Preface and Acknowledgments

In the twenty-first century, as unions in the United States find themselves increasingly overwhelmed by adversity—beleaguered by a relentlessly inhospitable political environment and representing an ever-shrinking share of the workforce—the California labor movement appears surprisingly robust. Union membership and density have inched upward in the state over recent years, even as they continue to decline nationally. In addition to its successes in directly recruiting new members, California labor has helped to promote a range of innovative legislative initiatives at both the state and the local level that indirectly facilitate organizing. Changing state law to establish a public authority as the employer of record for homecare workers, for example, paved the way to unionizing tens of thousands of employees over the course of the 1990s. California also passed the nation's first effective state neutrality law in 2000, which prohibits employers from using state funds for anti-union—or pro-union—activities. Labor's efforts have also helped to secure passage of local labor peace ordinances and "living wage" laws up and down the state. Although, like their national counterparts, California unions continue to face many daunting challenges, these recent achievements offer a basis for optimism and perhaps even a model for others to emulate.

Enemies of organized labor often cast it as a "special interest" with political clout disproportionate to its membership, but in many instances the California labor movement exerts its considerable influence in Sacramento on behalf of not only its own members but also the state's vast non-union workforce, often with impressive results. The most important recent example is the 2002 California paid family leave law, the first of its kind in the United States, which will provide leave with pay for new parents and workers caring for seriously ill family members starting in 2004. More generally, as corporate restructuring and neoliberal government policies steadily widen the gulf between rich and poor—a problem even more pronounced in the state than in the nation—the California labor movement is the one voice consistently defending the economically disenfranchised. Such leadership on fundamental issues of economic and social justice is all too often lacking in other quarters. After the long economic boom of the late 1990s gave way to deep recession and fiscal crisis, effectively addressing such issues became far more difficult politically. Yet,

growing economic inequality and social justice issues are likely to remain at the forefront of public concern, and labor will continue to lead efforts to craft legislation and public policy in this area.

This year's *State of California Labor* is an effort to illuminate labor's recent achievements in California, as well as the broader political and economic context in which they are situated. The volume opens with a chapter on union membership in California, drawing on the California Union Census (CUC), a new source of data from a project launched by the Institute for Labor and Employment (ILE) shortly after its establishment in 2000. In partnership with the California Department of Industrial Relations (DIR), and with cooperation from the California Labor Federation, the ILE conducted a survey of all local unions in the state in 2001–02. The DIR once conducted similar surveys of union membership, publishing regular reports on the subject from the late 1940s until 1987, when this data collection program was abruptly halted. In the first chapter of this volume, Daisy Rooks and I analyze the results of the 2001–02 CUC, along with other data on California union membership, to explore why union density has increased recently in California even as the nationwide decline continues. We provide a detailed portrait of the state's union members, by sector and industry as well as by demographics. The chapter also includes a discussion of union staffing patterns and shows that organizing staff, in particular, are concentrated in a relatively small number of unions.

Complementing this opening chapter is Kate Bronfenbrenner and Robert Hickey's careful analysis of recent union organizing trends in the state, which tracks both National Labor Relations Board (NLRB) elections and less traditional organizing campaigns, such as those using "card-check" neutrality agreements, over the 1997–2002 period. Not only do California unions win NLRB elections at a slightly higher rate than do unions nationally, but the proportion of workers organized as a result is substantially greater in the state than in the nation (mainly because win rates in large workplaces are higher in California). This chapter points out that the effectiveness of union organizing campaigns varies with the type and combination of tactics used, as Bronfenbrenner's previous work on unions nationwide has shown, and reports that in California, too, win rates are much higher for some unions than for others, especially in the face of determined employer opposition.

Part 2 of this volume turns from developments inside the labor movement to an examination of the wider context of employment in the state. The chapter by Frank D. Bean and B. Lindsay Lowell focuses on employment patterns among California's immigrants, a growing segment of the nation's workforce and an even larger component of the state's. Drawing on recently released 2000 U.S. census data, this chapter offers an overview of immigrant employment statewide as well as in the Los Angeles and San Francisco–San Jose metropolitan areas, comparing the 1990 and 2000 employment distribution of foreign-born workers across industries, by gender, as well as by race and ethnicity. Bean and Lowell interrogate the relationship between the growth of immigrant employment in California and the process of economic

polarization—robust growth in high- and low-paying jobs but relatively little growth in the middle—that has increasingly characterized the state. Building on previous work on polarized job growth in the 2002 *State of California Labor*, they offer an analysis of 1994–2000 Current Population Survey data that suggests that immigration is not the driving force behind the polarization process. Moreover, they provide some evidence that immigrants are moving up in the employment structure over time despite the growing obstacles to such mobility.

Part 2 also includes an important study by Issac Martin, Jerome Karabel, and Sean W. Jaquez that exposes the link between access to higher education and employment outcomes in California. The recent trajectory of social and economic inequality in the state, as well as nationwide, is in large part rooted in the widening divide between college-educated and non-college-educated workers. Thus access—or lack of it—to the prestigious University of California system is a critical factor contributing to the shape of the new inequality. Martin, Karabel, and Jaquez draw on UC admissions data to document the inequalities in access to UC among the state's high schools. Their analysis shows that students admitted to the university are disproportionately drawn from a small subset of the state's schools: those whose student bodies are largely affluent, Anglo, and Asian. Access is far more limited for schools serving largely poor, Latino, and/or African American populations.

Part 3 of the volume shifts the focus back to developments directly involving the California labor movement. John Logan's chapter offers an analysis of AB 1889, the 2000 "Cedillo Bill," a pathbreaking effort to enforce state neutrality in the labor arena by prohibiting employers that receive state funds from using them to promote or deter unionization. Logan traces the history of this legislation, exposing both the political processes that led to its passage and describing the court challenges that it currently faces. His essay also documents other recent examples of innovative state and municipal labor law in California, including a detailed account of "labor peace ordinances," which the city of San Francisco pioneered. He situates all these developments in the broader context of ongoing conflict between employers and labor, a conflict whose focal point has shifted from the national to the state and the local level in recent years.

Michael Reich's chapter on living wage laws in California complements Logan's analysis, for such legislation has been another major thrust of labor movement efforts in the past decade. Reich's chapter both chronicles the achievements of the living wage movement in California to date, with detailed accounts of developments in Los Angeles and San Francisco, and insightfully reviews the burgeoning research literature on the economic effects of living wage legislation. Finally, our 2003 edition closes with a review by Daniel J.B. Mitchell of recent labor relations developments in the state. His survey, which covers all major sectors of the California economy, highlights key trends in union-management relations, presenting them in the context of the state's shifting economic conditions, and charts upcoming collective bargaining agreements.

Any volume of this kind involves extensive collective effort. Special thanks are due to Paul Attewell, Richard Flacks, Stephanie Luce, Roger Waldinger, as well as our Associate Editors and Editorial Advisory Board, for assistance in critically reviewing the articles included here. I am also grateful to ILE staff members Elizabeth del Rocio Camacho and James Robbins for their contributions to the production process, as well as to the exceptional staff at the University of California Press. My most heartfelt thanks go to our managing editor, Rebecca Frazier, for her exemplary work on the volume. She was meticulous in her attention to every detail and tirelessly cheerful in the face of more than the usual delays and difficulties.

Ruth Milkman
For the Editors

California Union Membership

A TURN-OF-THE-CENTURY PORTRAIT

RUTH MILKMAN
and DAISY ROOKS

The changing level and composition of union membership is a long-standing focus of research on the organized labor movement. In the United States union density began falling in the late 1950s; the decline accelerated in the mid-1970s and has continued since.[1] With the election of John Sweeney to the AFL-CIO presidency in 1995, and the renewed commitment to organizing that he promoted, many hoped for a reversal of this trend. Initially, such optimism seemed

Thanks to Dorothy Sue Cobble, Richard Freeman, Peter Olney, Tom Rankin, Kim Voss, and Kent Wong for their helpful comments on an earlier version of this chapter, and to Christine Schwartz for extensive assistance with the data analysis. We are also indebted to David Aroner and his staff at the Division of Labor Statistics and Research in the California Department of Industrial Relations, as well as Tom Rankin and Angie Wei of the California Labor Federation for helping us launch the California Union Census (CUC) project. Thanks also to Carol Bank, Mike Dugan, Dan Hall, June McMahon, Peter Olney, Neal Sacharow, and Kent Wong for helping to persuade various unions to respond to the CUC, and to Joshua Page for assistance in locating data on the prison guards' union. Finally, we are grateful to James Robbins for logistical assistance, to Elizabeth del Rocio Camacho for making the questionnaire available online, and to the many UCLA students who assisted with various aspects of the data collection effort: Rene Almeling, Limor Bar-Cohen, Kathryn Cooney, Angela Jamison, Howard Padwa, Gabrielle Raley, and Darolyn Striley.

1. "Density" refers to the percentage of union members (or workers covered by union contracts) among wage and salary employees in a given labor market or region. Density is a key index of labor union strength. Its meaning is complex, however, given the winner-take-all industrial relations system that exists in the United States, under which unions either represent all the workers in a given workplace or none of them. One reason that density figures fail to fully capture the extent of union influence is that, in addition to representing their members directly in collective bargaining, unions indirectly generate improvements in the pay, benefits, and working conditions of nonunion workers in a variety of ways. For example, many employers seek to avoid unionization by preemptively offering wages and benefits similar to those of their unionized competitors. The workers they employ thus receive many of the same economic advantages as union members, despite their nonunion status. Similarly, and on a far larger scale, the efforts of organized labor in the political and legislative arenas often result in improvements for nonunion workers in the form of minimum wage laws, unemployment benefits, health and safety legislation, workers' compensation, and the like. Moreover, the standard convention of calculating density using the number of wage and salary workers as the denominator can be misleading, since managers, supervisors, "confidential" employees, and others are ineligible for

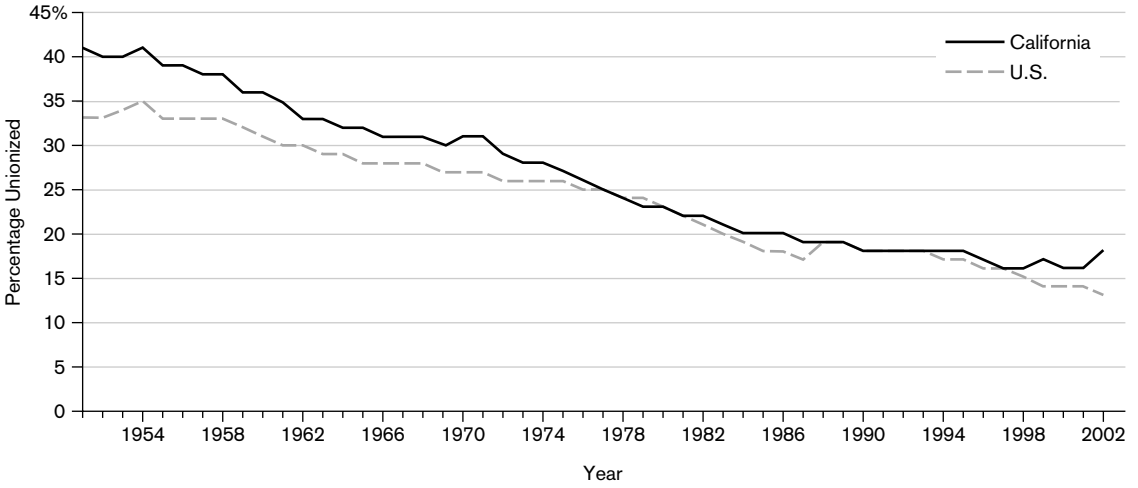

FIGURE 1.1. Union Density, U.S. and California, 1951–2002
SOURCE: Hirsch and MacPherson, various years.

warranted: several large unions poured resources into recruiting new members in the late 1990s, and the downward trend was briefly arrested (although not reversed). After the century's end, however, the decline resumed, and by 2002 the unionized percentage of the wage and salary workforce had fallen to 13.3%, lower than any time since the early 1930s (Figure 1.1).

