active Unions**

IBT, UAW, IUOE, IAM, UFCW, BCTGM, USW, UA, IW, IBEW

**MIDDLE ATLANTIC**



State	2022		
	Petitions Filed	Elections Held	Union Win Rate
New Jersey	8	5	60%
New York	8	7	86%
Pennsylvania	4	5	40%

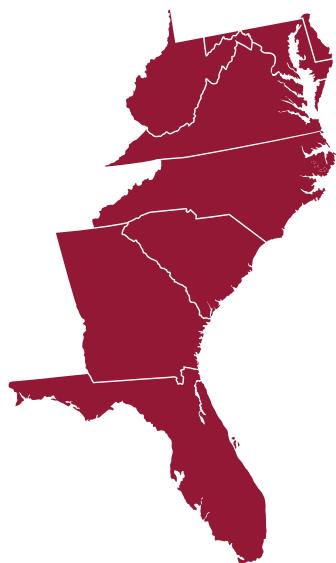
  

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
New Jersey	7	4	75%
New York	6	3	33%
Pennsylvania	9	4	0%

**Most Active Unions**

IBT, UFCW, IAM, USW, IW, IUOE, UE, TWU, SMART, SEIU

**SOUTH ATLANTIC**



State	2022		
	Petitions Filed	Elections Held	Union Win Rate
DC	1	0	-
Delaware	0	0	-
Florida	2	2	50%
Georgia	2	1	0%
Maryland	0	0	-
North Carolina	2	2	100%
South Carolina	0	0	-
Virginia	4	4	25%
West Virginia	2	2	50%

State	2023		
	Petitions Filed	Elections Held	Union Win Rate
DC	0	0	-
Delaware	0	0	-
Florida	5	2	50%
Georgia	4	1	0%
Maryland	2	0	-
North Carolina	5	2	100%
South Carolina	0	0	-
Virginia	5	4	25%
West Virginia	2	2	50%

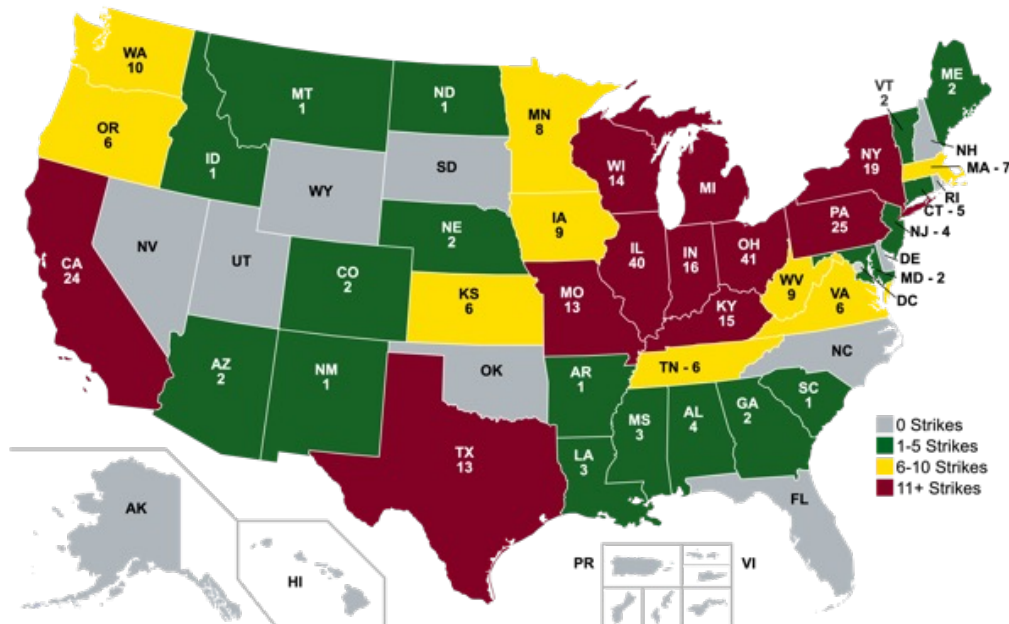
**Most Active Unions**

IBT, UFCW, UA, IBEW, IW, CWA, BCTGM, USW, Independent Unions, IAM

# Strikes in Manufacturing

The map below illustrates the number of strikes held in manufacturing since 2014<sup>4</sup>. Strike activity has been fairly well dispersed across the nation with a higher concentration in the Midwest.

## STRIKES IN MANUFACTURING BY STATE: 2014–2023



Year	Number of Strikes	Workers Idled	Average Number of Workers per Strike
2023	44	66,685	1,516
2022	45	10,839	241
2021	47	28,511	607
2020	27	7,953	295
2019	18	52,868	2,937
2018	34	4,560	134
2017	32	3,962	124
2016	24	4,897	204
2015	42	18,349	437
2014	32	7,685	240

