Labor



The importance of keeping Act 10 and right-to-work, and how to create additional opportunity for workers

By James Bohn

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Government policies can improve the functioning of labor markets, but they can also protect established interests at the expense of workers seeking employment and advancement. This chapter examines four areas of labor market regulation in Wisconsin in which policies can favor established "insiders" over "outsiders," limiting economic opportunity, reducing labor market efficiency, and undermining economic growth. It offers six recommendations to increase the freedom of employers and workers to enter into mutually beneficial employment arrangements.

Key findings

- **Occupational licensing creates substantial barriers to employment in Wisconsin.** Roughly 20 percent of Wisconsin workers are in licensed occupations. A national study ranked Wisconsin seventh among states in the number of licensed occupations, with 135.
- **Wisconsin lacks important mechanisms for reducing unnecessary occupational licensing requirements.** The state has no formal sunrise or sunset review process for occupational licensing and has not adopted a comprehensive universal licensing recognition law, despite 28 other states having enacted such legislation.
- **Act 10 increased accountability in public-sector union representation and shifted opportunities toward newer workers.** Of the 983 bargaining units that held at least one recertification election after November 2011, only 318 remained certified in 2021. Research also found that teacher compensation became less closely tied to seniority and that the number of teaching degrees awarded by Wisconsin universities increased by approximately 20 percent relative to comparable states.
- **Wisconsin's right-to-work law strengthened workers' freedom to choose whether to support a union.** Private-sector union membership fell from roughly 8 percent before the law's enactment in 2015 to around 6 percent afterward, a decline of approximately 30,000 members. Research suggests that right-to-work laws create incentives for unions to provide better services and can encourage greater business investment.
- **Large increases in Wisconsin's minimum wage would threaten employment opportunities for younger and less-experienced workers.** Legislation introduced in the 2025-2026 session proposed raising the minimum wage from $7.25 to $15 immediately, with further increases to $20. In 2025, 50.2 percent of Wisconsin teenagers were employed, compared with 31.1 percent nationally and 28.7 percent in Illinois, where the minimum wage is $15.
- **Many gig and freelance workers value their independence but would benefit from greater access to employment benefits.** Federal Reserve survey data indicate that 28 percent of independent workers and 42 percent of workers performing tasks arranged through a digital platform wished they received benefits from their work. Current worker-classification rules can discourage hiring parties from voluntarily providing such benefits.

Recommendations

- **Reqire sunrise and sunset reviews for occupational licensing requirements.** Establish independent processes to evaluate proposed licensing restrictions and periodically review existing requirements to determine whether they remain necessary to protect the public.
- **Establish procedures for recognizing occupational licenses granted by other states.** Reduce unnecessary barriers to employment for qualified workers moving to Wisconsin by allowing them to put their skills to work without repeating costly education, training or licensing requirements.
- **Retain Act 10.** Preserve annual union recertification requirements that give public employees a regular opportunity to determine whether their bargaining representatives continue to serve their interests.
- **Retain Wisconsin's right-to-work law.** Protect workers' freedom to opt out of union membership and financial support, creating incentives for unions to demonstrate their value to the employees they represent.
- **Don't raise Wisconsin's minimum wage.** Preserve employment opportunities for younger, less-experienced, and lower-skilled workers who need to gain experience, develop skills, and establish a work history.
- **Allow the creation of portable benefit plans for gig and freelance workers without triggering employee reclassification.** Consider legislation modeled on Utah's approach that permits voluntary contributions to independent contractors' benefit plans while preserving the flexibility and independence of non-traditional work arrangements.

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Introduction

Labor markets bring together people looking for work with employers looking to hire, enabling human capital to go to where it creates the most value. The goal of public policy should be to ensure that labor markets are functioning efficiently, matching workers to roles that fit their talents and ambitions and are aligned with the needs of employers.