California stands out as an exception to the general pattern over the past few years. Against all odds, union density has inched upward in the nation's most populous state, from 16.1% of all wage and salary workers in 1998 to 17.8% in 2002. Although several states have higher absolute levels of density, the recent upturn in California is highly unusual.[2] This chapter presents an analysis of union membership patterns in the state and explores the reasons for its recent divergence from the nation as a whole. Our analysis centers on a new source of data: the 2001–02 California Union Census (CUC), a survey of all local unions in the state sponsored by the Institute for Labor and Employment of the University of California.[3] We also draw on national

union membership under U.S. labor law (see Cobble 1994). Still, union density is the most widely used, and arguably the single best, measure of organized labor's strength and influence over time, across sectors of the economy, and geographically.

2. In 2002 seven states (New York, Alaska, Hawaii, Michigan, New Jersey, Illinois, and Washington) had higher levels of density than California; however, density increased in only three of these states between 1998 and 2002. In New York, density rose marginally from 25.4% in 1998 to 25.6% in 2002; in Illinois, the gain was more substantial, from 18.9% to 19.7%. Only Alaska, where density rose from 20.4% to 24.4% over the period, had a greater increase than California (Hirsch and MacPherson, various years).

3. Most U.S. unions have "locals" representing workers in a particular sector or geographic

data from the U.S. Current Population Survey (CPS). On this basis we present a more detailed portrait of unionism in California than has been available for many years.[4]

Actively recruiting new members into the ranks of the labor movement, as the current leadership of the AFL-CIO has urged its affiliates to do, is the main way in which unions themselves can help to increase density. But many other factors influence the density level. If employment declines in a unionized industry or occupation, or if employment expands in a non-union (or weakly unionized) industry or occupation, union density will fall. Conversely, if employment expands in a unionized industry or occupation, or if it declines in a non-unionized one, density will increase. As is often pointed out, given the impact of shifting employment trends and normal labor market growth and turnover, simply to maintain U.S. union density at current levels would require unions to organize about 500,000 new members annually. To increase density by one percentage point nationally requires organizing nearly a million new members (Freeman 2003). This makes the recent increase in density in California all the more impressive.

In 2001–02 the CUC found a total of 2,583,349 union members and a total of 2,980,360 workers who were covered by collective bargaining agreements (not all of whom were dues-paying union members) in the state of California.[5] The CPS reports slightly lower figures for the state: 2,578,700 union members, or 17.8% of all wage and salary workers, and 2,760,389 covered workers, or 19.1%, for 2002.[6] These density levels are substantially higher than those in the nation as a whole, where only 13.3% of wage and salary workers were union members in 2002, and 13.6% were covered by collective bargaining agreements.[7] As Figure 1.1 shows, however, this is a recent development: from the mid-1970s until the mid-1990s, California density levels

---

area. In most cases local unions are affiliated with national unions, often called "Internationals" because they include (or formerly included) some locals in Canada. Following standard usage inside the labor movement, in the text we refer to all national unions as Internationals.

4. For more details on our data and methodology, see the Appendix to this chapter.
5. Although unions are legally required to represent everyone in the bargaining unit for which they negotiate a collective agreement, in some cases the workers in the unit are required neither to become union members nor to pay union dues. This can be the case if the union is unable to win a "union shop" agreement, which requires all workers hired by the employer to become union members after a fixed period of time. The alternative to a union shop is typically an "open shop," where formal membership in the union is voluntary. In other cases, mostly in the public sector, unions may have an "agency shop" agreement, which stipulates that all represented workers pay an agency fee whether or not they are union members.
6. It is not surprising that the CUC, which collected data directly from unions, found a higher figure for covered workers than the CPS, which is based on a household survey, since nonmembers covered by union contracts are often unaware of their status.
7. The CPS figures in 2001 were 16.4% for union membership in California, with 18.0% covered by agreements; nationally the figures were 13.5% and 14.8%, respectively. In later sections of this chapter, we merge the 2001 and 2002 CPS data, since the CUC data overlap 2001 and 2002.

were closer to the U.S. average (although in the 1950s and 1960s California density was consistently above the national average).

In many respects, trends in California closely resemble those in the United States as a whole. In both cases union membership growth has been concentrated in the public sector, while the private sector has presented far more difficult challenges to the labor movement. The overall distribution of union membership by industry and occupation is generally similar in the state and the nation as well. Union membership patterns are highly gender-differentiated, with women disproportionately concentrated in some unions (especially those based in the public sector) and men in others (most notably in the building trades), both in California and nationwide.

The recent divergence between density levels in the state and the nation is linked to several factors that distinguish California from the rest of the United States. Historically, the industrial unions (and the manufacturing sector in which they are based) have been weaker in California than elsewhere in the nation, and in recent years membership losses in the state also have been smaller in this sector than in the nation as a whole. At the same time, union growth in the public sector, as well as in health care, has been much more rapid in California than in the nation over the past few decades.

Another factor distinguishing California from the United States as a whole is that union organizing efforts have been more effective in the state than in the nation (see Bronfenbrenner and Hickey, this volume). The leading force is the nation's most rapidly growing union, the Service Employees International Union (SEIU).[8] The SEIU has historically accounted for a greater share of total union membership in California than in the nation, and this has contributed greatly to the divergence in density trends. California is also distinguished by the presence of a few large unions whose membership is either limited to the state or overwhelmingly concentrated there, and some of these unions are unusually active in the organizing arena as well.

California's demographic composition is also unusual in that it includes a disproportionate share of the nation's growing population of immigrant workers and has (largely as a result of immigration) a workforce that is more racially and ethnically diverse than that of the nation as a whole. Economic inequality is also more extreme in California (especially Southern California) than in the nation (Milkman and Dwyer 2002). The state's large low-wage workforce, many of whose members are foreign born, has been a key target in recent organizing efforts. When those efforts have succeeded, they have contributed to the growth in California's union density; nevertheless, recent immigrants remain underrepresented in union ranks, as we discuss below.

Finally, organized labor has more political influence in California than in most other states. This has not only helped to maintain existing union membership but also facilitated the recruitment of new, previously non-union workers into the labor movement. For example, in 1999 the SEIU added 74,000 home health care workers to its ranks after a lengthy labor-led campaign for a change in state law (Greenhouse

8. See the list of union abbreviations at the beginning of this volume.

1999). At the local level the labor movement also has found ways to successfully parlay its political clout into legislative and other efforts that indirectly or directly support organizing (see Meyerson 2001; Logan, this volume).

THE DISTRIBUTION OF UNION MEMBERSHIP BY INDUSTRY, SECTOR, AND AFFILIATION

The contemporary composition of union membership in California has several characteristics that distinguish it from that in the United States as a whole, reflecting the state's rather unusual labor history. The industrial unionism that emerged nationally in the 1930s and 1940s never achieved the strength in California (nor in the West generally) that it enjoyed elsewhere in the nation. In the mid-1950s, employment in manufacturing comprised a smaller proportion of total employment in California than was the case nationally, and union density in the state's manufacturing sector lagged behind the national level as well. Two-thirds of California's union members were employed outside the manufacturing sector, compared to about two-fifths in the nation as a whole, so that what one careful mid-twentieth-century observer called "nonfactory unionism" dominated the region (Kennedy 1955, 5–7).

In this early period, the unions affiliated with the American Federation of Labor (AFL), especially the Teamsters and the building trades unions, were numerically dominant in the state. In 1955, on the eve of the AFL's merger with the Congress of Industrial Organizations (CIO), the California Department of Industrial Relations (1956, 9) reported that only 12% of the state's union members were affiliated with the CIO, which primarily organized within basic manufacturing, compared to 29% of those in the United States. Fully 81% of the state's union members were AFL-affiliated at this time (with another 7% in independent unions), compared to 61% nationally. By 1987 (the most recent year for which such data are available, other than the 2001–02 CUC data discussed below) only one of the twelve largest International unions in the state was a former CIO affiliate (California Department of Industrial Relations, 1987).[9]

Although the distinction between AFL and CIO unions is far less meaningful today, the weight of this history is still palpable: the unions formerly affiliated with the CIO now account for a relatively small share of California's union members, compared to the nation as a whole. Moreover, in 2001–02, manufacturing was the only major sector of the economy in which California's union density (9.3%) was lower than the nation's (14.6%) (Figure 1.2).[10]

9. In 1987 the state's top twelve unions, ranked by membership size, were IBT, SEIU, UFCW, IAM, UBC, CWA, IBEW, Actors and Artistes, IUOE, LIUNA, HERE, and NALC (California Department of Industrial Relations 1989, 13). CWA is the only former CIO affiliate in this group. See Figure 1.4a for the 2001–02 ranking.
10. Workers in aerospace, the state's largest manufacturing industry from the 1950s until its dra-

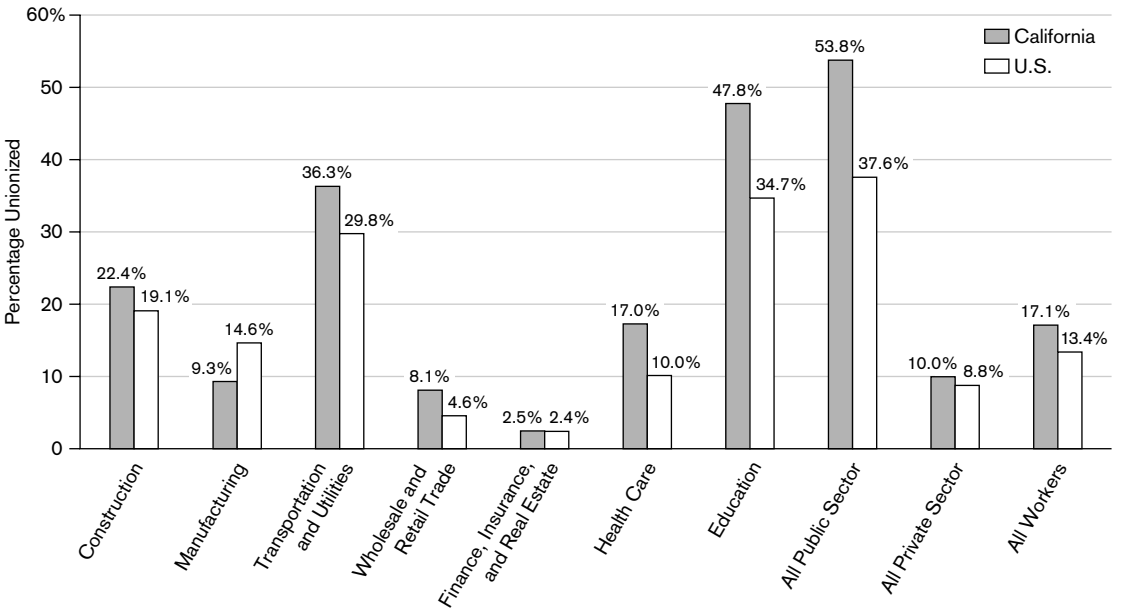

FIGURE 1.2. Union Density, by Selected Industry Group and Sector, U.S. and California, 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.
N = 25,052 for California; N = 355,670 for the United States.

The unevenness of unionization in California is illustrated in Figure 1.3, which compares the 2001–02 distribution across major industry groups of California's union members (Figure 1.3a) with the distribution of the state's employed wage and salary workers (Figure 1.3b).[11] For example, over a fourth (26.2%) of all California

matic decline in the early 1990s, were largely represented by the International Association of Machinists (IAM), an AFL affiliate. By the late 1960s the UAW also had a significant presence in California, representing workers in aircraft and defense plants as well as in some half-dozen auto assembly plants that were then operating in the state. At its peak in 1968 the UAW was ranked sixth in membership among all International unions in California. Even then the state's nonmanufacturing union membership was more than double the level in manufacturing (California Department of Industrial Relations 1969, 8–9). In the 1970s and 1980s a wave of plant closings decimated the state's basic manufacturing sector, followed in the 1990s by the collapse of the aerospace and defense industries. Union density in manufacturing in California has lagged behind the nationwide level for many years. In 1988, for example, the state's union density in manufacturing was 15.6%, compared to 22.1% in the United States; at that time California ranked thirty-fourth among the fifty states in manufacturing density, but seventeenth in overall union density (Hirsch and MacPherson 1999, 108).