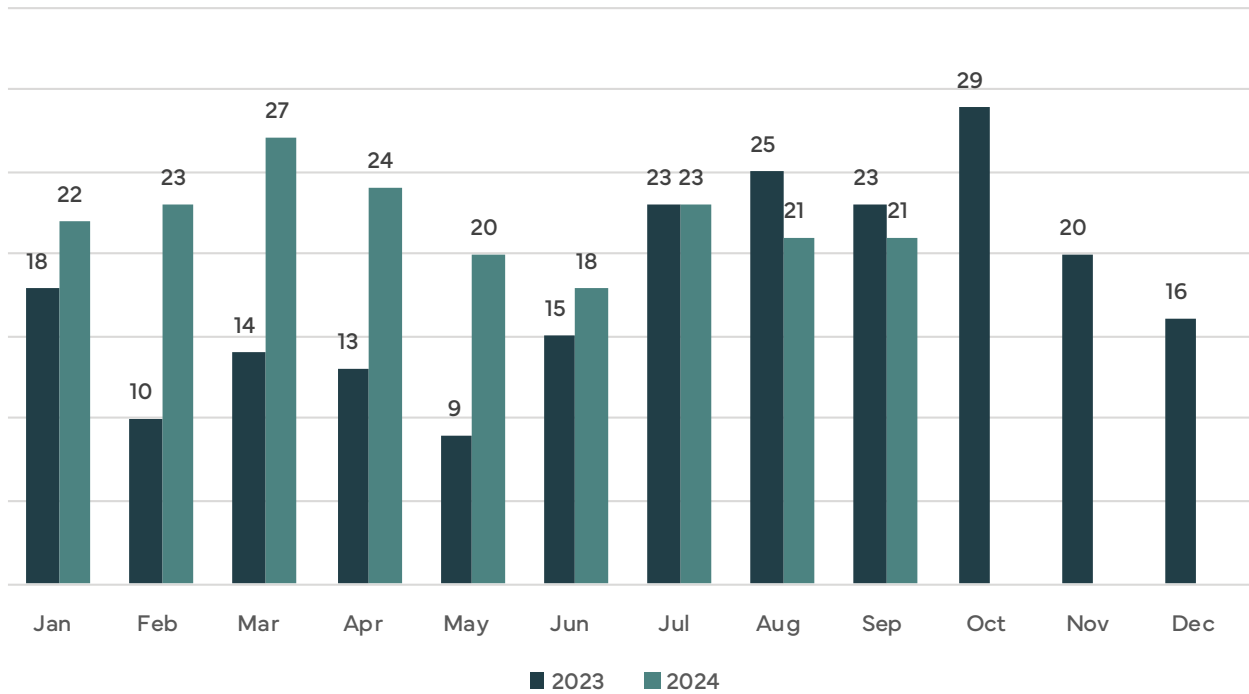
<sup>4</sup> Strike data is compiled from a combination of Federal Mediation and Conciliation Services Work Stoppage Data, U.S. Bureau of Labor Statistics Major Work Stoppages Data, and media coverage of strikes in order to provide the most complete data possible. The data may not be comprehensive.

# So Far This Year

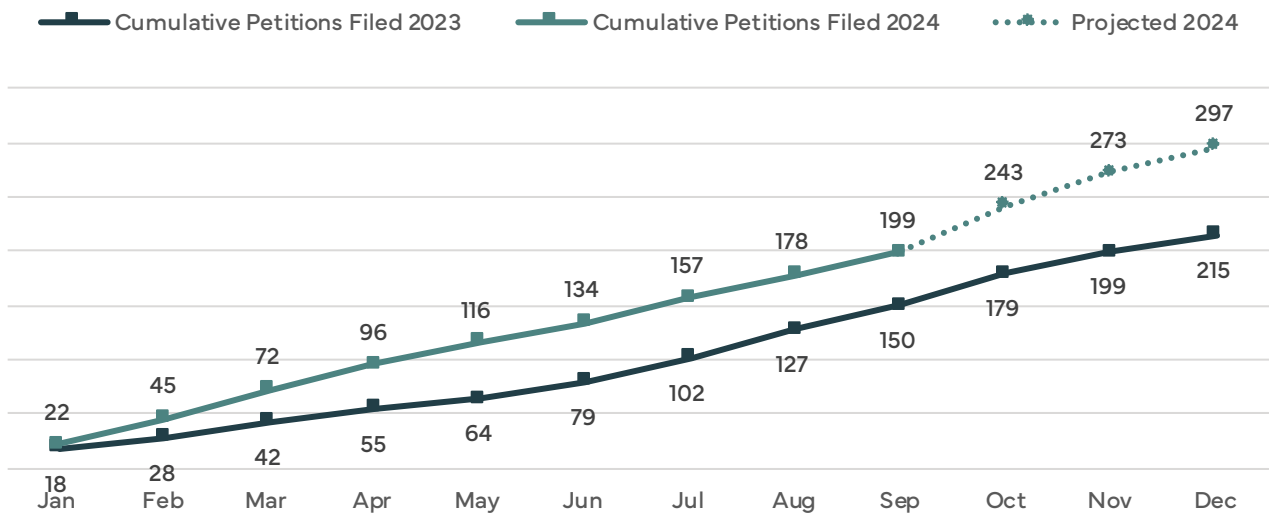
## REPRESENTATION PETITIONS

2024 is on track to be a record year in terms of representation petitions filed in the manufacturing industry.

In each of the first six months of the year, there were more representation petitions filed than in that same month in 2023. This trend leveled off in the third quarter of the year and there were actually fewer petitions filed in August and September. The biggest decrease was in August with 16 percent fewer petitions filed and the largest increase was in February with 130 percent more petitions filed. On average, the monthly increase was 50 percent.