Government intervention can improve the functioning of labor markets by reducing the costs and uncertainties associated with hiring and employment. It would be extremely inefficient if workers and employers had to establish the terms of employment relationships from scratch without the baseline rules provided by labor and employment law and regulation. However, government intervention can also degrade the performance of labor markets. Lawmakers should recognize that political processes which create rules do not always produce results based solely on economic efficiency but rather on the relative political influence of competing interests. The result can be policies that protect organized, concentrated interests while imposing costs on workers who are less organized, on consumers, or on society as a whole.

The economic interests of different types of workers are frequently in conflict. Workers who already hold jobs generally seek to protect their wages, job security, seniority and benefits. Workers seeking employment and advancement are looking for opportunities to enter the labor market, gain experience, change employers or assume new job roles. In economics, workers who already hold jobs are often referred to as "insiders" while those seeking to improve their position are called "outsiders." This terminology reflects that, in many cases, insiders will have greater influence with employers and lawmakers than do outsiders.[1]

Conflicts arise because competition from outsiders limits the gains that insiders can obtain from their current position.[2] If insiders demand too high a price for their services or put in too little effort, employers may replace them with outsiders. However, insiders have a key advantage. Insiders are typically easier to organize because they are identifiable, already participate in an occupation or workplace, and have a direct and immediate economic interest in policies that protect their position. By contrast, job seekers are often dispersed and less organized. Insiders can exploit their organizational advantages to persuade lawmakers to enact legislation that makes it more difficult or costly for outsiders to compete for employment opportunities.

This chapter examines labor and employment policy in Wisconsin and shows several ways in which policies

tilt in the favor of insiders, impose costs on outsiders, and adversely affect the state's economic performance. It focuses on four areas that are likely to receive considerable attention in the coming legislative session, and it offers several suggestions to make labor markets in Wisconsin more flexible by increasing the freedom of employers and workers to form mutually beneficial contracts.

Occupational licensing

Occupational licensing in Wisconsin began before statehood when the Territorial Assembly enacted a law requiring a demonstration of legal knowledge and good moral character before one could obtain a license to practice before district courts or the Territorial Supreme Court.[3] Requirements were largely confined to law and medicine until the Progressive Era, during which licensing requirements were extended to service occupations, public health and the trades as part of the "Wisconsin Idea" of expert governance.[4] Today, roughly 20 percent of Wisconsin workers are in licensed occupations.[5]

Occupational licensing requirements are often justified as a means to protect consumers. However, costly licensing requirements can protect existing practitioners from competition by discouraging outsiders from seeking to enter an occupation. By reducing the number of potential providers, licensing allows existing providers to charge higher prices for their services and enjoy greater job security. A 2015 review of the economic and safety effects of occupational licensing by the Obama administration found that licensed workers often earned 10 to 15 percent more than workers in unlicensed professions with similar education, training, and experience.[6] The review also found that licensing requirements tended to raise consumer prices, while most empirical studies did not find appreciable improvements in service quality, public health or safety.

A national study of state occupational licensing requirements by the Archbridge Institute ranked Wisconsin seventh among the states in terms of the number of occupations that were licensed (135 occupations).[7] Only six states had more licensed occupations. The Archbridge study also considered occupations where licensing was a barrier, a situation in which an occupation is not licensed per se, but performance of tasks in that occupational area is limited to holders of a license in a related occupation. Wisconsin ranked 20th among the states in the number of barriers (162 occupations). The negative effects of occupational licensing on employment are substantial. A 2018 study by economists Morris Kleiner and Evgeny Vorotnikov estimated that overly burdensome licensing requirements reduced overall employment in Wisconsin by 37,000 jobs.[8]

The Wisconsin Legislature undertook an extensive review of the occupational licensing system in 2022.[9] The Legislative Council's Study Committee on Occupational Licenses considered reports and testimony from state agencies, legislative staff, and outside policy experts.[10] The review identified several potential reforms, including two that would have addressed the process by which licensing requirements are

established and maintained: first, the formalization of procedures for external review of new and existing licensing requirements and, second, recognition of licenses issued by other states.

Reforms to occupational licensing processes and requirements can be challenging. This is due in part to asymmetries in political influence between the insiders who benefit from high barriers to entry into the professions and that of outsiders, consumers and others who bear the cost. Reform can also be difficult because state law often specifies licensing requirements in considerable detail. Changing those requirements may therefore require legislative action rather than administrative rulemaking.

