

THE STATE OF RETAIL WORKFORCE ORGANIZING

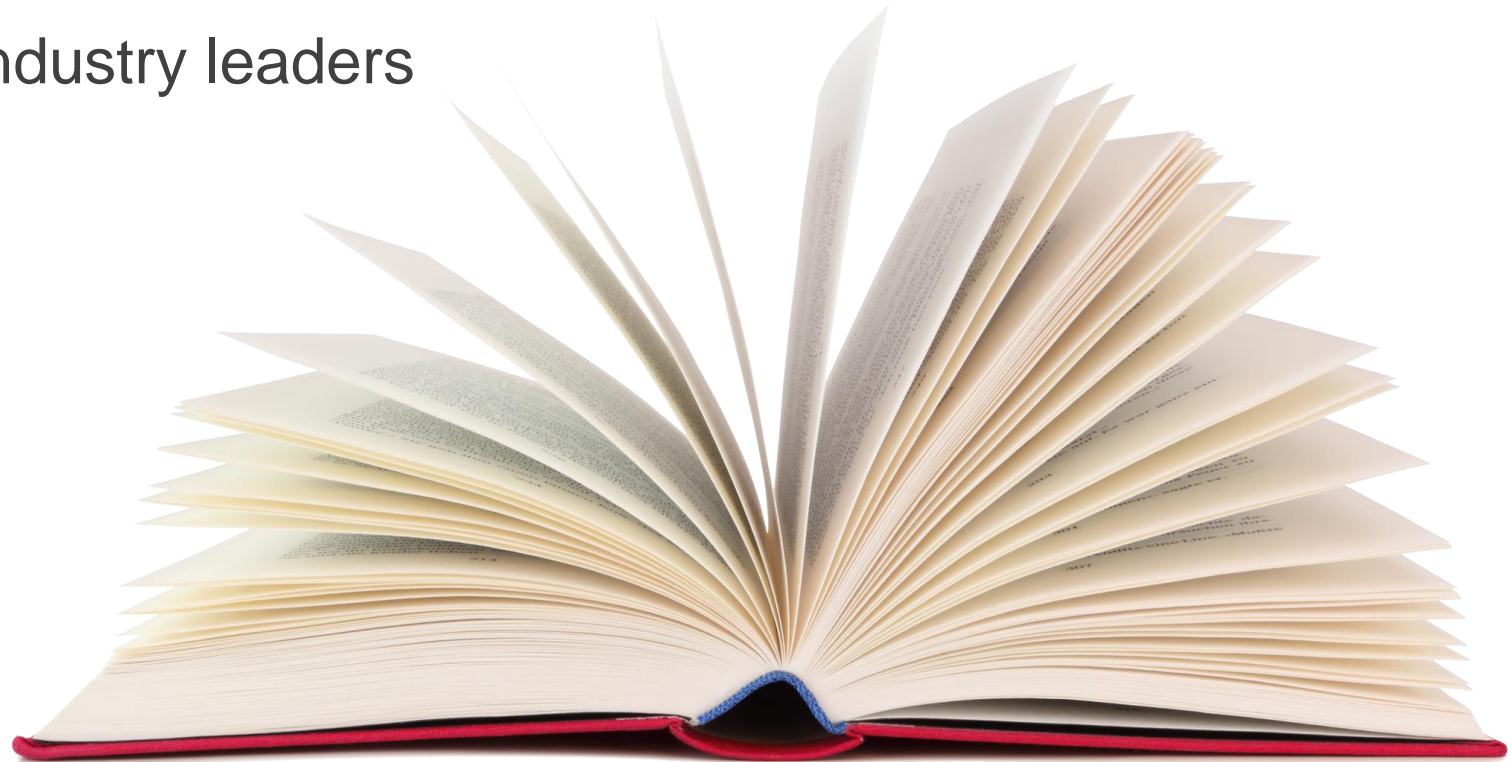
1. Retail Labor Report Preview
 2. Rapidly Evolving Pro-Labor Environment
 3. News from the Frontline
 4. Take Action
-

RETAIL LABOR REPORT



PREVIEW

- Distillation of a large volume of information, none of which tells the story individually
- Thought Leadership from industry leaders and the legal community