11. We collapsed some of the industry groups that the CPS presents separately. Our "transportation and utilities" group includes "transportation," "communications," and "utilities and san-

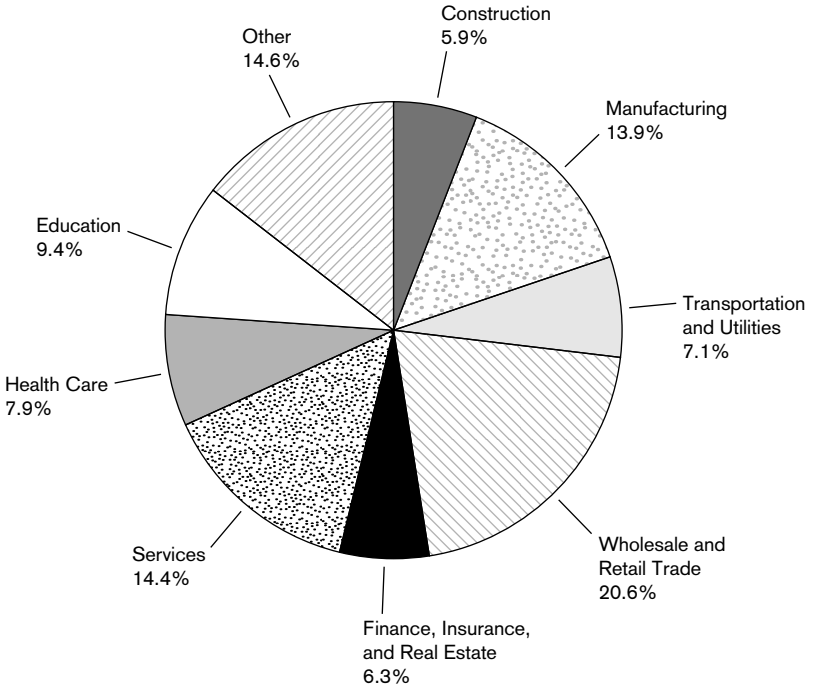

FIGURE 1.3a. Employed Workers, by Selected Industry Group, California, 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.
N = 25,052 for California.

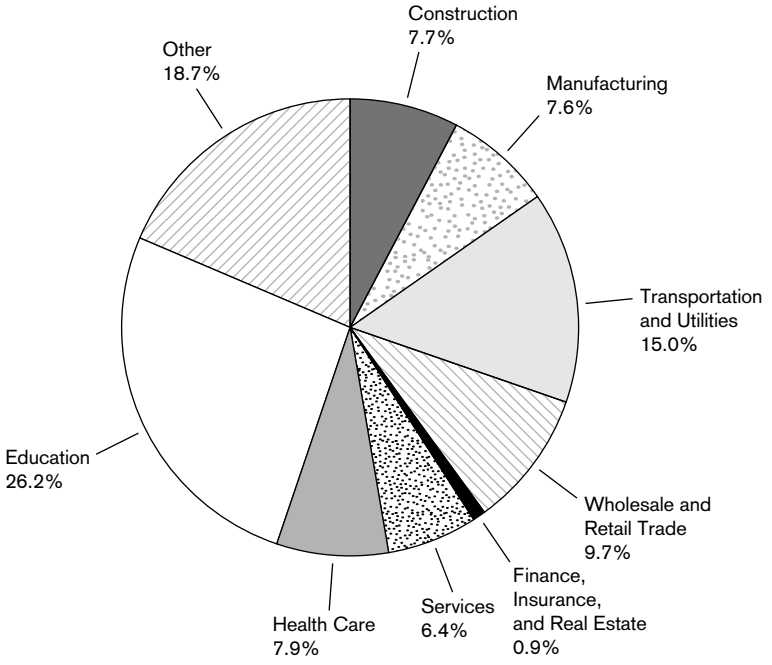

FIGURE 1.3b. Union Members, by Selected Industry Group, California, 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.
N = 25,052 for California.

union members, but under a tenth (9.4%) of the state's wage and salary workers, were in the education sector. Similarly, transportation and utilities accounted for 15.0% of unionized workers but only 7.1% of wage and salary workers. By contrast, wholesale and retail trade, combined with finance, insurance, and real estate (FIRE) and other services, accounted for 41.3% of all wage and salary workers, but only 17.0% of union members in the state.[12]

Public-sector and health care unionism have been the main source of organized labor's growth throughout the nation in recent decades. In both these arenas, however, California has moved far ahead of the United States as a whole, with much higher density rates in the state than in the nation (see Figure 1.2). Whereas union density in 2001–02 was 37.6% for public-sector workers nationally, in California it was a far higher 53.8%. (The gap in private-sector density rates between the nation and the state was much smaller, with rates of 8.8% and 10.0%, respectively.) Similarly, union density in health care was 10.0% nationally, but 17.0% in California.[13] Yet, because public-sector and health care industry workers comprised only about 16% and 8%, respectively, of all employed wage and salary workers (both statewide and nationally), the relatively high density rates in these sectors have limited impact on the overall picture.

The SEIU is the state's powerhouse in both these sectors, whereas nationally it has been less dominant, sharing the field more evenly with other players, most importantly the American Federation of State, County, and Municipal Employees (AFSCME). The CUC found that in 2001–02 the SEIU represented 16.5% of all California union members and 20.3% of all workers covered by collective bargaining agreements in the state (Figure 1.4a). In the public sector the SEIU's share was even greater, accounting for nearly one-fourth (24.2%) of all union members in the state (Figure 1.5a). And in health care (which includes both public- and private-sector employers), SEIU represented over half (53.5%) of all union members and nearly two-thirds (64.3%) of all covered workers. Nationally, SEIU's membership is larger than that of any other union except for the National Education Association (NEA) (Figure 1.4b). Nevertheless, it accounted for only 7.8% of all union members nationwide in 2001, less than half its share in California.

---

itary services:' our "services" group includes "private household services," "business and repair services," "personal services," and "entertainment and recreation"; and our "health care" group includes "hospitals" and "medical services, other than hospitals." Occupational group breakdowns are also included in the CPS data; we analyzed these but do not report any results here.

12. Unionization is also uneven *within* many industries. Construction is a good example: although precise data are not available on the state level, residential construction is virtually nonunion today, whereas density remains substantial in commercial and highway construction.

13. The health care industry includes a substantial public-sector segment, in which density is much higher than it is in private-sector health care. In California, 43.1% of public-sector health care workers are unionized, compared to 13.4% of private-sector health care workers; in the United States the figures are 27.5% and 8.1%, respectively.

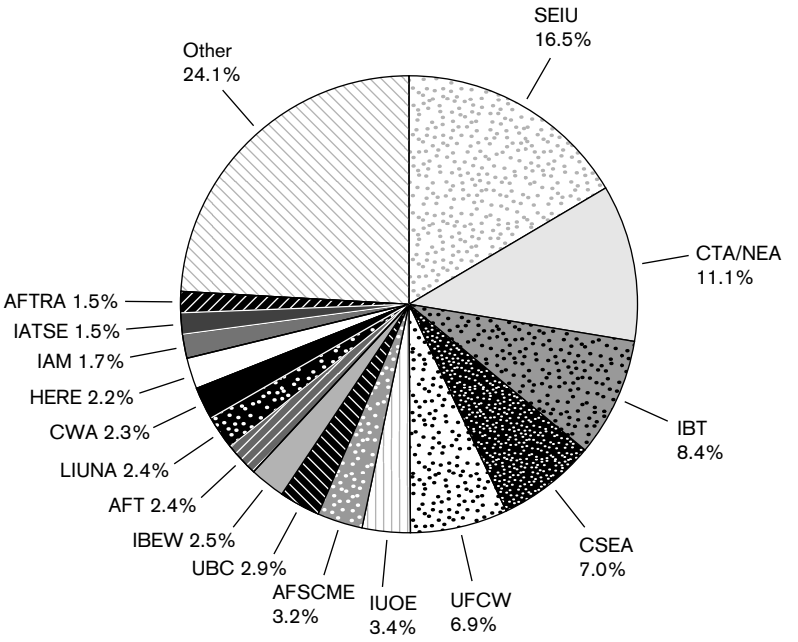

FIGURE 1.4a. Distribution of Union Members, by International Union, California, 2001–2002

SOURCE: California Union Census 2001–02.
NOTE: Results are weighted to correct for survey non-response (see Appendix).
N = 1,352 local unions.

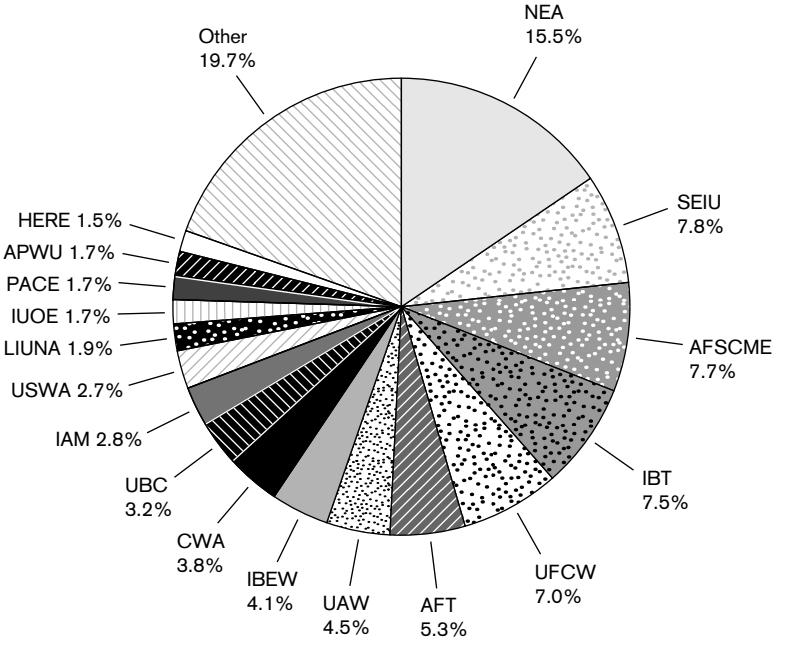

FIGURE 1.4b. Distribution of Union Members, by International Union, U.S., 2001

SOURCES: Gifford 2002, 2, 238–239; http://www. carpenters.org.

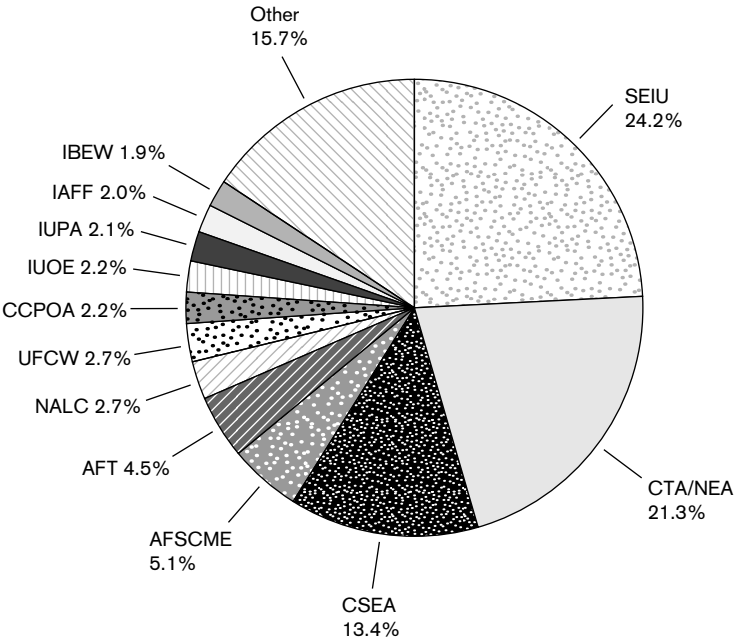

FIGURE 1.5a. Distribution of Public-Sector Union Members, by International Union, California, 2001–2002

SOURCE: California Union Census 2001–02.

NOTE: Results are weighted to correct for survey non-response (see Appendix).
N = 1,352 local unions.