External reviews of occupational licensing requirements

Many states have formal processes for the review of new and existing licensing requirements.[11] These processes are commonly known as "sunrise" and "sunset" reviews. A sunset review is a periodic, systematic evaluation of an existing requirement to determine whether it should be modified or rescinded. A sunrise review evaluates a proposal for new regulation or more stringent licensing requirements before restrictions take effect. Wisconsin currently does not have a formal sunrise or sunset review process in place for occupational licensing requirements.[12]

Third-party sunset reviews are necessary to overcome the reticence of licensing boards and administrative agencies to pare back or eliminate unnecessary licensing requirements. Licensing, examining and credentialing boards are often dominated by practitioners of the professions that they oversee. Many boards include members of the public who in theory are appointed to represent the interests of consumers. However, in Wisconsin, public members constitute a minority of board positions, positions reserved for public members are often vacant, and attendance by public members is often poor, according to a Badger Institute study in 2020.[13] Administrative agencies tend to resist reforms that reduce their scope of responsibility. Such "turf-guarding" behavior protects budgets, headcount and agency standing.

Sunrise reviews by external parties serve as a check on opportunistic behavior by insiders seeking to establish new barriers to entry or to heighten existing ones. Reviewers might require that proponents quantify the benefits from new requirements or provide a showing of past harm to the public. Another is a requirement that alternatives to licensing be considered or a showing that non-licensing alternatives are insufficient to address the risks to the public. A 2022 study of the effectiveness of sunrise reviews by the Institute for Justice found that 80 percent declined to recommend licensure and that 54 percent concluded no new regulation was necessary.[14]

The case for sunset and sunrise reviews is stronger now than in the past. Licensing requirements were often adopted long ago when policymakers had little empirical evidence of actual harm. Data on injury and consumer complaints have become more extensive and widely available, allowing for more accurate assessments of the risks from unlicensed providers and the efficacy of licensing requirements. The emergence

of nationwide databases on licensing practices allows for comparison of the stringency of requirements between states and the identification of instances in which state licensing requirements are excessively burdensome. Finally, state-level experiments in licensing reforms and licensing alternatives allow policymakers to observe the actual effects of regulatory changes rather than relying solely on predictions from agency staff, licensing boards, or trade associations.

Recognition of occupational licenses issued by other states

Licensing requirements can be a barrier to movement between states. Practitioners holding a valid license who choose to move across state borders may be required to pause their careers, obtain redundant training and pay significant fees to demonstrate competence to licensing authorities in their new state of residence. Skilled and qualified individuals moving between states may choose to leave the labor force entirely or take lower-paying unlicensed positions when confronted with the costs of meeting redundant licensing requirements. Several studies have found that licensing requirements are a significant barrier to interstate movement.[15]

A 2026 study by the Archbridge Institute identified 28 states with universal occupational license recognition laws.[16] Universal license recognition laws reduce barriers to movement by allowing workers who hold a valid license in another state to obtain a license in their new state without repeating the entire licensing process. Recognition is often subject to conditions such as whether the granting state's requirements are substantially similar, whether the applicant is in good standing, and whether the applicant has met certain residency requirements in the new state. Of the 28 states with universal recognition, 11 do not impose substantial-similarity or residency requirements.

Universal recognition has been adopted by states across the political spectrum. Vermont provides a particularly relevant example for Wisconsin.[17] Like Wisconsin, Vermont has an aging workforce and a relatively low rate of migration from other states. Vermont recognizes an out-of-state license when the applicant is in good standing and has at least three years of relevant experience. Vermont does not impose residency or substantial-similarity requirements, although the director of the Vermont Office of Professional Regulation has the discretion to establish additional requirements if warranted.

Wisconsin does participate in several interstate licensing compacts covering workers in certain health care professions. Wisconsin also recognizes occupational licenses granted by other states for active duty and former service members and their spouses. However, Wisconsin has not adopted a comprehensive universal licensing statute. The Wisconsin Legislature considered universal license recognition legislation in the 2023-2024 session. Assembly Bill 332 passed the Assembly but did not receive a floor vote in the Senate before the session ended. The Legislature should take up this effort again in the coming session.