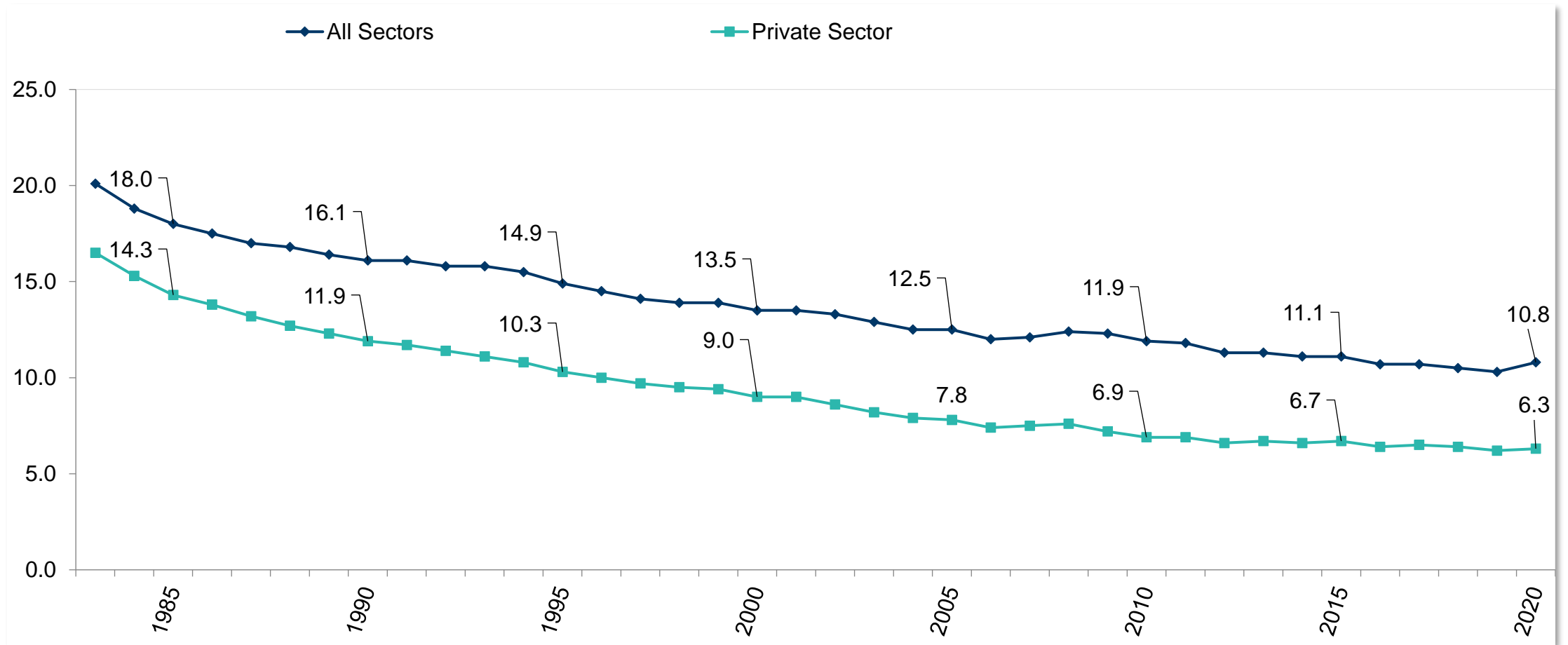
RETAIL LABOR REPORT

5

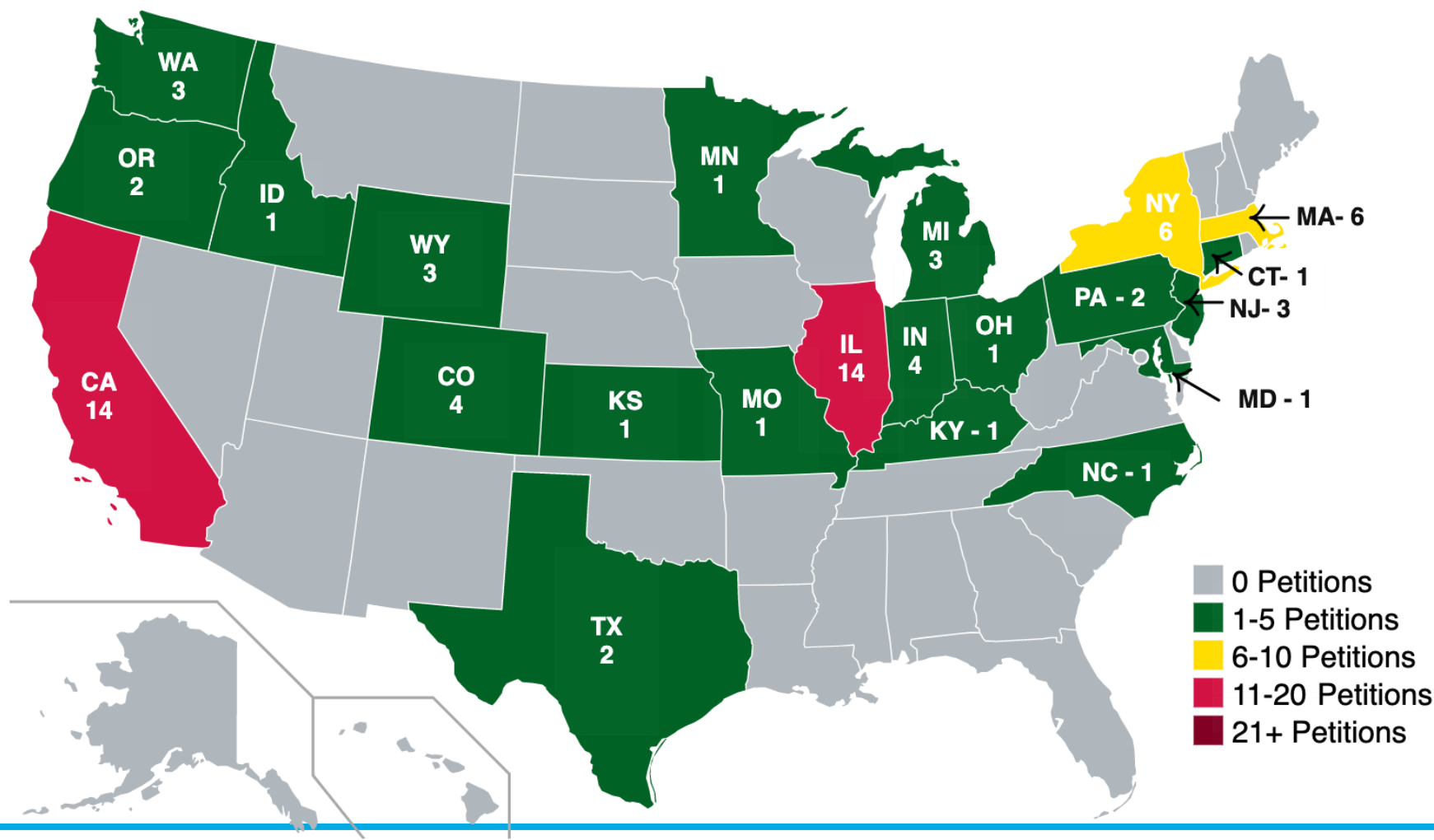


LABOR REPORT

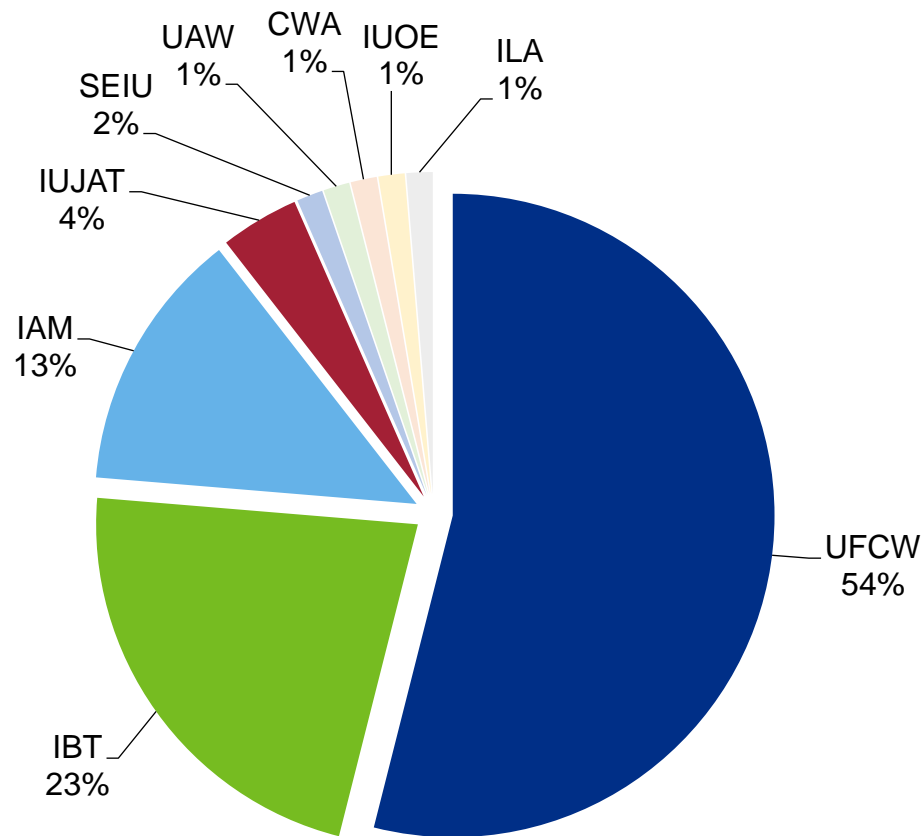
BLS UNION MEMBERSHIP 1983 – 2020