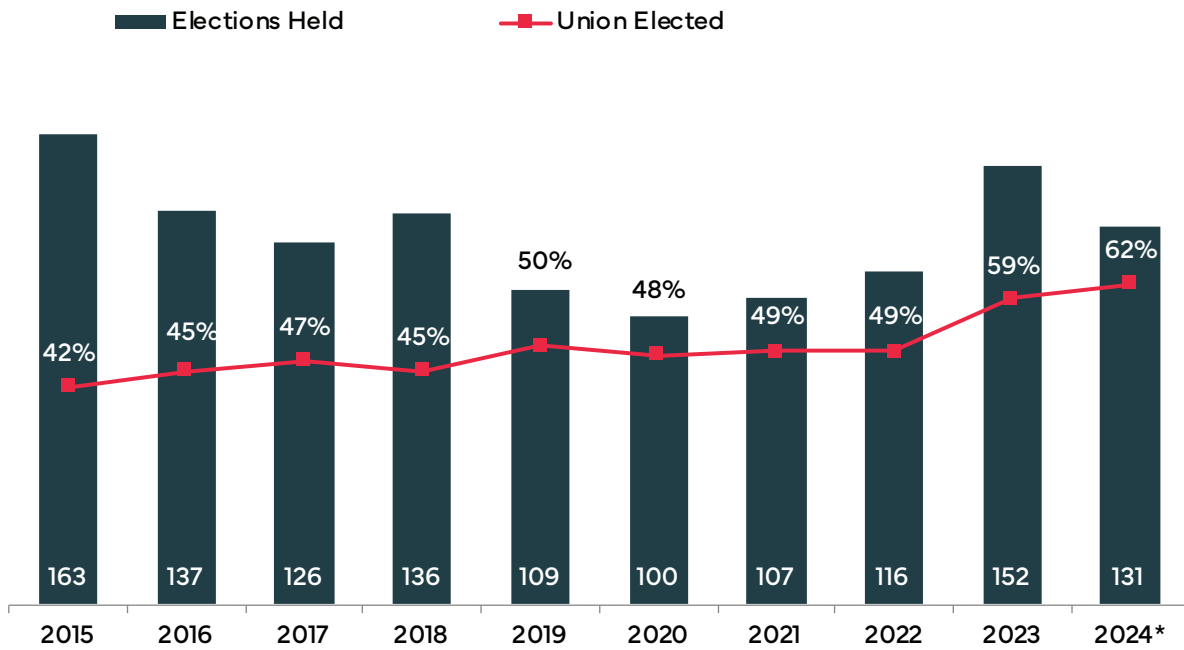


As seen below, the gap in cumulative petitions filed has remained as the year has progressed. Through September, there were 49 more representation petitions filed in 2024 than there had been at the same point last year. If the average 50 percent monthly increase holds up through the end of the year, there would be a projected 297 representation petitions filed. It is unlikely that we will see quite that many petitions due to the variability in number of petitions filed monthly and the recent downward trend in the third quarter of 2024, but we still expect to see a sizeable increase over 2023.



**REPRESENTATION ELECTIONS**

As expected with the increase in representation petitions, we are also seeing an increase in representation elections held. At the conclusion of the third quarter, 131 representation elections were held, of which the union won 62 percent—this is the highest win rate unions have experienced in the industry in the last decade. For reference, at the end of the third quarter in 2023, there had been just 98 representation elections held.

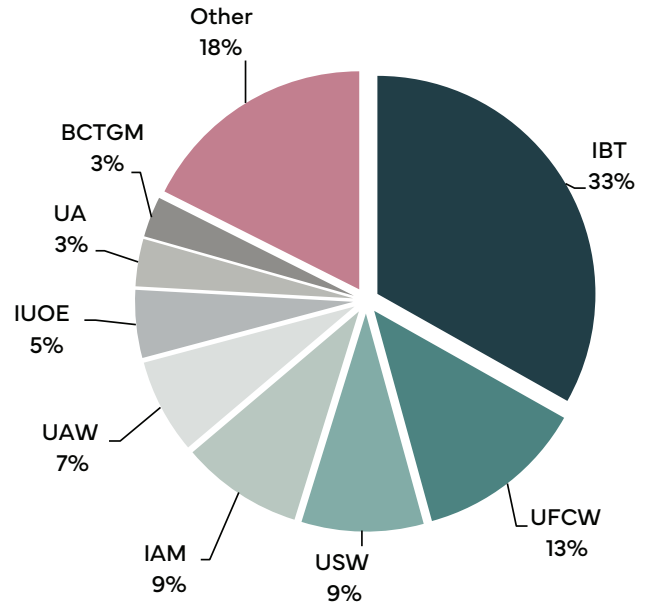


\*Note: This chart reflects 2024 data through the end of August only.



### MOST ACTIVE UNIONS

Unsurprisingly, IBT remains the most active union in the industry accounting for a third of representation petitions filed in the first three quarters of 2024. UFCW and USW have overtaken IAM in second and third place respectively.



### OTHER UNIONS TO WATCH

The unions in the following table have been involved in more petitions through September 2024 than on average in the previous three years.

Union	Average annual petitions filed (2021-2023)	Petitions filed in 2024	2024 union win rate
IBT	54	66	61%
UFCW	19	25	50%
IAM	17	18	38%
USW	11	18	70%
UAW	7	14	80%
IUOE	8	10	50%
UA	7	7	33%
BCTGM	5	6	20%
LIUNA	3	4	75%

# Labor Law/Activity Update

---

**“Chevron Is Overruled”: What Happens Next? How Will NLRB Decisions be Reviewed by the Courts?** by George Howard of Quarles & Brady LLP explains how the overruling of *Chevron* earlier this year (and thus, of *Chevron* deference) has opened the door for employers to challenge adverse results and regulations handed down by the NLRB. In this article, the author also lays out some of the important questions to ask following *Chevron*’s overruling and what it may portend for future NLRB decisions.

**The Uncertain Near Future of the National Labor Relations Board** by Bob Dumbacher and James La Rocca of Hunton Andrews Kurth LLP outlines the political and legal reasons that the NLRB’s future is uncertain, at least in the coming months. The authors also explain the current makeup of the NLRB—and how the recent presidential election may soon impact it—as well as the constitutional challenges that have been mounting against the Board.

# “*Chevron* is Overruled”: What Happens Next? How Will NLRB Decisions be Reviewed by the Courts?

George Howard, Quarles & Brady LLP

Tel: 619-243-1577 [george.howard@quarles.com](mailto:george.howard@quarles.com) San Diego, CA

---

## ABSTRACT

The United States Supreme Court on June 28, 2024, overruled the “*Chevron* doctrine.” For forty years, this doctrine gave binding deference to decisions and regulations issued by federal administrative agencies, so long as the agency’s decision or regulation represented at least a reasonable interpretation of an ambiguous provision in the statute administered by the agency. (*Loper Bright Enterprises v. Raimondo* (2024) 144 S.Ct. 2244.)

However, in reviewing decisions of the National Labor Relations Board (the “Board”), the Supreme Court itself has not always invoked the *Chevron* decision. The high Court sometimes deferred to the Board’s rulings interpreting the National Labor Relations Act (the “Act”), but did not consistently articulate a standard for deferral to the Board. And the Court, on multiple occasions, rejected the Board’s interpretations of the Act or of statutes the Board does not administer.

Because *Chevron* is overruled, the door is open, more than before, to challenge adverse results and regulations of the Board. Employers (or unions or individuals) should carefully assess the risks and benefits of strategies that previously might not have seemed propitious or advisable.

The Board, in numerous decisions over the past several administrations, has obviously “flip-flopped,” reversing its own decisions on multiple, important issues. So, given this background, what does *Chevron*’s overruling portend for NLRB decisions and orders?