Right-to-work and Act 10

Wisconsin enacted two landmark pieces of

labor legislation in the 2010s that altered the balance of power between public- and private-sector unions and their members. Act 10 (2011) established annual certification requirements for unions representing general employees in state and municipal government.[18] Act 1 (2015) applies to unions in the private sector, changing Wisconsin from a union-security to a right-to-work state. Wisconsin's right-to-work law prohibits arrangements where workers are required to join and financially support a union as a condition of employment.

From an insider-outsider perspective, both laws challenged institutional arrangements that protected interests of long-tenured workers and union administrators at the expense of newer workers and those who did not desire union representation. By making union support less automatic, acts 1 and 10 created stronger incentives for union administrators to pay attention to the concerns of newer employees and others with less influence over union affairs, not just established insiders.

Act 10's certification requirements

Before Act 10, union certification for public employees was effectively permanent unless employees of the bargaining unit successfully pursued decertification. The decertification process was burdensome and difficult. Workers seeking to end union representation had to organize a petition drive and obtain the signatures of at least 30 percent of the workers in the bargaining unit. Such drives could be fraught with conflict since they require disaffected workers to openly oppose union leadership. The petition could be filed only in October of the calendar year preceding the expiration of an existing collective bargaining agreement. A vote would then be held if petition requirements were met. Decertification required approval by a majority of employees voting in the election. All this had to be accomplished in a narrow time window. These procedural hurdles imposed substantial organizational and political costs on workers seeking to challenge their union's representative status. Consequently, successful decertification efforts were rare before Act 10.

Act 10 shifted the burden for securing and maintaining collective bargaining representation to unions and their supporters. Act 10 requires that unions representing general employees seek annual recertification and win the support of at least 51 percent of all eligible members of a bargaining unit to retain their status as the exclusive bargaining representative for that unit. Failure by an existing union to obtain support from at least 51 percent of the employees in the unit results in decertification. If a union seeking to represent a previously unrepresented bargaining unit fails to receive the support of 51 percent of all eligible employees, the union cannot be certified as that unit's bargaining representative.

Several studies have examined the effects of Act 10 on public sector workers and unions in Wisconsin. This literature provides an opportunity to assess whether the institutional changes that were part of Act 10 produced a meaningful shift in the balance of power between union insiders and outsiders. If Act 10 succeeded in making union representation more

accountable to the interests of newer hires and those who gained little from union representation, we would expect to observe three outcomes.

First, if Act 10 empowered workers who previously gained little from union representation, we would expect a decline in union representation as state and municipal workers in Wisconsin exercised their newly acquired voting rights. Public sector union membership declined substantially following the enactment of Act 10.[19] Decertification and declining union support suggest that workers became more willing or able to challenge established union representatives when they believed those representatives did not adequately serve their interests. The Wisconsin Policy Forum reports that, of the 983 bargaining units that held at least one recertification election after November 2011, only 318 bargaining units remained certified in 2021.[20] The decline in representation and the failure of unions to win certification votes suggests that prior to Act 10 many unions were not providing valuable services to the workers they represented. Once the burden was shifted to unions to make the case for representation, many Wisconsin public-sector workers determined that unionization was not worth it.

Second, if Act 10 altered the political balance within public-sector unions by giving outsiders greater influence relative to union insiders, we would expect a flattening of wage-tenure profiles. A steep wage-tenure profile — where wages rise substantially with an employee's years of service — is consistent with strong insider influence over union negotiations.[21] Three studies have examined changes to teacher compensation following Act 10. All three find evidence of a flattening of the relationship between wages and seniority after the law took effect. The most detailed analysis appears in a study by Barbara Biasi, an economist at Yale University, and Wayne Aaron Sandholtz of the Nova School of Business and Economics.[22] Biasi and Sandholtz find that salaries of teachers older than 57 or with 27 or more years of experience declined following Act 10 while salaries of teachers younger than 30 or with three or fewer years of experience increased. The flattening of wage-tenure profiles among teachers is consistent with the interests of younger teachers receiving greater weight in contract negotiations after Act 10 than before.