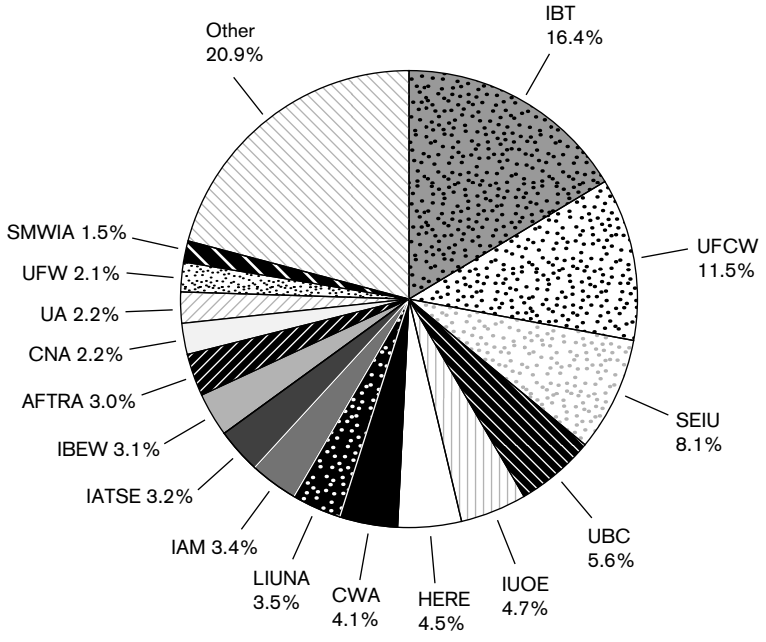

FIGURE 1.5b. Distribution of Private-Sector Union Members, by International Union, California, 2001–2002

SOURCE: California Union Census 2001–02.

NOTE: Results are weighted to correct for survey non-response (see Appendix).
N = 1,352 local unions.

Another public-sector heavyweight, and the second largest union in the state, is the California Teachers Association (CTA), which is affiliated with the NEA (but not with the AFL-CIO). Together with the California School Employees Association, another large union that represents a variety of workers (other than teachers) employed in public schools, the CTA dominates the heavily unionized education sector. The two together represent almost three-quarters (71.6%) of all California union members employed in education.

The SEIU's overarching role is one unusual feature of the California labor movement. Another is the presence of a few large unions that are not directly affiliated with any larger national or International union and in which membership is either exclusive to the state or overwhelmingly concentrated there. Examples include the California Nurses Association (CNA), the California Correctional Peace Officers Association (CCPOA), and the United Farm Workers (UFW).[14] Numerically, the most important of these unaffiliated unions is the abovementioned California School Employees Association (CSEA).[15] The CSEA represents 7.0% of the state's union members (see Figure 1.4a), and its share of public-sector dues-payers is an even greater 13.4%—a larger share than that of any organization other than the SEIU and the CTA (Figure 1.5a).

Both CSEA and several of the largest SEIU locals represent many public-sector workers who in other states are often represented by AFSCME. Indeed, in 2001–02 AFSCME accounted for only 3.2% of California union members, compared to 7.7% nationally in 2001 (Figure 1.4b). Only 5.1% of union members in California's public sector were in AFSCME in 2001–02 (Figure 1.5a).

Thus, union membership in California is highly concentrated in a small number of unions that represent the bulk of the organized workforce (Figure 1.4a). This is the case nationally as well (Figure 1.4b). The general patterns are similar in California and the United States, with two notable exceptions: the SEIU's and CSEA's especially large share of the state's union membership; and the relatively minor presence in California of the United Auto Workers (UAW), once the nation's largest union and the flagship of the CIO, and the United Steel Workers of America (USWA), another former CIO affiliate. In 2001–02 the UAW accounted for only 0.6% of the state's union members (many of whom are not industrial workers at all but recently

14. The UFW is a national union, but the vast bulk of its membership is in California. For purposes of our analysis here, we treat the other large statewide units as "Internationals" if they have 15,000 members or more, even though their membership is limited to California.

15. There are two unions that use the acronym CSEA. The first and largest is the California School Employees Association, which is the organization we refer to here (and throughout the text when we use this abbreviation). The CSEA was an independent union until 2001, when it affiliated with the AFL-CIO. This organization represents teachers' aides and school bus drivers, as well as clerical workers, food service workers, custodians, groundskeepers, and maintenance workers (see http://www.scsea.com). The other union that uses this acronym is the California State Employees Association, which became Local 1000 of the SEIU in 1988 (previously it was an independent employee association) (see http://www.calcsea.org).

organized teaching assistants in the University of California). Nationally, by contrast, the UAW is the seventh largest union, with 4.5% of all union members in the United States in 2001. Similarly, the USWA accounted for only 0.6% of California union members but 2.7% of those in the nation.

California public-sector union membership was especially highly concentrated in 2001–02, with only five unions accounting for more than two-thirds of the members (Figure 1.5a).[16] In the private sector the picture is rather different (Figure 1.5b). In 2001–02 the Teamsters had the largest share of members in the state, followed by the United Food and Commercial Workers (UFCW) and SEIU. Those top three Internationals accounted for over a third (36.0%) of all private-sector union members in the state. Another 16.9% were in the four largest construction unions: the United Brotherhood of Carpenters (UBC), the International Union of Operating Engineers (IUOE), the Laborers' International Union of North America (LIUNA), and the International Brotherhood of Electrical Workers (IBEW). Other Internationals were significant players in the private sector as well: the Hotel Employees and Restaurant Employees (HERE), the Communication Workers of America (CWA), and two entertainment industry unions, the American Federation of Television and Radio Artists (AFTRA) and the International Alliance of Theatrical State Employees (IATSE).[17]

The distribution of union membership across Internationals in 2001–02 was not dramatically different from that in previous years. The CUC found that the same unions that had the largest share of the state's union membership in 2001–02 had the largest share in both 1991 and 1996.[18] The most important change over this period is the steady growth of the SEIU, whose share of California union membership grew by nearly six percentage points between 1991 and 2001–02 (Figure 1.6). The only other unions that increased their share of the state's union membership by more than one percentage point over the period were the CTA, CSEA, and AFSCME. As the SEIU and these three public-sector unions expanded their role in California's labor movement over this period, the share of union membership held by most other large unions in the state declined somewhat.

Unionism in the United States has always been highly decentralized, especially at the local level, where individual union organizations tend to be quite small. Although

16. CUC respondents were nearly equally divided between public- and private-sector locals, with each category comprising 46% of the total. The remaining 8% of respondent locals include both public- and private-sector members; we do not present data here on their composition by International.
17. Another major entertainment industry union, the Screen Actors Guild (SAG), declined to participate in the CUC, so is not included in Figure 1.5b.
18. The CUC data for these years are incomplete: 26.7% of respondents did not provide membership figures for 1991, and 18.8% did not provide figures for 1996. On average, however, there was no significant difference between the size (in 2001–02) of the locals that did and those that did not provide such figures ($p = 0.160$ for 1991 and $p = 0.155$ for 1996).

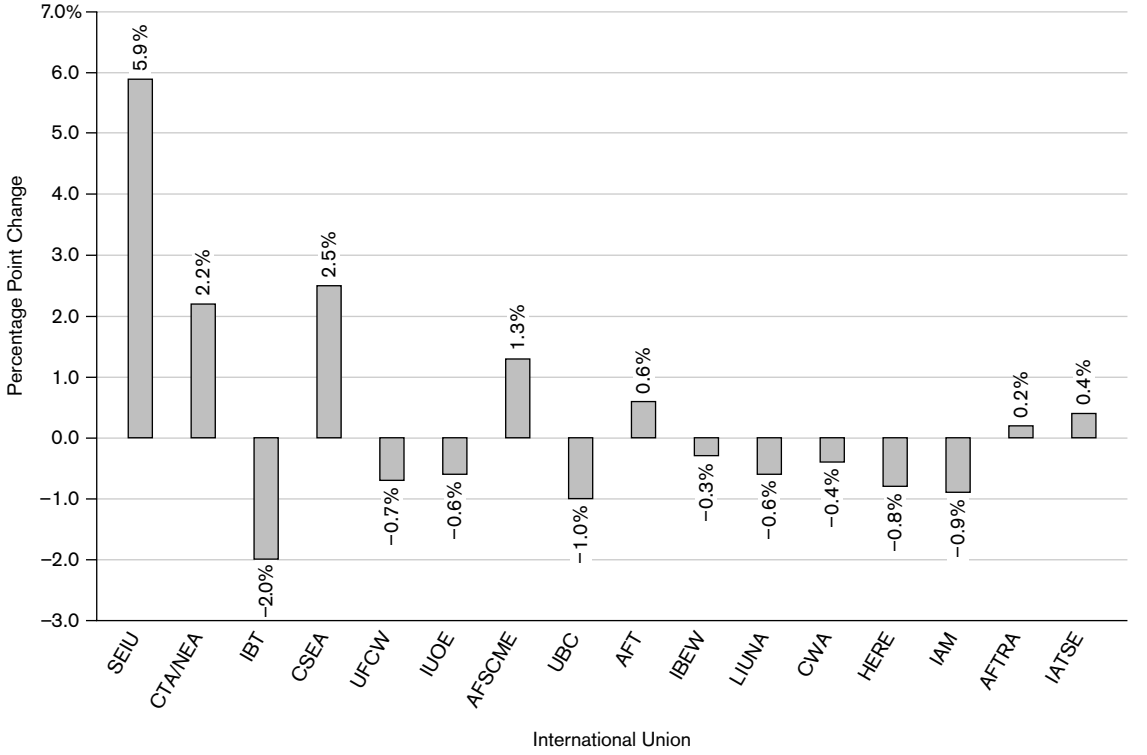

FIGURE 1.6. Change in Membership Share of Selected International Unions, California, 1991 to 2001–2002

SOURCE: California Union Census 2001–02.

NOTE: Results are weighted to correct for survey non-response (see Appendix). N = 990 local unions.

comparable national data are not available, the CUC found that in 2001–02 the majority of California's local unions (52.1%) had 300 members or fewer. Only 5.5% of the CUC respondent locals had more than 5,000 members, while nearly three-fourths of them (74.6%) had 1,000 members or fewer.[19]

Average local union size varied widely among International unions in California (Table 1.1).[20] Small locals are especially characteristic of the International Association of Fire Fighters (IAFF), with a median local size of 60 members among CUC

19. Local unions in the state were even smaller in 1987, the last year prior to the CUC for which any such data are available. At that time only 2.9% of California local unions had 5,000 or more members, and 63.2% had fewer than 300 members (California Department of Industrial Relations 1989, 11). In the years since 1987, many local unions have merged, which would account for the increase in average size.

20. The table includes only those Internationals (as well as the category of independent unions) for which the CUC had at least 25 local union respondents. The means were generally higher than the medians because most Internationals had at least one very large local; hence medians are the better measure here.

TABLE 1.1. Median and Mean Local Union Size (Number of Dues-Paying Members) for Selected International Unions, California, 2001–2002

Union	*Median Size of Locals*	*Mean Size of Locals*
SEIU	5,676	13,301
IBT	3,000	4,029
UBC	1,058	1,363
LIUNA	1,034	1,575
CCPOA	756	627
IBEW	696	1,762
CWA	609	1,248
IAM	427	757
PAT	424	656
AFSCME	274	1,165
CTA/NEA	234	234
IATSE	160	832
AFT	128	464
Independent Unions	94	604
UTU	84	149
NALC	69	437
IAFF	60	180

SOURCE: California Union Census.
NOTE: These results are unweighted.
N = 1,352 local unions.

respondents, and the National Association of Letter Carriers (NALC), with a median local size of 69. Independent unions (those with no AFL-CIO affiliation) also tend to be quite small; among CUC respondents the median size for this group of unions was 94. In sharp contrast, some Internationals typically have very large locals. The outstanding examples in the CUC are the SEIU, with a median local size of 5,676 members, and the Teamsters, with a median size of 3,000.