## 1. Federal courts will no longer automatically defer to the NLRB's legal interpretations.

Federal courts will likely confront post-*Chevron* issues for many years. What we do know is that, in the succinct words of Chief Justice Roberts' majority opinion, "*Chevron* is overruled." (*Loper Bright, supra*, 144 S.Ct at p. 2273.) Federal courts now have far greater discretion to review agency legal conclusions, even where the statute itself grants the agency interpretive or enforcement authority.

As the Supreme Court stated in *Loper Bright*, statutory interpretation is not an area where agencies possess greater expertise than courts: "Perhaps most fundamentally, *Chevron's* presumption is misguided because agencies have no special competence in resolving statutory ambiguities. Courts do." (*Id.* at p. 2266.)

In what may be the first post-*Loper Bright* Circuit Court opinion to consider the standard of review of Board orders, the Sixth Circuit, citing *Loper Bright*, held:

"This court defers to the "Board's findings of fact, reasonable inferences from the facts, and applications of law to the facts if they are supported by substantial evidence on the record considered as a whole." ..... Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." ..... We do not defer to the NLRB's interpretation of the NLRA, but exercise independent judgment in deciding whether an agency acted within its statutory authority..... We pay "careful attention" to the judgment of the agency to inform that inquiry...., and we also review de novo the NLRB's interpretation of non-NLRA legal conclusions.... Finally, the Board has "broad discretion in fashioning remedies for [NLRA] violations." .....We review remedial orders for abuse of discretion."

(*Rieth-Riley Construction Corp. v. NLRB* (6th Cir. Aug. 14, 2024) \_\_ F. 4th \_\_ (No. 23-1899 / 1946) (citations omitted including a citation to *Loper Bright*).

## 2. What standard will courts apply when reviewing NLRB orders going forward?

The Board's decisions and orders themselves are not self-executing: the Board must seek enforcement in the Circuit where the case arose. An employer (or union or individual) who loses a case before the Board may likewise seek review by the Circuit Court where the case arose, or in the D.C. Circuit.

Prior to the *Loper Bright* decision, the Circuit Courts often professed to defer to Board legal interpretations of the Act, although, as a leading treatise states, "Many courts tend to substitute their judgment for the Board's if they [find] the Board in error on a legal issue." (BNA, *The Developing Labor Law* (2023) Chapter 33.II.B.2.) And many cases present "mixed questions of fact and law," where any deference on Board factual findings can be tempered with the court's analysis of the legal principle embedded in the statute.

Even the Supreme Court itself, according to a leading scholar, "has approved a bewildering array of standards for judicial review of agency decisions." (St. Antoine, *The NLRB. The Courts, The Administrative Procedures Act and Chevron: Now and Then* (2015) Emory L. J. 64, Special Issue, p.1540.)

The Act itself is silent on the standard for court review of the Board's legal interpretations. The Act does provide NLRB findings of fact are conclusive if supported by substantial evidence in the record taken as a whole. The *Loper Bright* decision alludes to court acceptance of agency factual findings where those findings are supported by substantial evidence in the record. But many of the important issues recently addressed by the Board are not solely or even largely fact-based, but instead represent policy choices interpreting the admittedly generic provisions of the statute.

Historically, the Court sometimes seemed to decline any deference, whatever the Board. In 2010, the Supreme Court held that two members of the five-member Board could not constitute a quorum to decide cases, although the statute had been

amended in 1947 to permit the Board to delegate all of its duties to three-member panels. (*New Process Steel, L.P. v. NLRB* (2010) 560 U.S. 674.) The majority opinion, written by former Justice John Paul Stevens, relied on “a straightforward understanding of the [statutory] text.” (*Id.* at p. 683.) The Court rejected not only the Board’s contention, but also the opinion of the Office of Legal Counsel. The court in *New Process Steel* basically reviewed the statutory language *de novo* with no mention of any form of deference.

The Court has also used other standards for deference, or no deference at all, depending on the circumstances. In one widely cited opinion, the Board acknowledged that interpretations of the Act, even if legal interpretations, should be subject to “limited” review, because “it is the Board on which Congress conferred the authority to develop and apply fundamental national labor policy...” (*Beth Israel Hospital v. NLRB* (1978) 437 U.S. 483, 500-501.) However, an earlier Court opinion, *American Shipbuilding Co. v. NLRB* (1965) 380 U.S. 300, 318 cautions: “The deference owed to an expert tribunal cannot be allowed to slip into a judicial inertia which results in the unauthorized assumption by an agency of major policy decisions properly made by Congress.”

The Supreme Court (and other courts) routinely do not defer to agency interpretations of statutes that the agency itself does not administer, or to agency interpretations of court decisions. (See, e.g., *Hoffman Plastics Compounds, Inc. v. NLRB* (2002) 537 U.S. 137 (refusing to enforce a Board remedy inconsistent with the Immigration Reform and Control Act); *Lechmere, Inc. v. NLRB* (1992) 902 U.S. 527 (refusing to defer to Board interpretation of prior Supreme Court precedent).)

How will the Circuit Courts, and, maybe as importantly, the Supreme Court, review agency orders going forward? The Sixth Circuit standard from *Rieth-Riley Construction*, quoted above, seems consistent with the *Loper Bright* opinion. But although binding deference, as in *Chevron*, no longer exists, courts still will consider the views of the agency, especially where the agency is interpreting an ambiguous provision of the act it administers.

And, under this lesser form of deference, the Board’s recent flip-flopping will provide opportunities for employers and employer associations.

### 3. Is “Skidmore deference” the new standard?

The Supreme Court in *Loper Bright* cited a 1944 decision, *Skidmore v. Swift*, (1944) 323 U.S. 134, which differs from the *Chevron* doctrine in one critical respect. Under *Chevron*, if the agency’s interpretation involves the statute the agency is authorized to administer, and if the agency decision is at least a reasonable interpretation of an ambiguous provision, the agency decision is binding on the court. By contrast, the *Skidmore* decision does not give binding effect to any agency ruling or order; it simply requires or permits the court to consider the agency’s position to the extent the agency’s position has “power to persuade, if lacking power to control.” (*Id.* at p. 140.)

