

# ISSUE BRIEF

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## Labor Unions: Declining Membership Shows Labor Laws Need Modernizing

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Union density in the American workplace fell to another new post–World War II low of 11.3 percent in 2012. Private-sector union membership fell to 6.6 percent—less than when President Franklin Roosevelt signed the National Labor Relations Act (NLRA).

U.S. labor laws do not meet the needs of modern American workers. The laws prevent union members from receiving individual raises and employers from giving non-union employees a formal voice on the job. Congress created these restrictions in the 1930s for a primarily industrial economy that no longer exists. The time has come for Congress to bring America’s labor laws into the 21st century.

### **Falling Union Membership.**

The Bureau of Labor Statistics reports that union membership continues to stagnate. While employers

added almost 2 million net new jobs in 2012, unions lost 398,000 members. As a result, union density fell 0.5 points to a new post-war low of 11.3 percent. Private-sector unionization rates fell from 6.9 percent to 6.6 percent as private-sector unions lost 165,000 members. In government, unionization fell 1.1 percentage points to 35.9 percent as unions lost 234,000 members.<sup>1</sup>

The large drop in government union membership occurred primarily because of government budget cuts in heavily unionized states such as Illinois, New York, and Connecticut. A contributing factor was the decision of policymakers in Wisconsin to balance their budget by ending collective bargaining in government. Union membership among state and local government employees in Wisconsin fell from 50 percent to 37 percent, and unions lost 42,000 members between 2011 and 2012.<sup>2</sup> Those losses accounted for one-sixth of the nationwide decline in government union membership.

A majority of union members (51 percent) work in government. More than twice as many union members now work in the U.S. Postal Service as in the domestic auto industry.<sup>3</sup> This represents a significant historical reversal. President Roosevelt

opposed the idea of unions in government.<sup>4</sup> George Meany, the first president of the AFL-CIO, famously stated, “It is impossible to bargain collectively with government.”<sup>5</sup>

### **No Union Recovery in**

**Manufacturing.** The manufacturing recovery has largely bypassed unionized firms in recent years. During the recession, manufacturing employment fell sharply as consumers put off making major purchases. Over one-eighth of manufacturing jobs disappeared between 2007 and 2010. Since then, however, employers have added approximately a half million new manufacturing jobs.

On net, however, all of that hiring took place in non-union firms. Between 2010 and 2012, non-union manufacturing employment expanded by 6.5 percent. At the same time, unionized manufacturing employment continued to fall, dropping another 4.7 percent.<sup>6</sup>

This continues a long-term trend. Non-union manufacturers employed just as many workers in 1977 (12.5 million) as in 2012. During that same period, unionized manufacturing employment fell from 7.5 million to 1.5 million—an 80 percent drop.<sup>7</sup>