UNION MEMBERSHIP BY GENDER, AGE, NATIVITY, RACE AND ETHNICITY

California's union members include a higher proportion of women and older workers than does the nation as a whole. In addition, the fact that California is home to such a disproportionate share of the nation's immigrants means that they

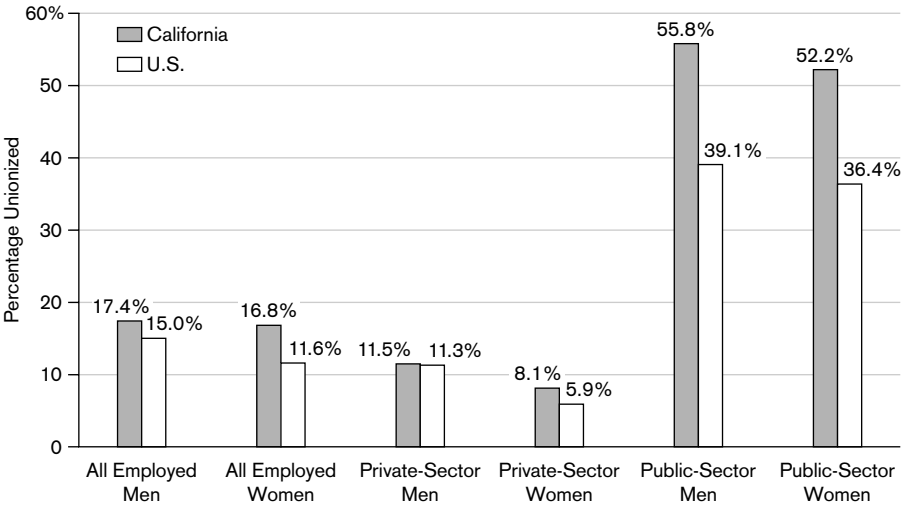

FIGURE 1.7. Unionization Rates, by Gender and Sector, California and U.S., 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.
N = 25,052 for California; N = 355,670 for the United States.

have a considerable presence among unionized workers even though their rate of membership is lower than that of their native-born counterparts. In regard to race and ethnicity, the state's union membership is more diverse than that of the nation, with an especially large representation of African Americans.

Gender

Historically, women have been less extensively unionized than men throughout the United States, but in California the gender gap in union density is extremely small: in 2001–02, according to the CPS, 16.8% of the state's employed female wage and salary workers were union members, compared to 17.4% of their male counterparts. In the United States as a whole, the gap is considerably wider: 11.6% of employed women were unionized in 2001–02, compared to 15.0% of employed men. The contrast is largely an artifact of the fact that the public sector, in which female employment is relatively extensive, is more highly unionized in California than nationwide (Figure 1.7). The extremely low level of unionization among women employed in the private sector—only 5.9% nationally and 8.1% in California—reflects the fact that the more highly unionized private-sector industries tend to employ a disproportionate share of male workers. For example, in California in 2001–02, 92.0% of all wage and salary workers employed in construction, and 68.7% of those in transportation and utilities, were male. These are relatively highly unionized

industries (see Figure 1.2); in contrast, in the overwhelmingly nonunion finance, insurance, and real estate industry, only 38.7% of the workers were male.

The CUC data, similarly, reveal a high degree of gender differentiation among California union members.[21] Whereas female union members are overwhelmingly concentrated in the public and service sector unions, their male counterparts are disproportionately found in the building trades. (The same is most likely true of the United States as a whole, although national data on gender by International union are not available.) To a large extent this reflects gender segregation in the workforce, which has historically been reproduced in the jurisdictional divisions internal to the organized labor movement. In recent decades, however, traditional lines of union jurisdiction have become increasingly blurred.

In 2001–02, women made up 46.4% of all union members in the state (compared to 41.8% nationwide), but their distribution across unions contrasted sharply with that of their male counterparts (Figure 1.8a). Although the CTA/NEA, SEIU, the Teamsters, and UFCW accounted for large shares of both female and male union members, there the similarities end. The other unions with large shares of California's female union members were the CSEA, AFSCME, AFT, UFCW, and CNA, with 19.8%, 4.8%, 4.7%, 4.6%, and 4.3%, respectively. None of these unions was among the top five unions for men (Figure 1.8b). (CSEA was the seventh most important union for men, but it accounted for only 3.6% of male union members.)

Among the six labor organizations that accounted for the largest share of the state's male union members in the 2001–02 CUC, three are building trades unions (the Operating Engineers, with 8.0% of all male union members in the state, the Carpenters, with 7.0%, and the Laborers, with 4.4%). A tiny proportion of the state's female union members were found in these unions (1.1%, 0.6%, and 1.1%, respectively). Almost a third (30.1%) of all male union members in California were in the building trades, compared to a very small percentage (2.9%) of female union members. If public-sector unions are excluded, the building trades' share rises to a figure approaching half (46.7%) of the state's male union members.

Women are far more concentrated than men in the public-sector unions. The CUC found that 61.9% of the state's female union members were in public-sector unions (and another 13.8% in "mixed" union locals that include both public- and private-sector workers), compared to 36.5% of the state's male union members (with another 20.9% in mixed locals).

Age

The age distribution of union members is heavily weighted toward older workers (Figure 1.9). Density rates for workers under twenty-five years of age were dramatically lower than for older workers, and workers over fifty-five had the highest density

21. Of local unions responding to the CUC, 79.2% supplied data on their gender composition.

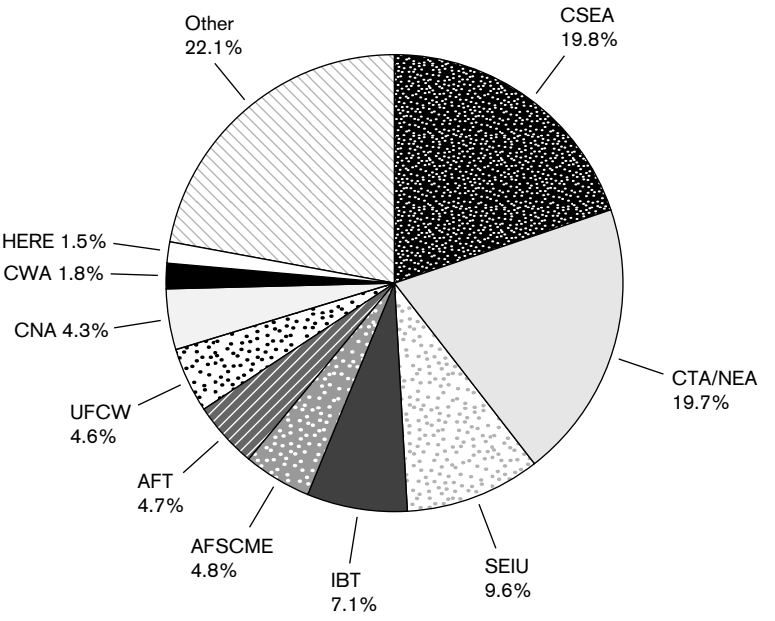

FIGURE 1.8a. Female Union Members, by International Union, California, 2001–2002

SOURCE: California Union Census 2001–02.
NOTE: Results are weighted to correct for survey non-response (see Appendix).
N = 1,112 local unions.

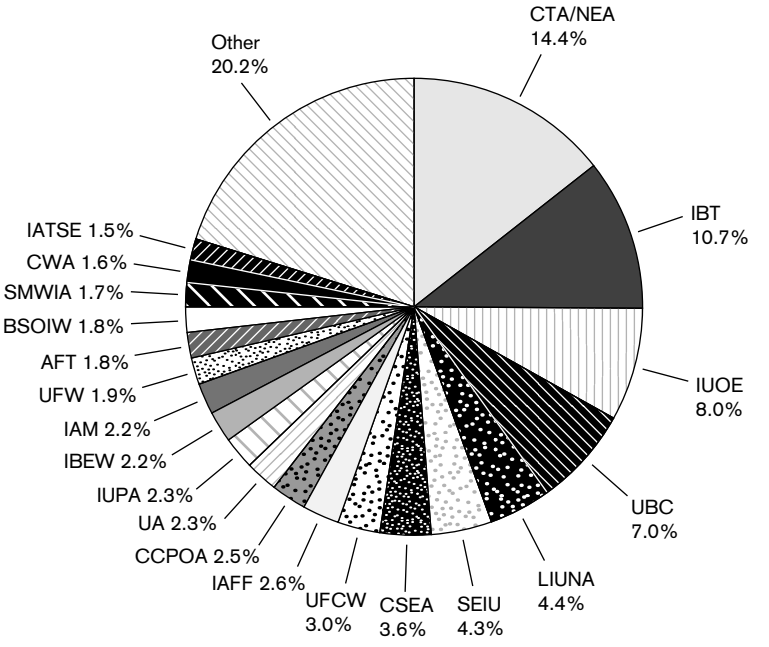

FIGURE 1.8b. Male Union Members, by International Union, California, 2001–2002

SOURCE: California Union Census 2001–02.
NOTE: Results are weighted to correct for survey non-response (see Appendix).
N = 1,112 local unions.

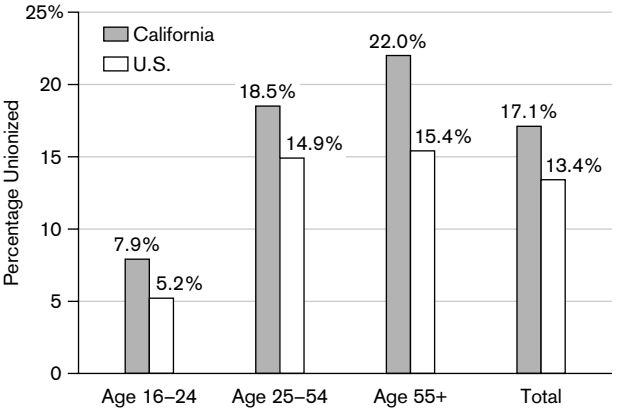

FIGURE 1.9. Unionization Rates, by Age, California and U.S., 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights. N = 25,052 for California; N = 355,670 for the United States.

rates. This is the case nationally, but to an even greater degree in California. The skewed age pattern reflects the fact that young workers tend to be clustered in occupations and industries with low unionization rates, as well as the tendency of unionized workplaces to reward seniority and provide greater job security than non-unionized ones.

Nativity and Race and Ethnicity

California's large immigrant population has been an important target of union organizing in recent years, and there is some evidence that this population has an unusually favorable attitude toward unionism (Weir 2002, 121). Yet, the overall unionization rate for these workers remains well below that for the native born. Only 11.7% of the state's foreign-born workers were union members in 2001–02, compared to 19.7% of their native-born counterparts. The differential between immigrants and natives was smaller on the national level, with unionization rates of 11.0% and 13.8%, respectively.[22] Despite this, immigrants comprised 22.1% of all union members in California in 2001–02, compared to only 11.9% of union members nationwide. This reflects the fact that immigrants make up a far greater portion of the state's workforce (32.4%) than of the nation's (22.1%), rendering the recent increases in union density in California—and the contrast between that trend and the national decline in density—all the more remarkable.

22. This is partly because the most recent immigrants, for whom unionization rates are especially low, are disproportionately concentrated in California (for more details see the next paragraph of the text).

As other commentators have noted (Waldinger and Der-Martirosian 2000, 69–70), recent immigrants are less likely to be union members than those who have been U.S. residents for many years. In California, 19.8% of immigrants who arrived in the United States before 1980 were unionized in 2001–02, compared to 10.8% of those who arrived between 1980 and 1989; only 6.0% of those who arrived in 1990 or later were unionized. The majority of immigrants, however, are among the more recent arrivals (70.9% arrived in 1980 or later), and their low unionization rates depress the overall immigrant unionization rate.

Figure 1.10 compares the composition of the state's workforce with that of its union membership, disaggregated by nativity as well as race and ethnicity. Here the continuing underrepresentation of the state's massive immigrant workforce in organized labor is apparent. The figure also shows that native-born African Americans comprise a much larger proportion of union members than of employed workers. The same is true (although with a much smaller differential) for native-born Anglos.