Third, if Act 10 weakened institutional arrangements that favored established insiders over newer hires and entrants, we would expect an increase in interest by younger workers in careers in state and municipal government. Low early-career compensation is frequently cited as a factor discouraging young people from entering the teaching profession.[23] A study by E. Jason Baron, an economist at Duke University, found that following Act 10, the number of teaching degrees awarded by Wisconsin universities increased by approximately 20 percent relative to comparable states.[24]

The decline in union certification, the flattening of teacher wage-tenure profiles, and the increase in teaching degrees after Act 10 are each consistent with a shift in incentives and opportunities that benefited newer workers and prospective entrants. Act 10 is under constant political threat, often led by union leaders and other

insiders. The Legislature should reject calls for its repeal.

Wisconsin's right-to-work law

Union membership in Wisconsin and in the United States has declined steadily since the mid-1950s, when roughly a third of all private-sector workers were union members. The percentage of private sector workers in Wisconsin who were members of labor unions fell from roughly 8 percent prior to the 2015 enactment of the state's right-to-work law to around 6 percent afterwards, a decline of some 30,000 members.[25] Wisconsin's right-to-work law gave workers the freedom to choose whether to remain or become a union member and to financially support the union. Many chose to opt out.

The ability to opt out of union membership and payment of union fees has a disciplinary effect on unions by introducing market-like incentives into the relationship between individual workers and union representatives. When unions can no longer rely on compulsory membership or financial support, they have stronger financial incentives to demonstrate their value to workers and to respond to the interests and preferences of those they represent.

There is evidence that the incentives created by right-to-work laws do lead to more effective union representation. An innovative study by Christos Makridis, an economist at the Massachusetts Institute of Technology, used survey data to examine changes in the life satisfaction and economic outlook of private-sector union members around the time of the enactment of right-to-work legislation.[26] During his study period, Indiana and Michigan (2012), Wisconsin (2015) and West Virginia (2016) adopted right-to-work legislation.[27] Makridis finds a statistically significant improvement after the enactment of a right-to-work law in union members' assessments of their own life satisfaction and their economic outlook as well as an increase in the share of union members who report that their "boss treats them as a partner." Makridis concludes that the financial incentive created by right-to-work laws "prompts [unions] to provide higher-quality services that are valued by their members" and that "greater competition following the adoption of a right-to-work law may encourage more thoughtful collaboration between employers and union leaders."

There is broader evidence that right-to-work laws benefit job seekers and those seeking advancement. Several studies have found that business investment, particularly in the manufacturing sector, is more robust in states with a right-to-work law in place.[28] A stronger job market benefits the unemployed and those seeking advancement or opportunities with new employers. There is also evidence that firms in right-to-work states are more likely to adopt management practices that place greater emphasis on worker performance rather than seniority.[29] The use of merit rather than seniority-based policies for personnel decisions expands the opportunities available to workers with less seniority.

Wisconsin's right-to-work law has enhanced labor market freedom in the state and should be maintained.

Minimum wage and opportunities for low-skill workers

The minimum wage rate establishes a legal floor on the level of compensation in an employment relationship. The higher the minimum wage relative to a worker's marginal productivity, the less likely that an employer will find an employment relationship to be economically viable. Therefore, an increase in the minimum wage is generally viewed by economists as having a negative impact on employment.[30] The employment effects of a rise in the minimum wage are most severe for workers with limited skills, little experience, or weak labor market connections.

An increase in the minimum wage alters the competitive dynamics between high-skill workers, whose productivity justifies the higher wage, and low-skill workers, whose productivity does not. High-skill workers benefit from a reduction in competition from low-skill workers as a rise in the minimum wage limits the ability of low-skill workers to obtain employment opportunities by agreeing to work for less. Employers of high-skill workers also benefit as increases in the minimum wage raise the labor costs of competitors employing low-skill workers relative to their own.