Many commentators believe future court review of agency orders and regulations will involve “*Skidmore* deference,” meaning the court will consider the agency’s reasoning in light of the factors identified in *Skidmore*: (1) the thoroughness of the agency’s consideration of the issues; (2) the validity of the agency’s reasoning; (3) consistency of the agency’s reasoning with earlier and later pronouncements; and (4) “all those factors which give [the agency’s position] power to persuade, if lacking power to control.” (*Ibid.*)

Even defenders of the current Board must acknowledge the extraordinary degree to which Board case decisions and regulations have vacillated in the past 20 years or so. Federal judges typically value the doctrine of *stare decisis*, meaning that an issue, once settled, will not be revisited or reversed, absent extraordinary circumstances. But the Board, regardless of which political party controls the majority of the Board members, seemingly disregards the principle. In many cases, when reversing settled precedent, the Board has applied the new standard to all pending cases, in

which parties likely made decisions months or years before, based on then-existing law.

The Board's inconsistency, both in decisions and rationales advanced for those decisions, should cause federal judges to question whether "Skidmore deference" is appropriate.

What does this mean for employers who either are subject to an adverse Board decision or affected by one of the Board's recent rules, such as the rule on "quickie" elections or the proposed rule on "blocking charges" in decertification elections?

#### 4. Representation cases are different from unfair labor practice cases.

##### Representation cases

Board decisions in representation cases (i.e., union elections and the related process) are likely to be given substantial deference by the courts. The Board is expressly authorized by the Act to conduct elections and to determine "questions concerning representation," including the scope of the bargaining unit and logistics/details of the election itself. There is no statutory right to judicial review of many Board decisions in union elections, such as the decision whether the unit requested by the union is "appropriate" and whether objections to the election should be overruled or sustained. In those cases, the employer's only recourse, if a union is certified after an election, is to refuse to bargain with the union, receive a charge of refusal to bargain (known as a "technical section 8(a)(5)" charge), lose the proceeding before the Board, and then seek review by the Circuit—historically under a standard deferential to the Board's decision.

The Supreme Court in *Loper Bright* acknowledged deference to agency action is most appropriate where the enabling statute specifically authorizes the agency to make rules or to interpret the statute. When a statute delegates "discretionary authority to an agency," the role of the court on review is "to independently interpret the statute and effectuate the will of Congress subject to constitutional limits. The court fulfills that role by recognizing

constitutional delegations, fixing the boundaries of the delegated authority...and ensuring the agency has engaged in 'reasoned decision-making' within those boundaries." (144 S.Ct. at p. 2263.) Where the Board interprets the Act pursuant to express delegated authority, courts are less likely to overturn the Board's decision if it is "reasoned"—even though the court retains the ultimate authority to fix the limits of delegation.

Nevertheless, in one highly publicized decision, the Supreme Court rejected the Board's rationale in defining whether charge nurses in a residential care facility were "supervisors" as defined in section 2(11) of the Act. (*NLRB v. Kentucky River Community Care, Inc.* (2001) 532 U.S. 706.)

In *Kentucky River*, Justice Scalia's majority opinion cited *Chevron* and found two of the Board's interpretations of the Act were "reasonable and hence controlling on this court." However, the majority found the Board improperly interpreted the statutory term "supervisor" as applied to certain supervisory employees. As Justice Scalia noted, if the Board's interpretation of the terms "professional or technical skill or experience" were adopted, the rule would "virtually eliminate 'supervisors' from the Act." (Id. at p. 715.) Board decisions in representation cases are likely to be given substantial deference by the courts, as noted above. However, with the overturning of *Chevron*, even in representation cases, courts will no longer be "bound" by the Board's rulings.

##### Unfair labor practice cases

In unfair labor practice cases, an extensive record is usually developed. While courts have, on occasion, found the Board's factual findings lacked "substantial evidence" in the record as a whole, parties will continue to struggle attacking Board factual findings. However, where the Board has changed doctrine in decisional law, as it frequently has in recent years, employers will likely be more successful in attacking the Board decision because



court review no longer is deferential on issues of law. The Board’s self-reversals in recent years have resulted in lengthy, often well-reasoned dissents (by members of both political parties), and the decisions often read like policy statements as much as interpretations of an ambiguous provision of the Act. This is particularly so where an earlier Board overruled a decision, at times only a few years old, only to then interpret the exact same provision in a diametrically opposed manner.

### 5. Did the D.C. Circuit duck the issue?

Perhaps surprisingly, only four business days after the Supreme Court published its *Loper Bright* decision, the D.C. Circuit published a decision enforcing a Board order and reciting the traditional deferential standard of review set by *Chevron*: “We review Board decisions with a ‘very high degree of deference’...We set aside a Board order only ‘when it departs from established precedent without reasoned justification, or when the Board’s factual determinations are not supported by substantial evidence.’” (*Hosp. de la Concepcion v. NLRB* (D.C. Cir. 2024) 106 F.4th 69, 76.)

The D.C. Circuit’s *Hospital de la Concepcion* decision makes no reference whatsoever to *Loper Bright*. Lawyers are left wondering whether the Court was aware of *Loper Bright* or whether it intentionally chose not to mention the decision. However, because the *Hospital de la Concepcion* decision does not address the effect of *Loper Bright* on prior standards of review, the decision is not authority for the proper standard going forward.

### 6. During any NLRB proceeding, plan to build a factual and legal record for court review.

An employer involved in a Board proceeding, whether representational (i.e., union election) or based on an unfair labor practice charge, should, while the proceeding is ongoing, evaluate the possibility of later appellate review and preserve all factual and legal issues that may warrant court review. Most fundamentally, in developing strategy, focus on issues of statutory interpretation that are

not dependent, or only partially dependent, on the factual record. This requires identifying, preserving, and contesting issues that may justify court review; making a factual record and submitting evidence to support the employer’s position; filing necessary motions; objecting to contentions or proceedings that impact the employer’s rights or position; making offers of proof in some cases; and seeking Board review of decisions of the Regional Directors or Administrative Law Judges (“ALJs”).