REPRESENTATION PETITIONS IN RETAIL BY STATE - 2020

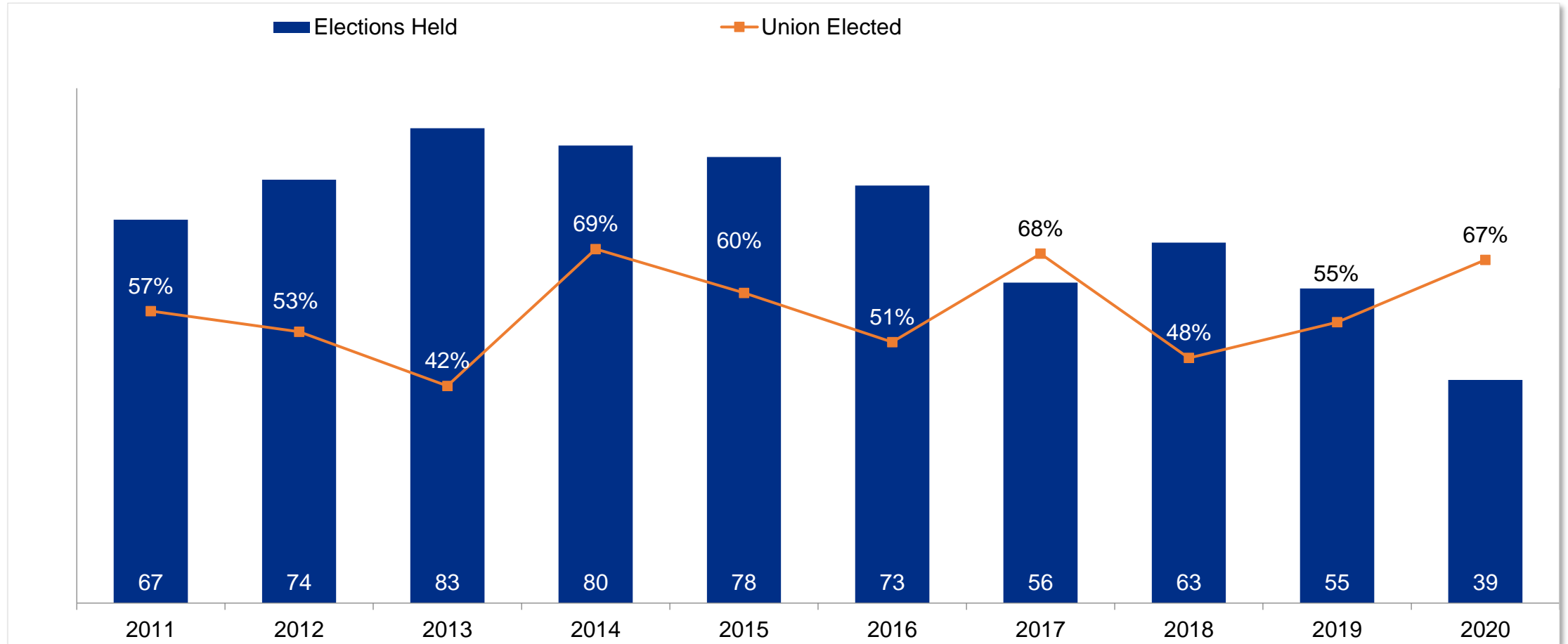


MOST ACTIVE UNIONS IN RETAIL – 2020

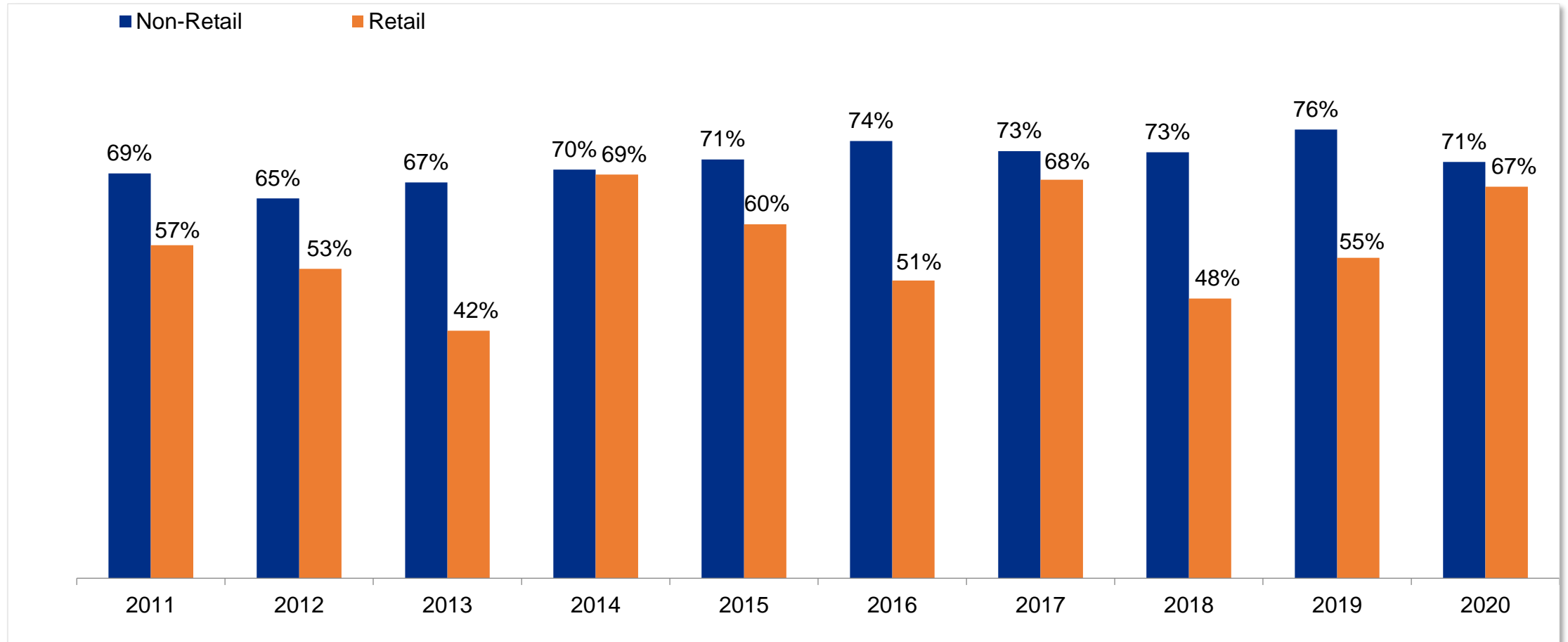


UFCW	United Food and Commercial Workers
IBT	International Brotherhood of Teamsters
IAM	International Association of Machinists
IUJAT	International Union of Journeymen and Allied Trades
SEIU	Service Employees International Union
UAW	United Auto Workers
CWA	Communication Workers of America
IUOE	International Union of Operating Engineers
ILA	International Longshoremen Association