Wisconsin is one of 20 states with a statutory minimum wage of $7.25 an hour, the same as the federal minimum. The state also permits employers to pay an opportunity wage of $5.90 per hour to workers under age 20 during their first 90 days of employment.[31]

Legislation introduced in the 2025-2026 session would have immediately raised Wisconsin's hourly minimum wage to $15 with annual increases to $20 for large employers by 2030 and to $20 for small employers by 2033.[32] By comparison, the highest statutory minimum wage in any Midwestern state is currently $15 an hour.[33] Roughly 10 percent of workers in Wisconsin currently earn less than $15 an hour.[34] Thus, a $15 minimum wage would directly affect a substantial share of Wisconsin's low-wage workforce, while a $20 minimum would extend the wage floor considerably further into the state's wage distribution.

An increase in the minimum wage rate would have a particularly negative impact on the employment opportunities available to young Wisconsinites. The teenage labor force participation rate in the United States has declined substantially over the past 25 years. Research by economists David Neumark and Cortnie Schupe identified increases in state minimum wage rates as the primary contributor to that decline.[35] Wisconsin continues to have a relatively high rate of teen employment. According to 2025 figures from the Bureau of Labor Statistics, 50.2 percent of Wisconsinites between the ages of 16 and 19 were employed at least part-time versus 31.1 percent nationally and 28.7 percent in Illinois.[36] Illinois provides a useful basis for comparison as that state's minimum wage rate is $15 an hour, the same as that proposed for Wisconsin. If Wisconsin's teen employment rate were to equal that of Illinois, approximately 60,000 fewer Wisconsin teenagers would be employed. While this comparison does not establish that the higher minimum wage in Illinois is the sole cause of the difference in teenage employment rates

between the two states, it illustrates the potential employment cost of imposing a substantially higher wage floor on young workers.

Lawmakers should recognize that the minimum wage involves a tradeoff. While an increase in the minimum wage can raise the earnings of high-skill workers who remain employed, it will also reduce employment opportunities for workers whose productivity does not justify the higher mandated wage. The latter include younger workers, those with fewer skills and less experience, and those with other labor market disadvantages. Large increases in the minimum wage, as would be the case if Wisconsin were to immediately raise its minimum to $15 an hour, have a more negative employment effect than smaller increases.[37] This raises a particular concern about a sudden increase in Wisconsin's minimum wage from $7.25 to $15 per hour.

Portable benefits for gig and freelance workers

The growth of gig and freelance work has benefited both consumers and workers.[38] Many find independent work arrangements attractive because they provide greater flexibility and control than traditional employment relationships, allow for a better balance between work and other responsibilities, or provide opportunities to supplement income.[39] According to a survey by the Federal Reserve Board, 3 in 10 gig workers report that they would have trouble making ends meet without the additional income they earn from such work.[40] Consumers have benefited from lower prices, greater choice and the convenience that the contingent economy provides.

One of the shortcomings of freelance and gig work is that hiring parties often do not provide benefits such as health insurance, retirement plans, or paid leave. The absence of such benefits is a significant concern for many workers in the contingent economy. According to the Federal Reserve Board, 28 percent of gig workers overall and 42 percent of workers who performed work arranged through digital platforms reported that they wished that they received benefits from the work that they do.[41]

Hiring parties are often reluctant to provide benefits because doing so can increase the risk that workers will be reclassified as employees rather than independent contractors. The distinction between an independent contractor and an employee has important consequences for how workers are treated under tax law, employment law and social insurance programs. Employees in traditional work relationships are often subject to minimum wage and overtime requirements and are covered by unemployment insurance, while independent contractors generally are not. Worker classification therefore affects both the benefits available to workers and the costs and legal obligations faced by hiring parties.

Surveys indicate that a majority of independent contractors prefer their existing work arrangements to traditional employment.[42] Reclassification as traditional employees could result in a loss of flexibility, independence and control over work schedules and may prompt some to leave the labor force altogether or shift to occupations in which they can continue working as independent

contractors.[43] Legislation that allows hiring parties to voluntarily contribute to the portable benefits plans of independent contractors without triggering their reclassification would potentially make both hiring parties and workers in the contingent economy better off.