Employers who are subject to one or more of the recent Board rulemaking proceedings, likewise, should consider alternatives such as challenging the rule in court, as with the recent Board rule on joint employer status.

### 7. Are the NLRB ALJs, and the Board members themselves, constitutionally appointed?

A further and novel challenge to the Board is being waged in the District Courts in Texas, on the theory that the Board’s ALJs, and even the Board members themselves, are improperly appointed and serving in violation of Article II of the United States Constitution. Recently, two Texas District Judges have held that the Board’s ALJs are “unconstitutionally insulated from removal” (and, therefore, their Orders are invalid). One of these two judges held that members of the Board itself are not properly appointed and serving. (*Energy Transfer, LP v. NLRB* (E.D. Tx. July 29, 2024) Case No. 3:24-cv-198; *Space Exploration Technologies Corp. v. NLRB* (W.D. Tx. July 23, 2024) Case No. 6:24-cv-00203-ADA.) This is a serious challenge to the very existence of the Board and based on well-reasoned constitutional analysis and Supreme Court authority.

It is an open question whether the Courts of Appeal, and eventually the Supreme Court, will determine that the almost 90-year-old Board is and has been unconstitutional from the beginning. In 1934, the Supreme Court did, in the case of *NLRB v. Jones & Laughlin Steel* (1937) 301 U.S. 1, hold that the statute

itself is constitutional. But the recent challenges are based on different arguments (the inability of the president to remove Board members or ALJs at will) than were raised in *Jones & Laughlin Steel*.

#### **8. The NLRB and other federal agencies are also considering the death of *Chevron*.**

The Supreme Court's *Loper Bright* decision was widely expected by most commentators. In fact, some commentators opined that the federal agencies themselves anticipated the overruling of *Chevron* and have, in recent years, attempted to support their decisions by more complete or detailed factual records and more detailed explanations of their rules and decisions, particularly where the agency was changing its earlier position on a specific issue. It will be interesting to watch whether future Board decisions and rulemaking continue the aggressive reformation of federal labor law we have seen this century.

# The Uncertain Near Future of the National Labor Relations Board

Bob Dumbacher, Hunton Andrews Kurth LLP  
Tel: 404.888.4007 [rdumbacher@Huntonak.com](mailto:rdumbacher@Huntonak.com) Atlanta, GA

James La Rocca, Hunton Andrews Kurth LLP  
Tel: 212.309.1395 [jlarocca@huntonak.com](mailto:jlarocca@huntonak.com) New York, NY

The future of the National Labor Relations Board (“Board” or NLRB) is uncertain, at least in the coming months. There are two primary reasons for this: one political and the other legal.

## THE POLITICAL LANDSCAPE

The Board is led by up to five NLRB members and a general counsel. Board members have the authority to issue decisions interpreting the National Labor Relations Act (NLRA) on a case-by-case basis in unfair labor practice (“ULP”) and union representation cases. The general counsel’s powers include prosecuting ULP charges and supervising the various regional offices where cases before the agency begin.

The president has the authority to appoint NLRB members and a general counsel with Senate confirmation. Each Board member’s seat comes with a set five-year term that runs continuously, even if the seat is vacant. No two NLRB member seat terms overlap such that terms are staggered. The general counsel’s term runs for four years. So, the president has the power to appoint a majority of Board members and a general counsel of the same political party as the president during the president’s time in office.

## One Board member seat is open and another may be vacant soon

Four of the five Board member seats currently are filled, three by Democrats (Chairman Lauren McFerran, David Prouty, and Gwynne Wilcox) and one by a Republican (Marvin Kaplan). Chairman McFerran’s term is set to expire soon on December 16, 2024.

President Joe Biden already nominated McFerran for a new term and a Republican (Joshua Ditelberg) to the other open seat. If confirmed, the nominations would maintain a Democratic majority of NLRB members until at least August 2026, which is when the next Board seat (occupied by Prouty) expires.

The Senate adjourned for a recess in September 2024, prior to voting on the nominations, and will return this month. The election of Donald Trump could impact whether and when the Senate votes on the two pending nominations.

## The NLRB general counsel’s tenure could be cut short or extended

The current NLRB general counsel (Jennifer Abruzzo) is a Democrat. Her term does not expire until July 2025. President Trump’s election victory

could impact her tenure as well. The day President Biden took office, he terminated the prior general counsel (Peter Robb), a Republican, prior to the end of Robb's term. It was the first time a president ever took such action, but it may not be the last.

### Why this matters

Many have criticized the Board for flipflopping on its interpretation of the NLRA depending on the party in control of the White House.

Some have challenged Democratic presidents for appointing NLRB members and general counsels who view the NLRA through an overly pro-union lens, to the detriment of employer and employee rights. For example, during the current administration:

- In *Valley Hosp. Med. Ctr. Inc.*, 371 NLRB No. 160 (2022), the Board overruled a decision so that unions now (once again) can insist that employers deduct union dues from employees' paychecks pursuant to a dues checkoff provision in an expired collective-bargaining agreement.
- In *Cemex Constr. Materials Pacific, LLC*, 372 NLRB No. 130 (2023), the NLRB provided new ways for unions to maneuver such that they can foreclose employees' rights to decide on union representation by a secret ballot election.
- In Memorandum GC 22-04 (Apr. 7, 2022) and subsequent cases, the general counsel has advocated for a change in law that would strip employers of the right to hold paid mandatory meetings with employees wherein they can provide information about unionization to help employees make fair, free, and informed decisions when it comes to unionizing.
- In Memorandum GC 21-04 (Aug. 12, 2021) and Memorandum GC 23-01 (Mar. 20, 2023), the general counsel expressed an interest in changing the law so as to limit financial disclosures unions must provide to some employees and to make it more difficult for employees who no longer want to be represented by a union to rid themselves of union representation during the term of a collective-bargaining agreement, targeting earlier

decisions in *United Nurses and Allied Professionals (Kent Hosp.)*, 367 NLRB No. 94 (2019) and *Shaw's Supermarkets, Inc.*, 350 NLRB 585 (2007), respectively.