Unionization rates vary considerably by race and ethnicity among both foreign- and native-born workers (Figure 1.11). Statewide, 28.7% of employed African American wage and salary workers were unionized in 2001–02, a higher unionization rate than that for any other racial or ethnic group, or for African American workers nationwide, which was considerably lower at 17.1%. This large differential between state and nation reflects the fact that California's union density is much higher than the nation's in the public sector, a major employment niche for African Americans. Nearly a third (30.1%) of all employed African Americans in California were in public-sector jobs in 2001–02, far more than any other group.

There was a smaller but still substantial differential between state and national unionization rates for native-born Latinos: 20.3% in California, but only 13.2% in the United States. Although the unionization rate for native-born Latinos was well below the level for African Americans, it reflects a similar ethnically specific pattern of extensive public-sector employment in a state with unusually strong public-sector unionization. In 2001–02, 20.2% of California's native-born Latinos were employed in the public sector—more than native-born Anglos (18.2%) or native-born Asians (17.9%).

The variation among racial and ethnic groups, when analyzed by nativity, is relatively small *within* the public and private sectors alike (Figure 1.12). Even foreign-born workers, whose overall unionization rates were far below those of their native-born counterparts, had very high unionization rates within the public sector. The fact that relatively few of them are employed in that sector (only 6.4% of foreign-born Latinos and 13.2% of foreign-born Asians) means that this does little to boost the overall unionization rate for these subgroups, however. Indeed, that so many foreign-born Latinos are employed in industries and occupations that rely on casual forms of employment—either marginal to or entirely outside of the formal economy—helps explain their relatively low rates of unionization.

The CUC included questions about the composition of local union membership

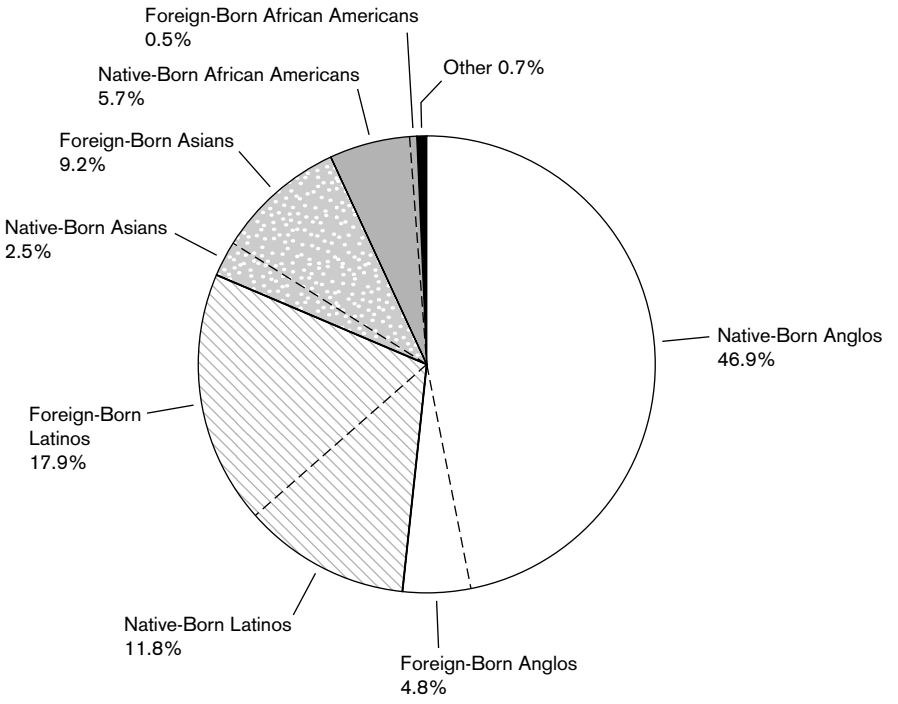

FIGURE 1.10a. Employed Wage and Salary Workers, by Race and Ethnicity and Nativity, California, 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights. N = 25,052.

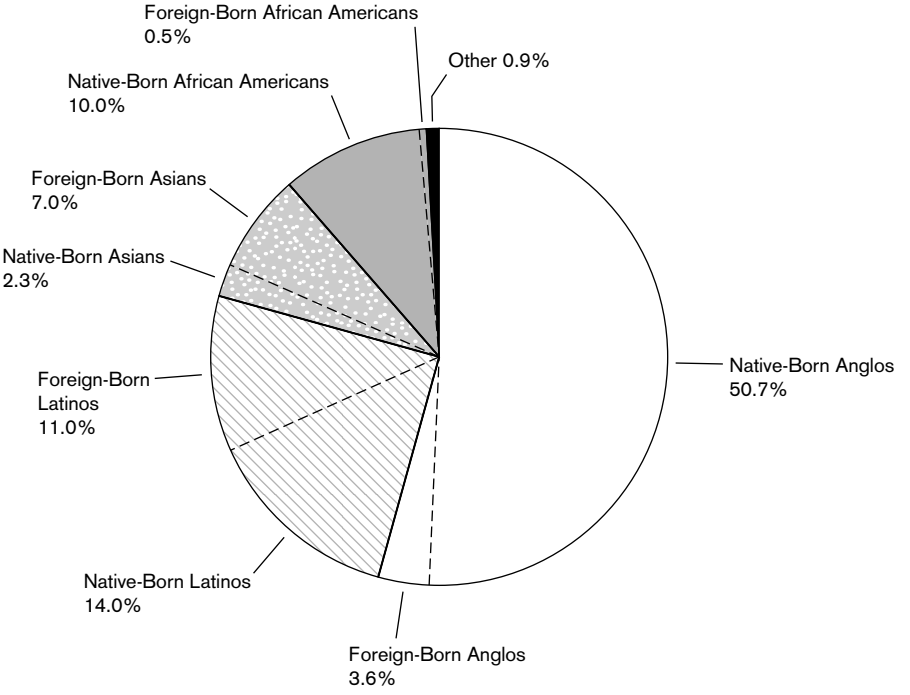

FIGURE 1.10b. Union Members, by Race and Ethnicity and Nativity, California, 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights. N = 25,052.

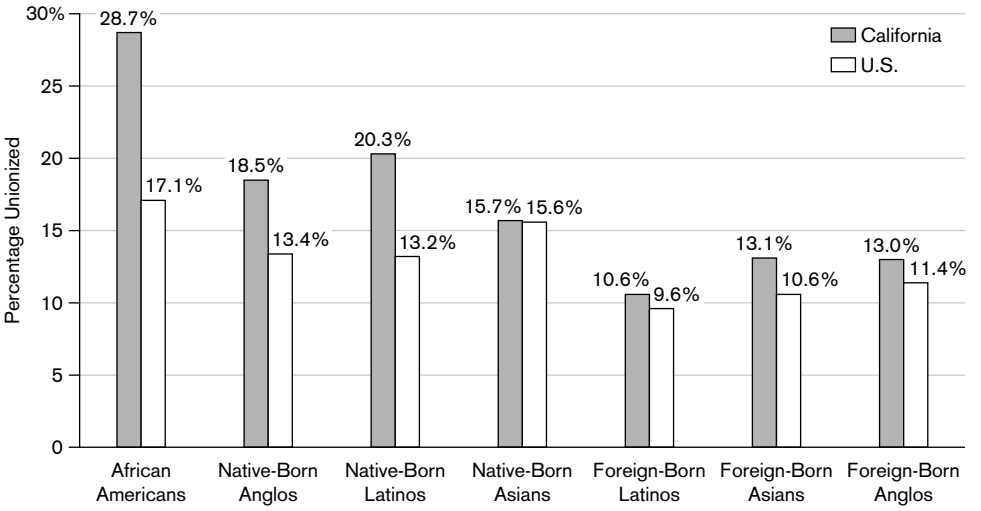

FIGURE 1.11. Unionization Rates, by Race and Ethnicity and Nativity, California and U.S., 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.
N = 25,052 for California; N = 355,670 for the United States.

by race and ethnicity. Only 59.6% of respondents provided such data, however, so the results must be interpreted with great caution.[23] What these data do suggest is a considerable degree of racial and ethnic concentration by local union. For example, among the local unions that provided data on their racial and ethnic composition, 20.0% had no African American members, and 48.7% had a very low percentage of African Americans—less than 5%. Similarly, 30.3% of the locals had no Asian members, and 68.0% had less than 5%. This pattern was much less common for Latinos and Anglos, the two largest racial/ethnic groups in the state's workforce. Only 4.8% of the locals providing data on this topic had no Latino members, and only 12.2% had less than 5%. Similarly, only 3.2% of locals reported no Anglo members, and in only 4.8% did Anglos make up less than 5% of all members.

REGIONAL PATTERNS OF UNION MEMBERSHIP IN CALIFORNIA

For most of the twentieth century the San Francisco Bay Area had by far the highest level of union density in the state of California. By contrast, the Los Angeles area

23. In most cases the CUC respondents indicated that they did not keep records on this subject, and even those who did supply such data often did so on the basis of rough estimates. The data on nativity were reported even less frequently by CUC respondents than that for race, and thus none are reported here.

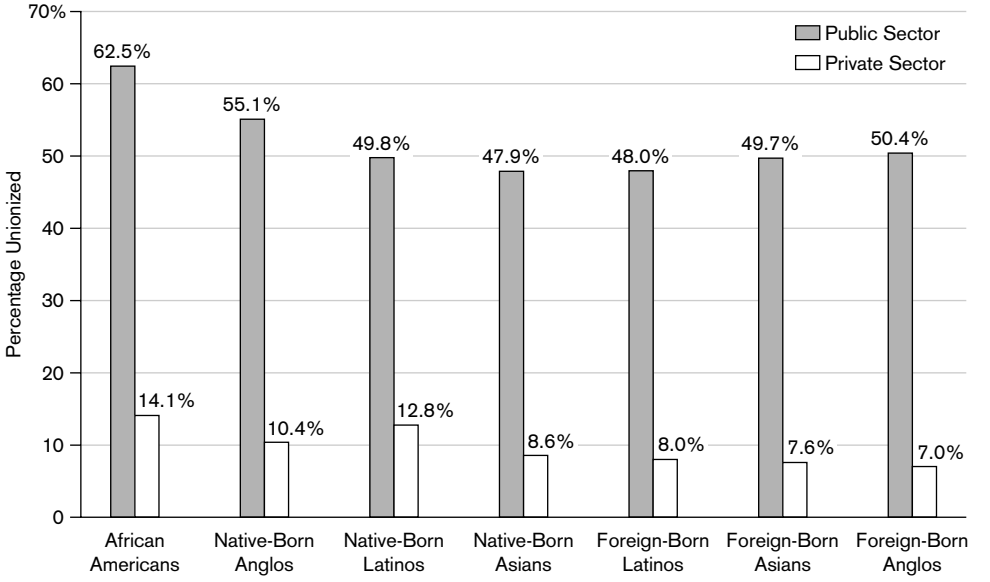

FIGURE 1.12. Unionization Rates, by Sector, Race and Ethnicity, and Nativity, California, 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.
N = 25,052.

had a reputation as a "company town," which dated from the open shop movement that dominated the city in the early decades of the twentieth century. Although by the early postwar period Los Angeles had achieved density approaching the statewide level, the Bay Area long remained the center of organized labor's strength in the state. In 1955, for example, the California Department of Industrial Relations (1956, 11) found that union density was 51% in the Bay Area, compared to only 37% in the Los Angeles metropolitan area and 40% statewide. By 2001–02, however, the difference in density levels between the state's two largest metropolitan areas had narrowed to only half a percentage point: 16.9% in the Bay Area and 16.5% in the Los Angeles metropolitan area (Table 1.2). Los Angeles has also emerged as the most important stronghold of labor's political influence in recent years (Meyerson 2001).

Some of the state's smaller metropolitan areas show considerably higher density rates than either Los Angeles or the San Francisco Bay Area. The most important example is Sacramento, with a density rate of 25.7%, reflecting the large concentration of public-sector employment in the state capital: 27.1% of all wage and salary employees in the Sacramento area worked in the public sector, compared to 16.4% statewide.[24]

24. The situation is similar in the Fresno area, which also has relatively high overall density (19.9%) and where 23.8 % of wage and salary employment is in the public sector.