Labor unions have long expressed concern about the growth of contingent work arrangements. Organizing freelance and gig workers also presents challenges for labor unions because many workers value the independence and flexibility that contingent work provides. A majority of workers engaged in contingent arrangements report that they value the ability to be their own boss, set their own schedules, and negotiate the terms of their work — features that can be difficult to reconcile with standardized employment terms established through collective bargaining agreements.[44]

The growth of contingent work can create competitive pressure by expanding the supply of workers who operate outside the traditional union-employer relationship. Many unions have supported policies that restrict or regulate independent contracting, including measures that make it more difficult for workers to be classified as independent contractors or that increase the obligations imposed on firms that use them.[45] Such policies protect the position of unionized workers and employers operating under traditional employment arrangements. But they also reduce the opportunities available to workers who prefer the flexibility and independence of contingent work.

In 2023, Utah became the first state to enact legislation allowing hiring parties to contribute to portable benefit plans for independent contractors without jeopardizing the workers' independent-contractor status.[46] The legislation expressly states that contributions to an independent contractor's benefit plan will not trigger reclassification of that individual as an employee. The Utah bill received support from members of both parties in the Utah Legislature. Several states have adopted similar legislation since that time.[47]

The Wisconsin Legislature considered portable benefits bills in the 2025-2026 session. Assembly Bill 269 and a companion bill, Senate Bill 256, would have created a legal framework under which drivers for app-based delivery services could remain independent contractors while receiving certain benefits and protections through portable benefit plans. Both houses of the Legislature passed AB269. The bill was vetoed by Gov. Tony Evers.[48] However, in his veto message Evers indicated that he was open to developing a different approach for the provision of portable benefit plans for independent workers. The legislation was opposed by the Wisconsin AFL-CIO, which argued that the measure would undermine traditional employee protections by allowing workers to be classified as independent contractors.

AB269 differed from Utah's portable-benefits legislation in two important respects. First, its scope was considerably narrower. The Utah law applies broadly to hiring parties and independent contractors, whereas AB269 was limited to drivers working for app-based delivery services. Second, the two laws took different approaches to worker classification. Utah's law clarified that a hiring party's contribution to a portable

benefit plan would not, by itself, trigger the reclassification of an independent contractor as an employee. AB269 went further by establishing a separate classification test specifically for drivers of app-based delivery services. Thus, while both measures sought to expand access to benefits without sacrificing the flexibility of independent contracting, AB269 combined portable benefits with a new legal framework for determining the employment status of a specific class of workers.

The value of any economic relationship is maximized when those involved have the freedom to structure the relationship as they see fit, absent the use of force or fraud. A significant share of freelance and gig workers express a desire for greater access to benefits. Many hiring parties, including app-based delivery services, have expressed an interest in including voluntary contributions to the benefit plans in their compensation programs. These interests are compatible. Given the potential for gain, lawmakers should consider options that would allow for the development of portable benefit arrangements for freelance and gig workers. The Utah statute may provide one possible model.

Conclusions and recommendations

This chapter has used the "insider-outsider" framework to examine several important case studies related to labor market regulation. It offers these recommendations:

Require sunrise and sunset reviews for occupational licensing requirements. Sunrise reviews serve as a check on opportunistic insiders seeking to limit entry into a profession through the establishment of unnecessarily stringent licensing requirements. Third-party sunset reviews are necessary to overcome the reticence of licensing boards and administrative agencies to pare back or eliminate unnecessary licensing requirements.

Establish procedures for the recognition of occupational licenses granted by other states. Universal occupational license recognition reduces unnecessary barriers to employment for qualified workers moving to Wisconsin. By recognizing licenses earned in other states, Wisconsin can expand the pool of available workers, increase labor-market mobility, and allow individuals to put their skills to work without unnecessarily repeating costly education, training or licensing requirements.

Retain Act 10. Annual certification requires unions to maintain broad-based support among the workers that it represents. This gives newer workers greater influence over union representation and creates an incentive for unions to be responsive to the interests of both long-tenured members and newer employees.