Others have disapproved of Republican presidents for appointing individuals they claim view the NLRA through an overly pro-management lens.

The current Board has issued several other decisions that have resulted in a change in the law. These decisions include *McLaren Macomb*, 372 NLRB No. 58 (2003) and *Stericycle, Inc.*, 372 NLRB No. 113 (2023). In *McLaren Macomb*, the NLRB found basic non-disclosure and non-disparagement provisions in a severance agreement unlawful. In *Stericycle*, the Board said it would strictly scrutinize the language of employer policies to determine their legality. The decisions in *McLaren Macomb* and *Stericycle* are just two examples of NLRB decisions that are subject to reversal by a subsequent, more employer-friendly Board.

There still are many open items on the current NLRB general counsel's agenda, some of which are making their way through the Board's processes. Although Trump is slated to be the next president, the current Board still may take action on these items before it loses a Democratic majority, even (or especially) if a future Republican Board would reach a different decision.

### Constitutional challenges

There also are mounting Constitutional challenges against the Board. The allegations include claims the president's authority to remove Board members and administrative law judges is too restricted and, therefore, violative of Article II of the Constitution. These arguments are making their way through both the Board and the courts. To date, the Board has rejected such arguments. See, e.g., *SJT Holdings, Inc.*, 372 NLRB No. 82 (2023). But some court challenges have met initial success. For example,

in *Space Expl. Techs. Corp. v. NLRB*, No. W-24-CV-00203-ADA, 2024 WL 3512082 (W.D. Tex. July 23, 2024), a judge granted a preliminary injunction enjoining the NLRB from proceeding with a ULP case. The Board has since appealed the decision to the United States Court of Appeals for the Fifth Circuit where it is pending.

The ultimate impact on these challenges is to be determined. What is certain is that it adds one more layer to the Board's uncertain future, particularly now that the political party in control of the White House will soon shift. Employers should keep abreast of these challenges so they can understand and weigh their options in matters they have before the NLRB.

## CONCLUSION

---

The Board's near future is up in the air. Employers can help keep their workplaces grounded with strategic planning.

# Appendix A

## Summary of petitions filed and elections held

All Industries – Summary of Petitions Filed and Elections Held (2014–2023)										
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Total Petitions	2,609	2,582	2,281	2,273	1,907	2,035	1,552	1,683	2,500	2,676
Total Representation Petitions	2,171	2,214	1,970	1,936	1,577	1,775	1,352	1,412	2,185	2,362
Total RC Petitions	2,123	2,156	1,914	1,875	1,546	1,733	1,306	1,383	2,159	2,159
Total RM Petitions	48	58	56	61	31	42	46	29	26	203
Union Not Elected	449	469	371	395	341	307	258	251	394	375
Union Elected	1,008	1,107	975	992	830	925	605	740	1,223	1,345
Total Decertification (RD) Petitions	438	368	311	337	330	260	200	271	312	314
Union Not Elected	119	107	104	123	110	103	55	84	103	111
Union Elected	61	68	64	60	61	56	49	59	56	59

Manufacturing Industry – Summary of Petitions Filed and Elections Held (2014–2023)										
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Total Petitions	301	281	231	233	225	204	183	189	234	278
Total Representation Petitions	224	228	191	189	183	159	147	143	166	215
Total RC Petitions	217	222	187	181	175	152	142	136	153	196
Total RM Petitions	7	6	4	8	8	7	5	7	13	19
Union Not Elected	84	95	75	67	75	54	52	55	59	63
Union Elected	70	68	62	59	61	55	48	52	57	89
Total Decertification (RD) Petitions	77	53	40	44	42	45	36	46	68	63
Union Not Elected	21	21	17	16	19	21	12	11	24	25
Union Elected	13	9	9	9	7	11	13	12	12	17

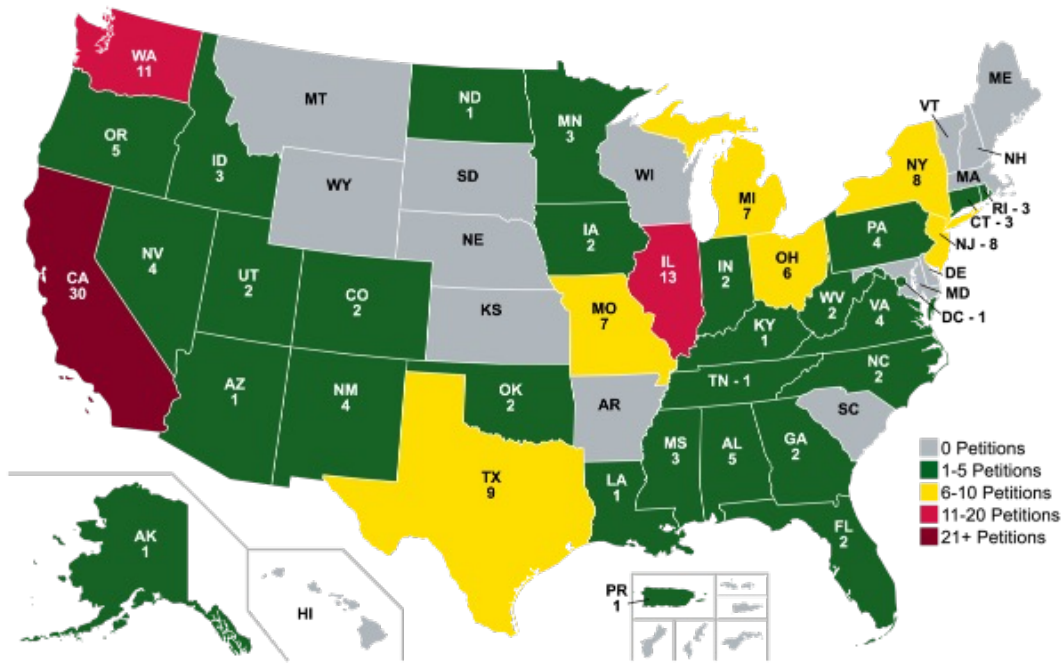
All Non-Manufacturing Industries – Summary of Petitions Filed and Elections Held (2014–2023)										
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Total Petitions	2,308	2,301	2,050	2,040	1,682	1,831	1,369	1,494	2,266	2,398
Total Representation Petitions	1,947	1,986	1,779	1,747	1,394	1,616	1,205	1,269	2,019	2,147
Total RC Petitions	1,906	1,934	1,727	1,694	1,371	1,581	1,164	1,247	2,006	1,963
Total RM Petitions	41	52	52	53	23	35	41	22	13	184
Union Not Elected	365	374	296	328	266	253	206	196	335	312
Union Elected	938	1,039	913	933	769	870	557	688	1,166	1,256
Total Decertification (RD) Petitions	361	315	271	293	288	215	164	225	244	251
Union Not Elected	98	86	87	107	91	82	43	73	79	86
Union Elected	48	59	55	51	54	45	36	47	44	42