TABLE 1.2. Employment, Union Membership, and Union Density in California's Major Metropolitan Areas and Regions, 2001–2002

Metropolitan Area/Region	*Employed Wage and Salary Workers, Percentage Distribution*	*Union Members, Percentage Distribution*	*Density (Union Members as Percentage of Employed Wage and Salary Workers)*
San Francisco Bay Area[a]	22.5%	22.1%	16.9%
Los Angeles metro area[b]	46.8	45.0	16.5
Sacramento metro area[c]	5.8	8.7	25.7
San Diego metro area[d]	8.2	7.2	15.0
Fresno metro area[e]	2.8	3.2	19.9
Central Valley[f]	9.3	9.8	18.1
Rest of state	4.7	4.0	14.8
California total	100.0	100.0	17.1
N	25,052	4,284	—

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.

[a] Includes San Francisco, Alameda, Santa Clara, Marin, San Mateo, Sonoma, Napa, Contra Costa, Solano and Santa Cruz Counties.

[b] Includes Los Angeles, Riverside, Orange, Ventura and San Bernadino Counties.

[c] Includes Sacramento, El Dorado, Placer and Yolo Counties.

[d] Includes San Diego County only.

[e] Includes Fresno and Maera Counties.

[f] Includes Kings, Tulare, Kern, Monterey, Merced, Stanislaus, San Joaquin, San Benito and San Luis Obispo Counties.

The CPS sample sizes are too small to permit detailed analysis of the composition of union membership on a regional basis, even using the pooled 2001–02 data, with the partial exception of the state's two largest metropolitan areas, the Los Angeles region and the San Francisco Bay Area (which includes San Jose and Oakland).[25] These two regions account for over two-thirds of the state's union members. Even so, we can extract reliable results from the CPS for only a few variables.

In the San Francisco Bay Area union density was considerably higher in the construction, transportation/utilities, and health care industries than it was in the Los Angeles metropolitan area or in the state as a whole in 2001–02 (Figure 1.13). In the

25. More specifically, the CPS data are for the Los Angeles–Anaheim–Riverside Consolidated Metropolitan Statistical Area (CMSA), which includes Los Angeles, Riverside, Orange, Ventura, and San Bernardino Counties; and the San Francisco–Oakland–San Jose CMSA, which includes San Francisco, Alameda, Santa Clara, Marin, San Mateo, Sonoma, Napa, Contra Costa, Solano, and Santa Cruz counties.

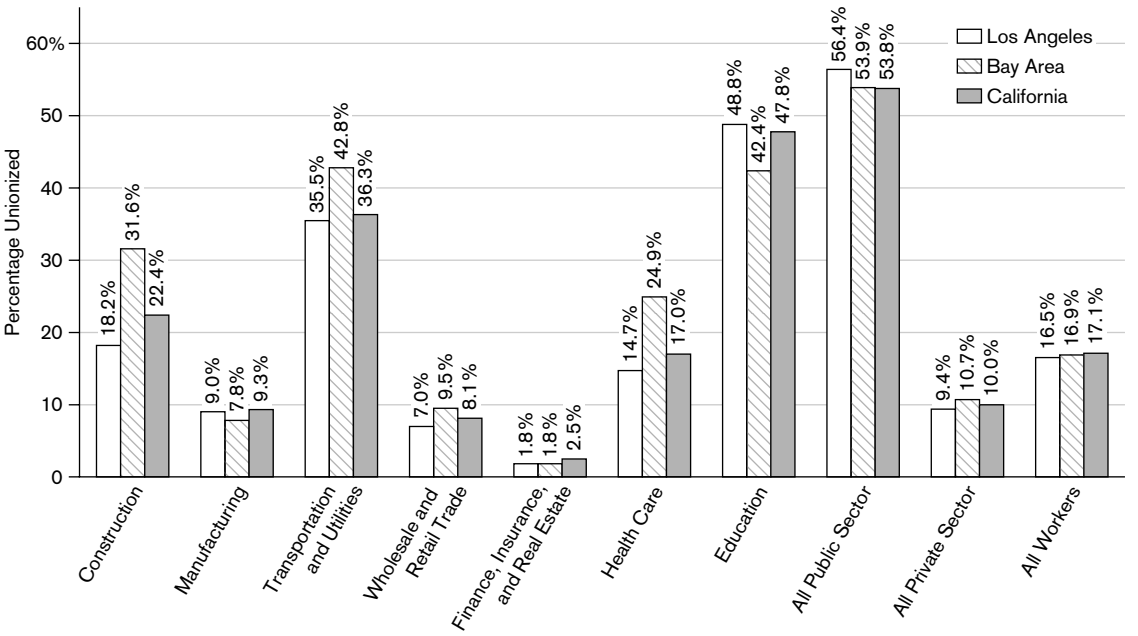

FIGURE 1.13. Union Density, by Selected Industry Group and Sector, California, Los Angeles, and San Francisco Bay Area, 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.
N = 13,819 for Los Angeles, N = 4,760 for San Francisco, N = 25,052 for California.

Los Angeles area, in contrast, union density was higher in the education sector and the public sector generally.

The gender and age distribution of union membership in the state's major regions was not significantly different from the statewide pattern. Some notable contrasts between the Los Angeles and San Francisco areas in regard to nativity and race and ethnicity are evident, however (Figure 1.14). For example, in 2001–02 African Americans were more extensively unionized in the Los Angeles area than in the Bay Area (reflecting the overrepresentation of African Americans in public-sector employment in combination with Los Angeles's relatively high public-sector union density).

More striking, however, is the fact that a lower proportion of Latino wage and salary workers, and especially foreign-born Latinos, were unionized in Los Angeles than in the Bay Area. The widespread perception of Los Angeles as the main center of Latino immigrant unionization notwithstanding, only 9.5% of immigrant Latino workers in Los Angeles were union members in 2001–02, compared to 14.1% in the Bay Area.[26]

26. This is all the more remarkable in light of the fact that a higher proportion of foreign-born workers in 2001–02 was made up of recent arrivals in the San Francisco Bay Area (79.2%

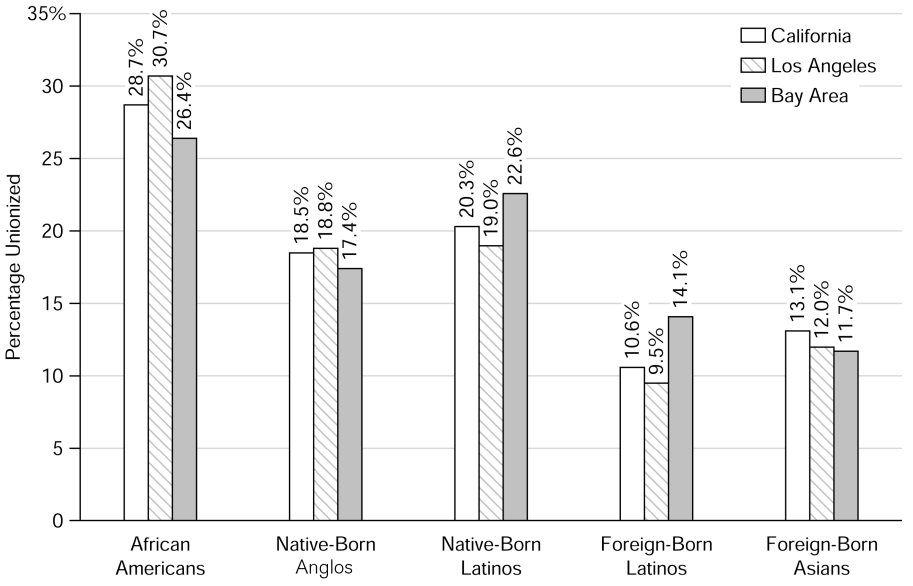

FIGURE 1.14. Unionization Rates, by Race and Ethnicity and Nativity, for Selected Groups, California, Los Angeles, and San Francisco Bay Area, 2001–2002

SOURCE: Current Population Survey, Outgoing Rotation Group Earnings Files, merged for 2001 and 2002 (see Appendix).

NOTE: Results are calculated using the CPS unrevised sampling weights.
N = 13,819 for Los Angeles, N = 4,760 for San Francisco, N = 25,052 for California.

The gap between perception and reality is linked to the huge proportion—37.5% in 2001–02—of the Los Angeles metropolitan area workforce that is Latino (almost two-thirds of whom were foreign-born in 2001–02). By contrast, only 17.8% of the Bay Area workforce was Latino in 2001–02 (slightly less than two-thirds were foreign-born). Despite their relatively low unionization rates, then, immigrant Latinos figure prominently among Los Angeles union members, thanks largely to their massive presence in the metropolitan area's workforce. In 2001–02, 29.7% of all Los Angeles union members were Latino (15.9% native- born and 13.8% foreign-born), compared to only 18.4% of those in the Bay Area (9.1% native-born and 9.3% foreign-born).

The CUC also collected geographical data on union membership in the state's major metropolitan areas and regions.[27] As is the case statewide (see Figure 1.4a),

arrived in 1980 or later, and 46.8% in or after 1990) than in the Los Angeles area (68.9% arrived in 1980 or later, and 31.6% in or after 1990), since, as noted above, recent immigrants are generally less likely to be unionized than those who have been in the United States for a longer period of time.

27. The CPS geographical data refer to the region in which workers reside, whereas the CUC data refer to the region in which union members' workplaces are located. The CUC asked each

union membership in the San Francisco and the Los Angeles regions alike is concentrated in a relatively small number of unions (Figure 1.15). Although the major players in these two metropolitan areas are similar to those in the state, the SEIU's 2001–02 share of union membership was particularly massive in the Bay Area, where it accounted for more than a fifth (21.4%) of all union members. The SEIU was the largest single union in the Los Angeles area too, but accounted for a considerably smaller share of the 2001–02 total (15.4%). The major building trades unions (UBC, IUOE, LIUNA, and IBEW) also accounted for a larger share of Bay Area union membership (12.1%, compared to 10.6% for Los Angeles). The CNA is a significant player in the Bay Area, with 2.7% of all union members in the region; in the L.A. area it accounted only for 0.4%. In Los Angeles the two largest entertainment unions, IATSE and AFTRA, jointly accounted for 5.4% of union members; their share of Bay Area union membership was relatively small (1.1% jointly), and UFCW's share of union membership in Los Angeles was more than double that in the Bay Area (8.5% versus 3.3%).

UNION STAFFING PATTERNS

The CUC also collected data on union staffing patterns in California, including a detailed breakdown as to which unions in the state employ organizers and to what extent.[28] In light of the recent push for renewed organizing from the national AFL-CIO, these data are particularly revealing. When John Sweeney became the labor federation's president in 1995, he called on all the affiliates to participate in a massive "Change to Organize" program and urged them to help reverse the tide of declining union density by devoting 30% of their budgets to organizing unorganized workers. Many unions embraced Sweeney's rhetoric, but relatively few actually dedicated the extensive resources to organizing that his program called for, in part because they were reluctant to shift staffing priorities away from servicing existing members (Voss and Sherman 2000).

No national data are publicly available on the extent to which unions have redirected staff resources toward organizing, but the CUC found that California local unions employ very few organizers and that those organizers who are on union staffs

---

local union to identify the location of each employer for which they represented members. In cases of employers who operated on a statewide basis, we assumed that the distribution of the members across regions was proportional to that of the union membership in the state for which regional data were reported. Because of various problems involving the data for other regions, here we discuss only the state's two largest regions, the San Francisco Bay Area and the Los Angeles metropolitan area. (The CUC definitions of each region are identical to those of the two CMSAs described in note 25.)

