

Worker Boards Across the Country Are Empowering Workers and Implementing Workforce Standards Across Industries

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A Denver restaurant dishwasher cleans a large pot before dinner service on July 19, 2018. (Getty/The Denver Post/Andy Cross)

State and local policymakers are increasingly regulating workplace standards—including compensation, scheduling, training, and safety—through industrywide councils or boards that include worker representatives. This helps create a path to improve working conditions and empower workers. Since 2018, four states and three local governments have enacted laws that include workers and employers in the process of recommending or implementing workplace standards for an entire sector. Additional action is planned, most notably in California, where the Fast Food Accountability and Standards Recovery Act—which would create a sector council for the fast-food industry—is being considered by the state Senate after the state Assembly passed it in January 2022.

These standard-setting bodies go by a number of names, including industry councils, workers standards boards, and wage boards. However, what unites them is that they bring together representatives from both the workforce and their employers in an official capacity to help set and enforce workplace standards that cover all workers in a particular industry and geography—for example, domestic workers in Seattle or farm workers in New York.

These boards are often empowered to make recommendations on a broad range of interrelated issues rather than focus on a single problem such as low wages. They commonly conduct hearings and outreach activities as well as issue reports on their findings. Unlike most commissions and other bodies, their recommendations carry significant legal weight and usually trigger governmental review and action.

Standard-setting bodies can benefit both workers and employers. Worker boards can help workers come together and gain a stronger voice to advocate for themselves and help push an industry forward. Employers, meanwhile, gain a forum to discuss issues with workers and other firms in their industry; and raising standards across an industry creates a level playing field for all firms in the industry. This makes it more likely that these gains for workers will be sustainable.



Cities and states that have passed laws enabling workers and employers to help set industrywide standards since 2018

Seattle (Domestic Workers Standards Board): Since 2018, a board of domestic workers, employers, households, worker organizations, and members of the public have offered suggestions to the mayor and city council on how to improve Seattle domestic workers' working conditions.

Seattle (Transportation Network Deactivation Appeals Panel): Passed in 2019, a Seattle law allows Transportation Network Company (TNC) drivers to contest their deactivation before a panel consisting of equal members representing the interests of the TNC driver and the TNC, as well as a neutral arbitrator.

New York state (Farm Laborers Wage Board): The state of New York passed a 2019 law allowing the labor commissioner to convene a board of labor, farm, and public representatives to receive testimony and recommend whether and how to reduce the minimum number of hours a farm worker must work per week before receiving overtime.

Philadelphia (Domestic Workers Standards and Implementation Task Force): In 2019, the Philadelphia City Council created a task force called for in its Domestic Worker Bill of Rights to craft and recommend policy to the city council to extend better legal protections, benefits, and working conditions to domestic workers. The board includes representation from employers, government, and domestic worker organizations.

Michigan (Nursing Home Workforce Stabilization Council): To address challenges faced by the nursing home industry during the COVID-19 pandemic, Gov. Gretchen Whitmer (D-MI) signed a 2021 executive order creating a council of nursing home workers, employers, and residents, along with members of government, to review existing policy and offer recommendations for legislation and administrative action for increasing nursing home staffing, improving career development, and raising standards.

Colorado (Agricultural Work Advisory Committee): Colorado passed a law in 2021 establishing a committee including agricultural employers and workers to analyze working conditions in the industry and make legislative recommendations.

Nevada (Home Care Employment Standards Board): In 2021, Nevada created a tripartite board of home care employers, workers, and recipients—along with a representative from state government—to offer recommendations to the state Department of Health and Human Services for wages and working conditions for workers in a state or local home care program.

Detroit (Industry Standards Board): The Detroit City Council passed a law in 2021 establishing a local Industry Standards Board, allowing workers, employers, and city representatives within an industry to convene and offer recommendations for workplace wage, safety, scheduling, and training standards.

Note: Most of these policies require an equal number of worker and employer representatives, though a few provide workers with a greater number of representatives.

In contrast to a single legislated standard, such as the minimum wage, these councils or boards create a forum for workers and employers to discuss a range of industry issues. Workers have significant insights into working conditions, and standards boards take advantage of that expertise by giving them as strong a voice as employers. In addition, by engaging in discussions about overlapping issues such as wages and benefits, scheduling, training, safety, and enforcement, workers and management can often arrive at holistic solutions more effectively than can legislation that targets single issues or covers all workers.

