

Labor Trends in Warehousing and Distribution Industry to Watch

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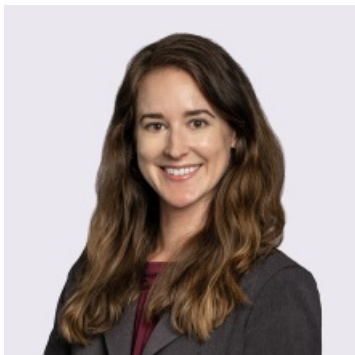
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The warehousing and distribution industry has one of the highest overall union membership rates in the United States. Now, employers in the industry are also navigating high turnover rates and mass labor shortages as they experience industry shifts due to increasing e-commerce sales and enhanced automation technology.

Key issues driving union interest in the warehousing and distribution sector include wages and inflation.

U.S. Labor Organizing at a Glance

Labor organizing is experiencing a resurgence and has gained significant popularity among Gen Z and Millennial employees. It is a social movement, and the employee-friendly environment at the National Labor Relations Board has facilitated increased organizing and unionization.

According to a Board [press release](#) issued on October 6, 2022, in Fiscal Year 2022 (Oct. 1, 2021–Sept. 30, 2022), union representation petitions increased 53%, up to 2,510 from 1,638 during FY 2021. At the same time, unfair labor practice charges increased 19%, up to 17,988 from 15,082 in 2021. Additionally, FY 2022 marked the fourth year in which the union win-rate rose above 70% in the past five years, with unions winning 72% of elections.

The U.S. Bureau of Labor Statistics (BLS) [publishes a report](#) annually on union membership in the United States that separates and groups various industries, such as Transportation and Warehousing. In 2022, the overall private sector union membership rate was 6.0%. However, the Transportation and Warehousing sector had one of the highest overall union memberships among all industries, with a union membership rate of 14.5%, according to BLS. Union membership in the industry was particularly high in California, where overall union membership was 16.1% in 2022, among the highest states in the country. There is no doubt that the industry is a target for union activity.

Warehousing and Distribution Activity

According to a [2023 Annual Report](#) issued by IRI Consultants regarding transportation and logistics, 163 Board petitions for election were filed in the Transportation and Warehousing industry in 2022, compared to 130 petitions filed in 2021. Cornell's ILR School also reported 43 work stoppages in 2022 for the Transportation and Warehousing industry, compared to 31 stoppages in 2021. Organizing activity and wages in the Transportation and Warehousing industry overall are reflected in BLS's report that, between 2021 and 2022, median weekly earnings of union members in the transportation and warehousing industry increased \$56 per week, from \$1,147 in 2021 to \$1,203 in

2022. As wages remain a driver for unionization, it is important to make sure that non-union wages remain competitive with unionized facilities, particularly in this inflationary environment.

Major Board Decisions on the Horizon

With a labor-friendly Board under the Biden Administration, warehousing and distribution employers can expect major decisions that will affect the industry in some way in 2023 and make it easier for workers to unionize. Anticipated Board decisions include returning to Obama-era standards on independent contractors and joint employers, as well as restrictions on permanent strike replacements. The Board General Counsel (GC) also has [issued a memorandum](#) requesting that the Board adopt a broader framework on the use of employee electronic management and monitoring tools. The impact on employers' use of monitoring and automated management technology would be significant if the Board implements the GC's suggestions.

Going Forward

In the post-COVID-19-pandemic era, which has been marked by increased employee dissatisfaction and a more union-friendly Board, employers must take a proactive approach to promote positive employee relations and create opportunities for growth and advancement to alleviate concerns [amid a changing industry](#). Taking steps now to highlight and support developing employee issues is also necessary to get ahead of potential organizing activity.

Similarly, as employers work to manage a new and changing workplace, adopting technologies to help in the process, they will need to evaluate these technologies beyond their primary purposes and consider how they may affect compliance with a range of other obligations, including under a more progressive labor Board.

Jackson Lewis has a [dedicated industry group](#) tracking developing issues. Please contact a team member or the Jackson Lewis attorney with whom you regularly work if you have questions or need assistance.

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