REPRESENTATION ELECTIONS IN RETAIL



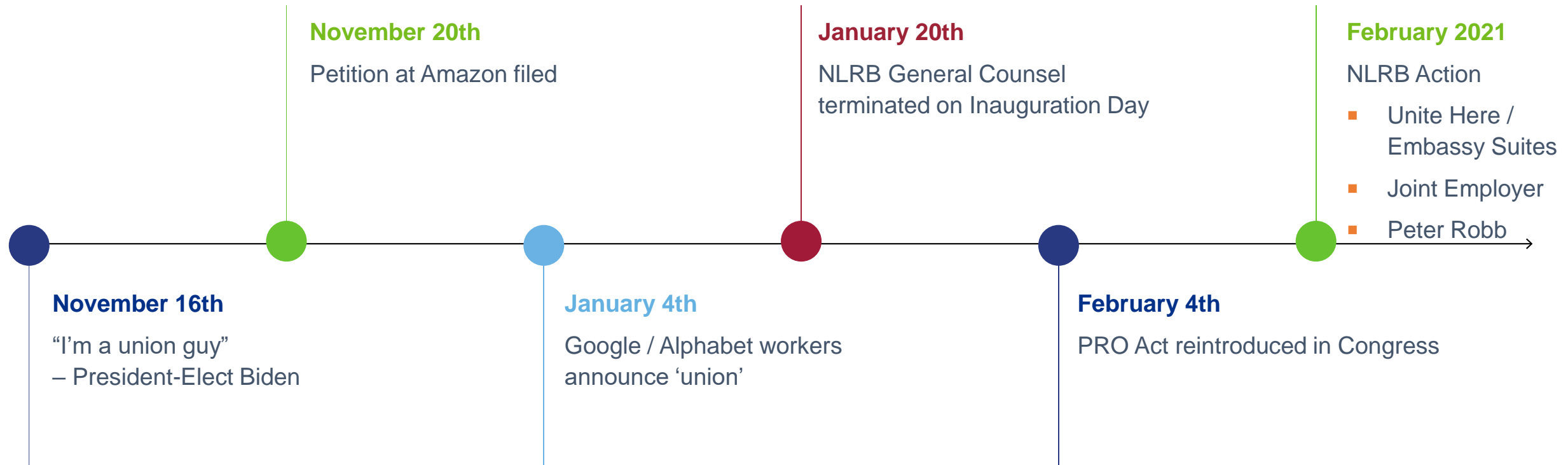
UNION WINS IN REPRESENTATION ELECTIONS





RAPIDLY EVOLVING PRO-LABOR ENVIRONMENT

RECENT HIGHLIGHTS



THE NEW PRO-LABOR ENVIRONMENT

- PRO Act / Legislation
- NLRB Changes
- Regulatory Impact



PROTECTING THE RIGHT TO ORGANIZE ACT (“PRO ACT”)

- PRO Act reintroduced to the Senate February 4th
- Bill passed House in previous Congress
- Law as drafted would be the most significant change to federal labor law since 1935
- President Biden has publicly committed to the law’s passage on multiple occasions



Both of our recent Intelligence Briefings on the PRO Act will be distributed immediately following today's session

NATIONAL LABOR RELATIONS BOARD (NLRB)