Importantly, worker boards can address obstacles that not only lower job quality but also disempower workers. Weak federal labor law makes it very hard for workers to join a union and has driven private sector union density to its lowest levels, while corporations have worked to fissure workplaces into layers of subcontractors and franchisees that can limit the ability of workers to interact with the firms that actually dictate their workplace standards. Worker boards can help bring workers together and ensure that they have a voice while also helping to overcome the challenge of fissured workplaces by issuing standards that apply to every worker, no matter who their employer is on paper.

Indeed, the process of workers exercising their rights and pushing for higher standards can help unify workers and drive the industry ahead. Engaged and organized workers are also critical to effectively policing minimum standards. Workers and their representatives know from their day-to-day experience whether the standards they establish are being upheld, helping improve compliance. Furthermore, empowered workers are essential to ensuring that workers are actually able to come forward to report violations and ensure compliance.

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As sectoral councils raise wages and standards for all workers, they can also help close racial or gender pay gaps. Measurable standards that apply industrywide ensure that all workers, regardless of race, gender, or disability status, earn fair wages under better conditions, reducing opportunities for discrimination both directly and indirectly by addressing other causes of pay gaps, such as inconsistent scheduling or a lack of medical or family leave.

Compared with setting standards on an employer-by-employer basis, worker boards promote similar compensation for similar work. This encourages firms to compete based on productivity and innovation rather than low compensation. It also creates a level playing field and ensures that high-road firms that provide good wages and benefits are not undercut by low-road companies.

The success of worker boards across the country

With seven jurisdictions enacting such laws since 2018, worker boards have achieved real momentum. Indeed, the legislative momentum is similar to or greater than many other workplace standards policies. Since 2018, a similar number of jurisdictions have created industry council-style policies as have legislated policies such as fair scheduling laws (two cities), forced arbitration bans (six states), just-cause termination laws (two cities), and paid family leave policies (four states).

Worker boards are gaining momentum

Number of states that have enacted worker board laws since 2018

3

Number of local governments that have enacted worker board laws since 2018

A directly legislated, higher minimum wage is perhaps the most well-known workplace standards policy—and the most popular among state and local governments. Since the last day of 2020 and throughout 2021, 24 states and 50 local jurisdictions are undergoing planned minimum wage increases. Industry councils have not yet achieved this level of traction, but their popularity is growing since they can improve working conditions and empower workers to advocate for themselves on an ongoing basis.

It is important to note that there is even greater momentum for involving workers in standard-setting than indicated by the industry council figures highlighted in this column. For instance, Seattle has passed two separate laws that apply to different industries—domestic work and transportation—but is only counted as one city. In addition, these figures do not include bodies with worker representatives but no employer representatives, such as the Durham, North Carolina, Workers' Rights Commission and the Harris County, Texas, Essential Workers Board founded in response to the COVID-19 pandemic. The figures also do not include policies such as New York state's COVID-19 safety law—which enables the creation of joint labor-management workplace safety committees—or Los Angeles County's similar public health councils—because these cover work sites rather than an entire sector. Furthermore, several cities and states are considering additional actions. For example, New York state introduced the Nail Salon Minimum Standards Council Act on January 26, 2022, as part of an effort to establish industrywide standards for nail salon workers.

Polling suggests strong public support for industry council-style policymaking. Indeed, a 2021 survey of likely national voters asked about the Fast Food Accountability and Standards Recovery Act and found that nearly three-quarters of respondents supported it, including majorities of Republicans, independents, and Democrats.

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This momentum builds on long-standing policy processes used by many states to set a wide range of workplace standards. Policymakers have long recognized that workers, employers, and government can work together to set standards for workers. A handful of states—most notably, New York and California—have had wage board laws on their books for nearly a century. In fact, in 2015, the state of New York used its law to convene a board to raise wages for fast-food workers. In addition, some state Occupational Safety and Health Administration (OSHA) plans feature standard-setting and advisory boards, such as the Occupational Safety and Health Review Board in Minnesota, that give equal representation to labor and business representatives. Similarly, since 1991, the Washington state Workforce Training and

Education Coordinating Board has overseen the state's workforce development system with equal representation between private sector businesses, labor representatives, and workforce training service providers.

Conclusion

In short, state and local governments are increasingly passing new workers' board and industry council-style laws that build on a long-standing practice of including workers in standard-setting bodies. Involving workers and employers in standard-setting processes can help empower workers, improve working conditions, and ensure that standards are level across the industry, benefiting both employees and employers. With seven U.S. jurisdictions having passed industry council-style laws over the past few years, and several more considering action, their growing popularity is clear. This new momentum has the potential to improve work in many industries.