**Unions Resist Recognizing Achievement.** Such sharp drops in union membership indicate that

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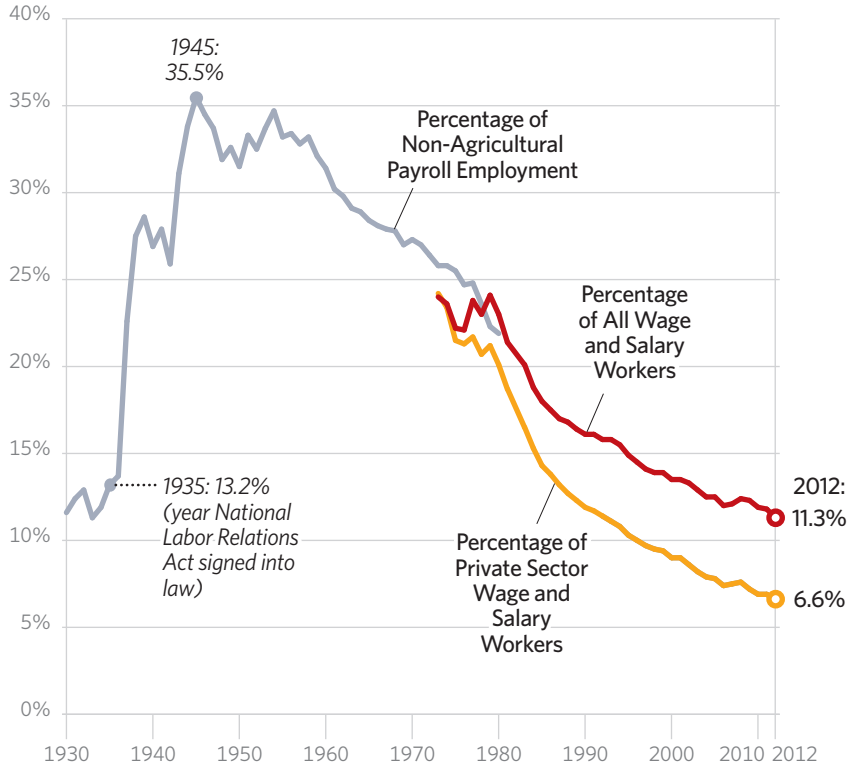
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CHART 1

## Union Membership Rates Continue Decline

### UNION MEMBERSHIP PERCENTAGES



**Note:** This chart displays union membership using two separate data sources: assorted union reports filed with the Department of Labor between 1930 and 1980 and data from the Current Population Survey. Data for 1982 have been interpolated.

**Sources:** Data for 1930–1980: U.S. Department of Labor, assorted labor union reports, and Haver Analytics; 1977–2012: Heritage Foundation calculations using data from Barry T. Hirsch and David A. Macpherson, “Union Membership and Coverage Database from the Current Population Survey,” [Unionstats.com](http://www.unionstats.com), <http://www.unionstats.com> (accessed January 23, 2013), and from the U.S. Department of Labor, Bureau of Labor Statistics.

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U.S. labor laws are out of step with the modern economy. Traditional unions no longer appeal to workers the way they did two generations ago. Outdated restrictions in labor laws are now seen as holding back both employers and employees.

For example, union wage rates are legally both minimum and maximum wages: A unionized employer may not pay employees more than the union rate without the union’s permission. While unions happily accept group raises, they often resist individual performance pay. They typically insist that employers base promotions and raises on seniority instead of individual recognition.

In 2011, Giant Eagle gave individual raises to two dozen employees at its Edinboro, Pennsylvania, grocery store. These raises were in addition to the union wages. United Food and Commercial Workers Local 23 nonetheless argued that the pay increases violated their collective bargaining agreement. They objected to the fact that some entry-level employees made more than senior union members. The union filed charges. Last November, the Federal District Court for Western Pennsylvania ordered Giant Eagle to rescind the pay increases. Nationwide, union members are less than half as likely

1. U.S. Department of Labor, Bureau of Labor Statistics, “Union Members—2012,” January 23, 2013, <http://www.bls.gov/news.release/pdf/union2.pdf> (accessed January 23, 2013).
2. Heritage Foundation calculations using the January–December 2012 Current Population Survey. State and local government unions in Wisconsin had 170,000 members in 2011 and 128,000 members in 2012.
3. Heritage Foundation calculations using data from the 2012 Current Population Survey. In 2012, there were 458,000 union members who worked for the postal service, while 200,000 worked in motor vehicle and motor vehicle equipment manufacturing.
4. President Franklin D. Roosevelt, “Letter on the Resolution of Federation of Federal Employees Against Strikes in Federal Service,” August 16, 1937, <http://www.presidency.ucsb.edu/ws/index.php?pid=15445> (accessed January 23, 2013).
5. Leo Kramer, *Labor’s Paradox: The American Federation of State, County and Municipal Employees, AFL-CIO* (New York: Wiley, 1962), p. 41.
6. Heritage Foundation calculations using the January–December 2012 Current Population Survey.
7. See *ibid.*, and Barry T. Hirsch and David A. Macpherson, *Union Membership and Coverage Database from the Current Population Survey*, Union Stats, <http://www.unionstats.com> (accessed January 23, 2013).