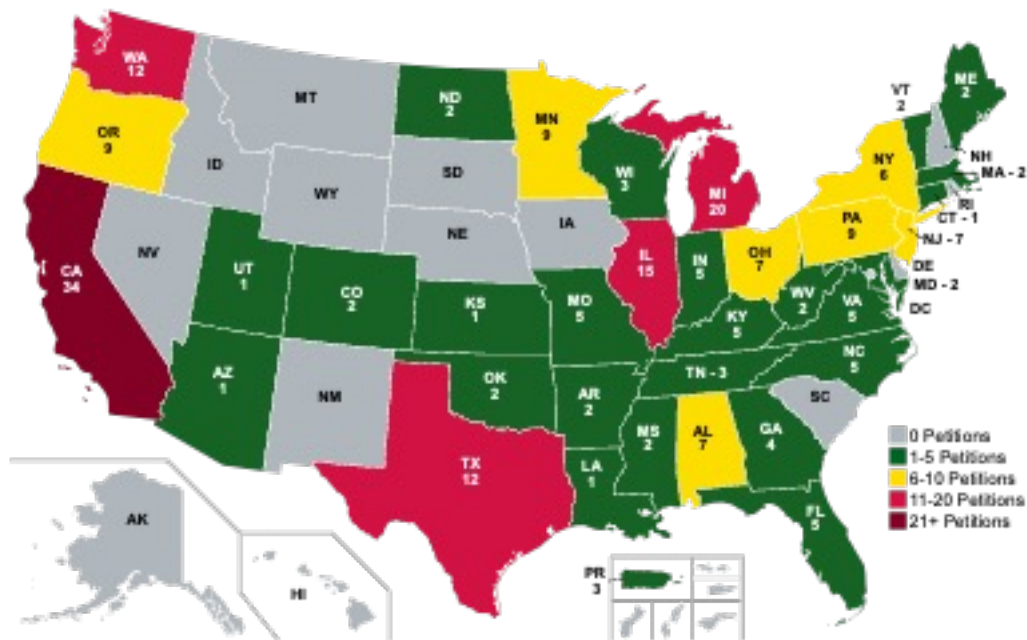
# Appendix B

## Maps of representation petitions filed in manufacturing

2022



2023



# Appendix C

---

## The National Labor Relations Board definitions

### WHAT IS THE NATIONAL LABOR RELATIONS BOARD?

---

The National Labor Relations Board (NLRB) is an independent federal agency established to enforce the National Labor Relations Act (NLRA). As an independent agency, the NLRB is not part of any other government agency, such as the Department of Labor.

Congress has empowered the NLRB to conduct secret ballot elections so employees may exercise a free choice whether a union should represent them for bargaining purposes. A secret ballot election will be conducted only when a petition requesting an election is filed. Such a petition should be filed with the Regional Office in the area where the unit of employees is located. All Regional Offices have petition forms that are available upon request and without cost.

### TYPES OF PETITIONS

---

#### 1) CERTIFICATION OF REPRESENTATIVE (RC)

This petition, which is normally filed by a union, seeks an election to determine whether employees wish to be represented by a union. It must be supported by the signatures of 30 percent or more of the employees in the bargaining unit being sought. These signatures may be on paper. This designation or “showing of interest” contains a statement that the employees want to be represented for collective-bargaining purposes by a specific labor organization. The showing of interest must be signed by each employee, and each employee’s signature must be dated.

#### 2) DECERTIFICATION (RD)

This petition, which can be filed by an individual, seeks an election to determine whether the authority of a union to act as a bargaining representative of employees should continue. It must be supported by the signatures of 30 percent or more of the employees in the bargaining unit represented by the union. These signatures may be on separate cards or a single piece of paper. This showing of interest contains a statement that the employees do not wish to be represented for collective-bargaining purposes by the existing labor organization. The showing of interest must be signed by each employee, and each employee’s signature must be dated.

#### 3) WITHDRAWAL OF UNION-SECURITY AUTHORITY (UD)

A “UD petition,” which can also be filed by an individual, seeks an election to determine whether to continue the union’s contractual authority to require that employees make certain lawful payments to the union to retain their jobs. It must be supported by the signatures of 30 percent or more of the employees in

the bargaining unit covered by the union-security agreement. These signatures may be on separate cards or a single piece of paper. This showing of interest states that the employees no longer want their collective-bargaining agreement to contain a union-security provision. The showing of interest must be signed by each employee, and each employee's signature must be dated.

#### **4) EMPLOYER (RM)**

This petition is filed by an employer for an election when one or more unions claim to represent the employer's employees or when the employer has reasonable grounds for believing the union that is the current collective-bargaining representative no longer represents a majority of employees. In the latter case, the petition must be supported by the evidence or "objective considerations" relied on by the employer for believing that the union no longer represents a majority of its employees.

#### **5) UNIT CLARIFICATION (UC)**

This petition seeks to clarify the scope of an existing bargaining unit by, for example, determining whether a new classification is properly a part of that unit. The petition may be filed by either the employer or the union.

#### **6) AMENDMENT OF CERTIFICATION (AC)**

This petition seeks the amendment of an outstanding certification of a union to reflect changed circumstances, such as changes in the name or affiliation of the union. This petition may be filed by a union or an employer.