Retain Wisconsin's right-to-work law. The ability of workers to opt out of union membership and payment of union dues provides an incentive for unions to demonstrate value to their members. The right to opt out is particularly important for low-tenure workers, who may have different priorities from long-tenured members and can use their right to withhold financial support as leverage to attract greater attention to their interests.

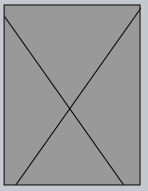
Don't raise Wisconsin's minimum wage.

When employers face higher labor costs, entry-level employment opportunities become more scarce. This makes it more difficult for workers who need to gain experience, develop skills, and establish a work history to gain a foothold in the labor market.

Enact legislation that allows for the creation of portable benefit plans for gig and freelance workers without triggering reclassification requirements. Portable benefit plans can provide gig and freelance workers access to health, retirement and other benefits while retaining the flexibility and independence of non-traditional work. Legislation adopted by Utah and other states may provide Wisconsin lawmakers with a path forward.

These recommendations would expand the freedom of employers and workers to negotiate and enter into mutually beneficial employment arrangements, broaden economic opportunity, and improve the efficiency and performance of Wisconsin labor markets.

About the author



James Bohn is an economist with over 30 years of experience in government, business and academics. Most recently, he served as an assistant vice president and senior professional with the Federal Reserve System. He holds a doctorate in business economics from Harvard University, and he is active in the CFA Society of Milwaukee and the National Association for Business Economics. He lives in Delafield.

ENDNOTES

1 Whether a person is an insider or outsider depends on his or her relationship to a particular job opportunity. An individual can be an insider with respect to one employment opportunity and an outsider with respect to another. For example, a person who currently holds a job is an insider with respect to that position but is also an outsider in relationship to a position that they aspire to.

2 Conflicts between insiders and outsiders arise in many settings, not just in labor markets. For instance, similar competitive dynamics between insiders and outsiders arise in electoral politics and business competition. Actual and potential challengers (outsiders) are a source of competitive pressure on incumbent officeholders (insiders). However, incumbent officeholders have a key advantage: existing officeholders have the ability to write election law; challengers don't. Incumbent officeholders may use that power to enact laws that make it more difficult for challengers to compete through the creation of "safe seats" or campaign finance requirements that make it more difficult for new or inexperienced challengers to raise funds. Similar conflicts also arise in business. The ability of existing firms (insiders) to exercise market power by charging high prices and earning extraordinary profits is limited by the possibility that new firms (outsiders) may enter an industry. To reduce competitive pressure from potential entrants, existing firms with connections to lawmakers may seek the enactment of laws and regulations or the grant of special privileges that make it more difficult for new firms to enter and compete. For example, existing firms may seek the grant of exclusive licenses, regulatory waivers, preferable access to financing, favorable tax treatments, and the like, which provide advantages over potential entrants.

3 Wisconsin Legislative Assembly, "Statutes of the Territory of Wisconsin" (1839).

4 John D. Buenker, "The History of Wisconsin, The Progressive Era, 1893-1914" (Madison: State Historical Society of Wisconsin, 1998).

5 There is some variation in estimates due to differences in source of employment data and occupational definitions. A 2015 study by the Council of Economic Advisors estimated that 18.4 percent of Wisconsin workers were in licensed occupations U.S. Department of the Treasury, Office of Economic Policy, Council of Economic Advisers, and U.S. Department of Labor, "Occupational Licensing: A Framework for Policymakers" (Washington, D.C.: White House, July 2015).

6 U.S. Department of the Treasury, Office of Economic Policy, Council of Economic Advisers, and U.S. Department of Labor, "Occupational Licensing: A Framework for Policymakers" (Washington, D.C.: White House, July 2015).

7 There are occupations that are not expressly licensed by a state but for which performance of tasks associated with that occupation are restricted by an occupational license. Noah Trudeau, Edward Timmons, and Benjamin Seevers, 2026 State Occupational Licensing Index (Archbridge Institute, 2026), https://www.archbridgeinstitute.org/wp-content/uploads/2026/09/2026-State-Occupational-Licensing-Index.pdf

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