TABLE 1

## Total U.S. Union Membership

	Total Unions		Private Unions		Government Unions		Percentage of Union Members in Government
	Members	Rate	Members	Rate	Members	Rate	
2011	14,764,000	11.8%	7,202,000	6.9%	7,562,000	37.0%	51.2%
2012	14,366,000	11.3%	7,037,000	6.6%	7,328,000	35.9%	51.0%
<b>Change</b>	<b>-398,000</b>	<b>-0.5%</b>	<b>-165,000</b>	<b>-0.3%</b>	<b>-234,000</b>	<b>-1.1%</b>	

Sources: News release, "Union Members—2012," U.S. Department of Labor, Bureau of Labor Statistics, January 23, 2013, <http://www.bls.gov/news.release/pdf/union2.pdf> (accessed January 24, 2013).

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to receive performance pay as non-union employees.<sup>8</sup>

This holds back union members. A one-size-fits-all approach was workable when all employees brought essentially the same skills to the bargaining table. But the nature of work is changing. Employers have automated many rote repetitive tasks. At the same time, employers are also flattening the job hierarchy. The line between management and workers is blurring. Employers increasingly expect workers to exercise independent judgment and take initiative on the job. Employers want to reward—and employees want to be rewarded for—individual contributions that no collective contract can reflect.

**Law Prohibits Most Employee Involvement Programs.** Federal labor laws also prevent non-union employees from having a voice on the job. Many employees and employers would like employee involvement (EI) programs and work groups in which workers and supervisors can meet to discuss workplace issues. Examples of effective EI programs

that advance worker interests abound. For instance:

- Webcor Packaging, a manufacturing company in Flint, Michigan, formed a plant council consisting of five elected employees and three appointed managers to pursue ways to improve work rules, wages, and benefits. The council members took suggestions from all employees and made recommendations to management based on those suggestions.
- Employees at Electromation, in Elkhart, Indiana, opposed a plan to change the attendance bonus the company offered. In response, the company met with randomly selected employees and formed action committees to solve various workplace problems. The company asked committee members to meet with other workers and promised to implement the solutions if they were not cost-prohibitive.<sup>9</sup>

These EI programs gave workers a voice in the workplace and improved working conditions. They were also illegal. Section 8(a)(2) of the NLRA prohibits employer-dominated "labor organizations." As a result, the government forced Webcor and Electromation to disband their EI programs.<sup>10</sup>

The EI ban was intended to prevent companies from creating and negotiating with employer-dominated "company unions" to fight off organizing drives. This has become as antiquated as laws preventing union members from earning performance bonuses. Companies today create EI programs to improve working conditions, helping them attract and retain valuable employees.

**Modernizing Labor Law.** Congress should bring labor law into the 21st century. Congress should remove the Section 8(a)(2) proscription on employee involvement programs. Congress should also remove unions' ability to veto individual raises.

8. *Giant Eagle, Inc., v. United Food & Commercial Workers Local 23* (3d Cir. 2012).

9. Steven C. Bahls and Jane Easter Bahls, "Labor Pains: Employee Focus Groups May Seem Like a Good Idea, but They Could Land You in Court," *Entrepreneur*, December 1997.

10. *Ibid.* Webcor was forced to disband its program in 1997, and Electromation was forced to abandon its program in 1994.

Some in Congress are trying to do so. Senator Marco Rubio (R-FL) and Representative Todd Rokita (R-IN) introduced the Rewarding Achievement and Incentivizing Successful Employees (RAISE) Act, which would retain union rates as a wage floor while ensuring they never set a maximum on what employees earn.

Such reforms would help make federal labor laws relevant to workers in the modern economy. The government should not limit employee voice in the workplace, nor should it prevent employees from getting ahead through hard work.

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