Lauren McFerran (D)
Chair

Confirmed by the Senate for another term on
July 29, 2020, through Dec. 16, 2024



Marvin Kaplan (R)
Member

Term Expiration – Aug. 27, 2025



Democratic Board Member
Vacancy



William Emanuel (R)
Member

Term Expiration – August 27, 2021



John Ring (R)
Member

Term Expiration - December 16, 2022

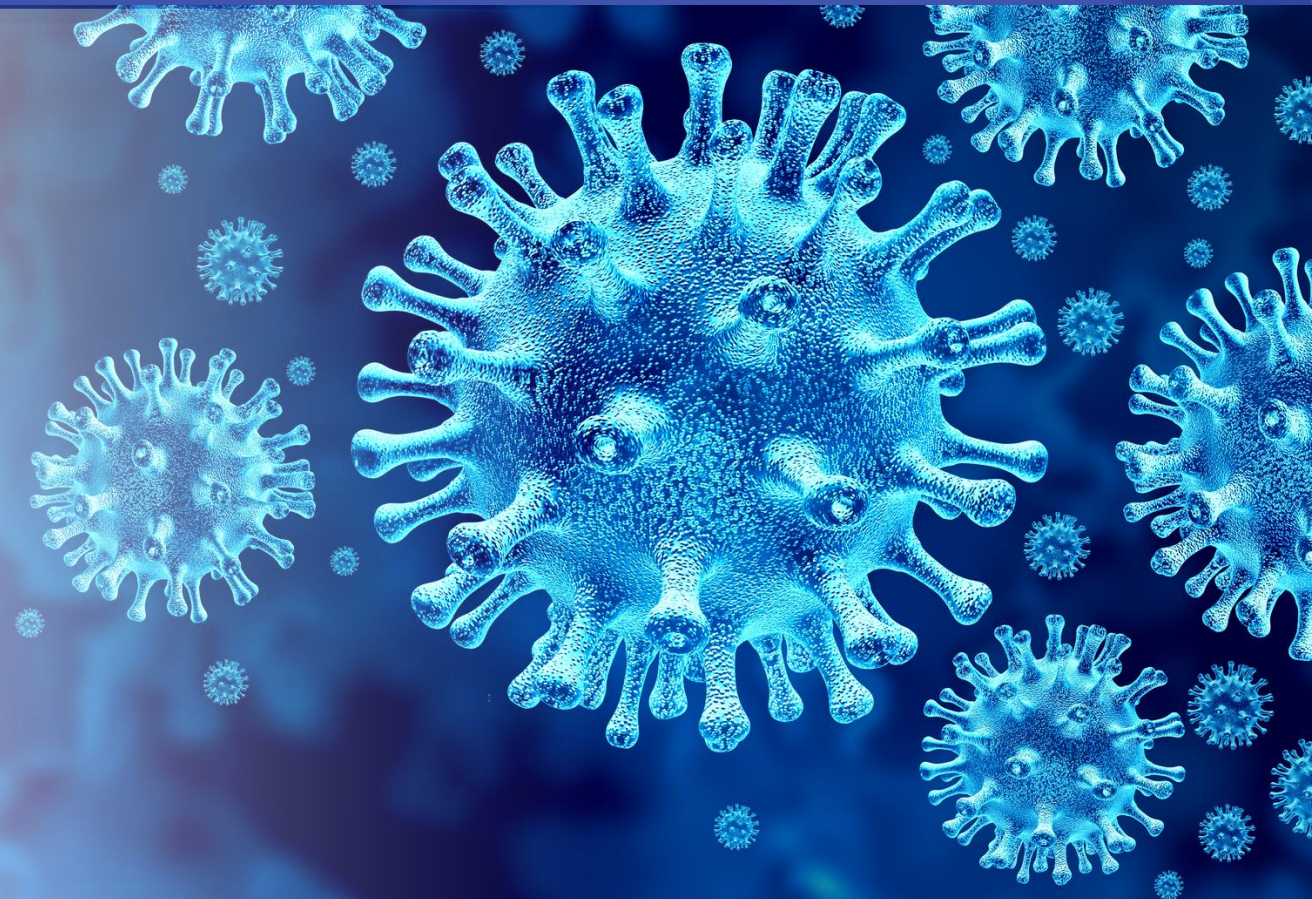


Peter Sung Ohr
Acting General Counsel



COVID-19 WILL CONTINUE TO BE A HOT BUTTON ISSUE FOR UNIONS AND REGULATORS

- Labor unions have leveraged COVID-19 since beginning of the pandemic to attempt to make organizing gains
- Workplace safety issues will be important for all employers, particularly in healthcare
- Likely some implementation of COVID-19 OSHA standards on an interim or emergency basis



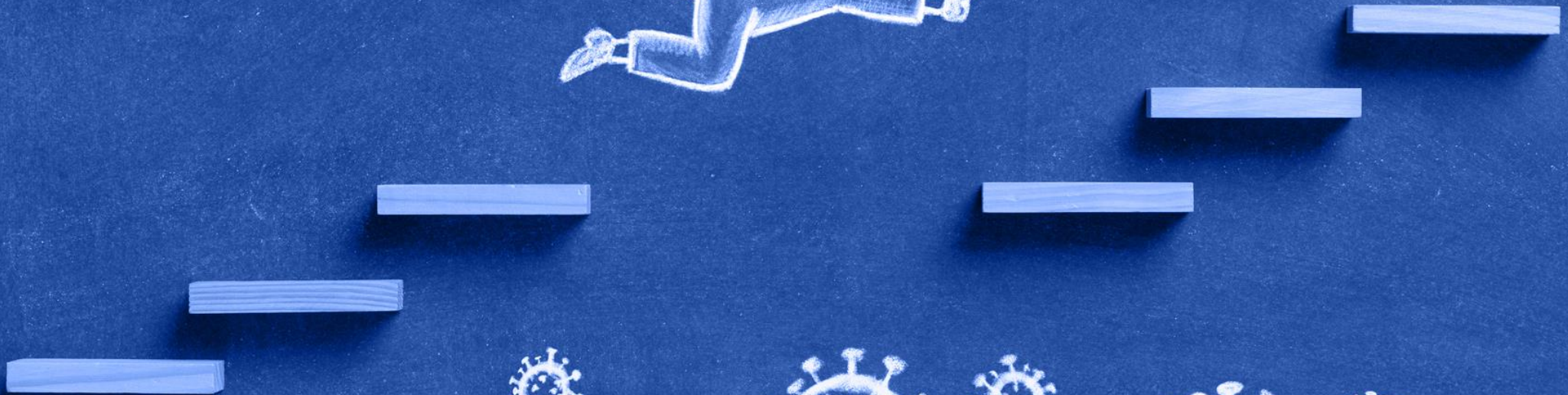
NEWS FROM THE FRONT

- Employee Activism
- Listening Systems
- Organizing / Elections

**ARE YOU
LISTENING?**



TIME TO ACT



TAKE ACTION

- Educating the executive team on the breadth of sweeping changes is critical
- Ensure the Government Relations staff is including PRO Act, and other labor-related legislation in their monitoring and reporting efforts

TAKE ACTION

- Upskill your middle managers
 - Many have not faced formal labor pressure in their careers
- Protect your employer brand
 - This is far more important than you might think
 - Union avoidance, reputation management and talent acquisition are all supported with a robust employer brand strategy

TAKE ACTION

- Conduct a comprehensive update to your vulnerability assessments
 - The world has changed...your vulnerable areas / departments / locations have changed too
- Critically assess the effectiveness of your internal communications channels
 - Do not hesitate to 'think bigger' about the possibilities of different communication approaches leveraging all digital tools available today

THANK YOU

Scott Purvis, COO

IRI Consultants

704.236.0005

spurvis@iriconsultants.com

APPENDIX

PROTECTING THE RIGHT TO ORGANIZE ACT (“PRO ACT”)

- Some parts of PRO Act are more likely
 - New civil penalties, attorney’s fees, and civil damages for ULPs, require ‘union rights’ posters, require ‘card check’ recognition, remove ban on secondary boycotts, harder to establish supervisory status, no employer standing in election proceedings, no employer mandatory meetings to discuss unions, mandatory arbitration to create new union contracts if negotiations stall
- Less likely changes include:
 - Elimination of mandatory employer arbitration agreements with employees altogether, modification of joint employer standards, prohibition of right to work laws, change independent contractor analysis to hard-to-meet ABC test

WHAT TO ANTICIPATE FROM NLRB IN 2021

- NLRB General Counsel oversees all NLRB Regional Offices and exercises prosecutorial discretion on which ULP cases it enforces
- *Boeing* decision will likely be overturned, and employer handbook and work rules will be closely scrutinized
- Expect deference to employees and unions in many cases
- Mail ballot elections will be the norm for duration of COVID-19 pandemic

WHAT TO ANTICIPATE FROM NLRB IN 2021

- Potential for shift to mail ballot elections beyond COVID-19 pandemic, but would need to follow rulemaking process
 - Rulemaking could result in return to election procedures from Obama administration: short election timeframes, fewer employer challenges permitted, more access to employees
- Employers may challenge legitimacy of ULP complaints issued under Peter Ohr due to questions about whether White House had authority to remove Robb

EXECUTIVE ORDERS

- President Biden issued an Executive Order directing the government to develop a plan to require a \$15 an hour minimum wage for all federal employees and federal contractors
- Open question about whether a final order will include requirement of neutrality agreements or card check for new federal contracts
- For employers who are federal contractors, watch this area closely as the Biden administration can effectuate change rapidly via executive orders