28. The response rate for the CUC staffing questions was 96.5%.

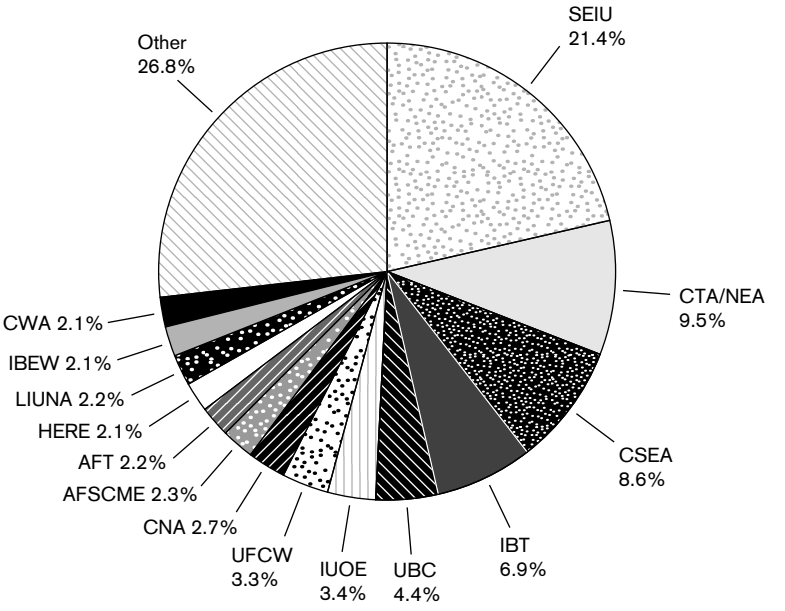

FIGURE 1.15a. Distribution of Union Members, by International Union, San Francisco Bay Area, 2001–2002

SOURCE: California Union Census 2001–02.

NOTE: Results are weighted to correct for survey non-response (see Appendix).
N = 521 local unions.

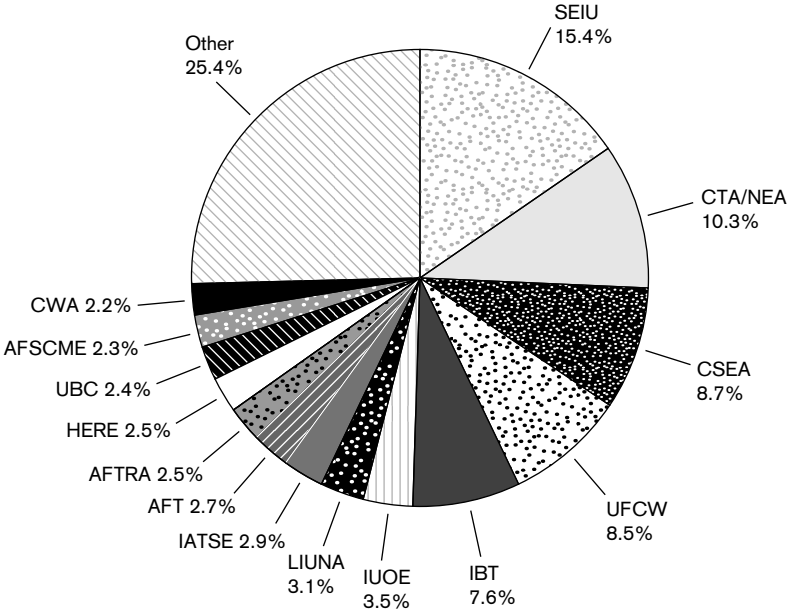

FIGURE 1.15b. Distribution of Union Members, by International Union, Los Angeles, 2001–2002

SOURCE: California Union Census 2001–02.

NOTE: Results are weighted to correct for survey non-response (see Appendix).
N = 661 local unions.

TABLE 1.3. Union Staffing Levels by Size of Local Union, California, 2001–2002

Number of Staff Employed by Local Union (full-time equivalent)	*Percentage of All Local Unions in California*	*Average Number of Dues-Paying Members in Local Union*
0	50.9%	218
More than 0 but less than or equal to 1	13.3	479
More than 1 but less than or equal to 3	12.6	880
More than 3 but less than or equal to 5	6.6	1,509
More than 5 but less than or equal to 10	7.7	2,348
More than 10 but less than or equal to 25	5.8	5,279
More than 25	3.3	26,475
Total	100.0	—

SOURCE: California Union Census.
NOTE: N = 1,306 local unions. Percentages are weighted to correct for survey non-response (see Appendix); averages are unweighted.

are concentrated in very few Internationals. Indeed, a mere five Internationals employ nearly half (48.9%) of all organizers in the state.[29] The extent to which unions employ organizers is important not only in relation to the AFL-CIO's organizing program but also because it is both a cause and a consequence of increased union density.

About half (50.9%) of California's local unions in 2001–02 had no paid staff at all, 64.2% had one full-time staff member or less, and fully 83.4% had five or less (Table 1.3). Not surprisingly, staffing levels were closely correlated with local union size, and as we have already noted, most unions in the state are quite small.[30] Larger unions tend to employ more staff than smaller unions, both because they have more resources and because they have a greater need for staff support.

29. The CUC defined "paid staff" as individuals employed by local unions for a minimum of 20 hours per week. All staffing data in this section are presented as FTEs (full-time equivalents, where full-time is defined as 40 hours per week). Elected union leaders (such as president, vice president, secretary-treasurer, etc.) were included only if they also were employed by the union as clerical workers, business agents, organizers, or researchers—the four job titles on which data are presented here. We asked each responding local for a full report on staff members serving their local union, including individuals whose salaries were paid by other union entities (Internationals, or regional or district units of Internationals). We did not collect data on staff employed by regional union organizations (such as the California Labor Federation or the State Building and Construction Trades Council) or on the staff of Central Labor Councils and the like.
30. The correlation between local union size and staff FTE is $r = 0.932$ ($p < .01$). N = 1304.

TABLE 1.4. Number of Staff Employed by Local Unions, with Percentage Distribution among all Local Unions, for Selected Staff Titles, California, 2001–2002

Number of Staff (full-time equilvalent)	*All Union Staff*	*Clerical Workers*	*Business Agents*	*Organizers*	*Researchers*
0	50.9%	60.0%	64.2%	84.8%	96.9%
More than 0 but less than or equal to 1	13.2	16.8	14.4	8.8	0.8
More than 1 but less than or equal to 3	12.6	13.6	9.1	4.3	1.8
More than 3 but less than or equal to 5	6.6	4.0	5.1	0.8	0.5
More than 5 but less than or equal to 10	7.7	3.0	4.3	0.8	0
More than 10 but less than or equal to 25	5.8	1.8	2.0	0.3	0
More than 25	3.3	0.8	0.9	0.2	0
Total	100.0	100.0	100.0	100.0	100.0

SOURCE: California Union Census.
NOTE: N = 1,306 local unions. Results are weighted to correct for survey non-response (see Appendix).

Unions that did have staff primarily employed clerical workers and business agents (Table 1.4). Clerical workers were the largest single group, with 40.0% of local unions employing at least some part-time clerical staff. Only 23.2% of locals, however, had more than one clerical staff member.

The next most common job title was that of union business agent, whose duties primarily involve the enforcement of union contracts. The CUC found that 35.8% of locals had at least a part-time business agent in 2001–02, with 21.4% of locals employing one or more business agents. There is a strong correlation between the number of business agents a local employed and the number of dues-paying members it had.[31]

Business agents in public-sector unions served more than twice as many members (1,950 members, on average) than their private-sector counterparts (856 members).[32] This is probably because public-sector unions, given the greater prevalence of agency and open shop contract provisions, often have fewer dues-payers than private-sector unions do, so that their resources are more limited.[33] Public-sector unions are also more likely to have unpaid shop stewards who carry out some of the tasks business agents perform elsewhere. Business agents in the building trades served fewer members (471, on average) than did business agents employed by unions in other sectors (1,396, on average). Building trades locals tend to employ more staff because of their role in the labor-intensive work of maintaining hiring

31. The correlation between local union size and business agent FTE is $r = 0.891$ ($p < .01$). N = 1304.
32. The number of members per business agent was even lower in mixed locals (837 members).
33. See note 5 regarding agency and open shop provisions.

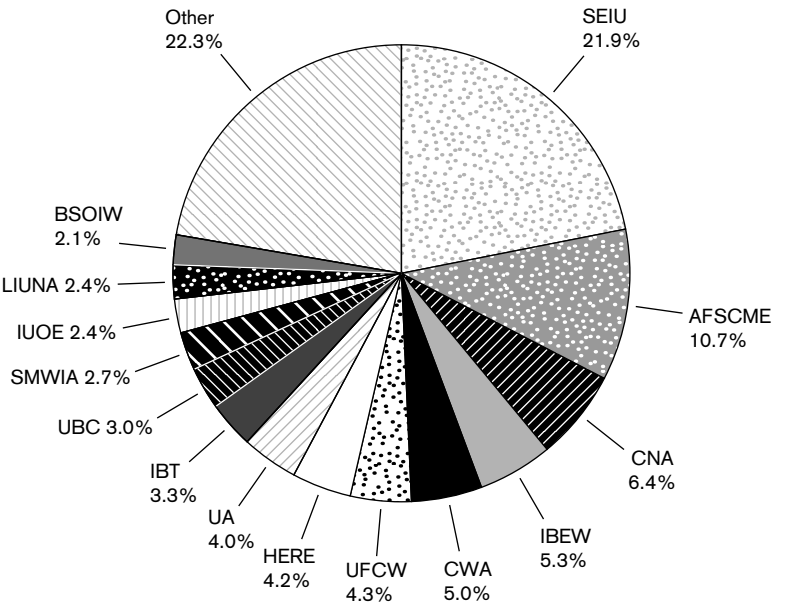

FIGURE 1.16. Distribution of Organizers, by International Union, California, 2001–2002

SOURCE: California Union Census 2001–02.

NOTE: Results are weighted to correct for survey non-response (see Appendix). N = 1,306 local unions.

halls and administering apprenticeship programs. Shop stewards are a rarity in the trades as well.

Local unions were far less likely to employ organizers than clerical workers or business agents. Only 15.0% of CUC respondents had even one part-time organizer on staff in 2001–02, and only 6.2% of locals employed one or more organizers.[34] A mere 1.9% of locals employed three or more organizers.

Internationals varied greatly in the extent to which they employed organizers (Figure 1.16 and Table 1.5). SEIU, which has the largest number of union members in California, also employed the largest number of organizers: 136, or 21.9% of all organizers in the state. Other unions that employed 15 or more organizers included AFSCME, CNA, CWA, UFCW, HERE, the Teamsters, and several of the building trades unions (IBEW, UA, UBC, SMWIA, LIUNA and IUOE).

One would expect the unions with the largest numbers of dues-paying members to employ the largest number of organizers, but this was not always the case.[35] The

34. Most of the part-time organizers in our data are business agents who are expected to spend half of their time organizing nonunion workers.

35. There is a positive and statistically significant correlation between organizer FTE and local union size, but it is much weaker than the correlations reported in notes 30 and 31: $r = 0.394$ ($p < .01$). N = 1304.

TABLE 1.5. Number of Organizers and Member-to-Organizer Ratio, by International Union, California, 2001–2002

International Union	*Number of Organizers (FTE)*	*Percentage of Total*	*Member-to-Organizer Ratio*
SEIU	136.0	21.9%	4,452
AFSCME	66.6	10.7	1,707
CNA	40.0	6.4	950
IBEW	33.4	5.3	1,957
CWA	30.9	5.0	2,321
UFCW	26.4	4.3	6,819
HERE	26.2	4.2	2,218
UA	24.7	4.0	1,134
IBT	20.6	3.3	10,646
UBC	18.3	3.0	4,113
SMWIA	16.5	2.7	1,105
LIUNA	15.1	2.4	4,277
IUOE	15.0	2.4	6,056
BSOIW	13.1	2.1	1,342
CSEA	12.0	1.9	17,917
NEA	11.5	1.9	26,358
PAT	10.2	1.6	2,051
AFTRA	8.5	1.4	4,427
AFA	7.0	1.1	1,028
NALC	7.0	1.1	5,666
IUPA	6.0	1.0	5,122
IATSE	5.5	0.9	7,695
All Others	67.6	10.8	—
Total	620.1	100.0	—

SOURCE: California Union Census.
NOTE: $N = 1{,}306$ local unions. Results are weighted to correct for survey non-response (see Appendix).

last column of Table 1.5 shows the ratio of union members to organizers for all Internationals with five or more organizers. A few unions stand out as having an exceptionally large number of organizers relative to their memberships: these include the CNA, the UA, and AFA. Like the ratio of members to business agents, the member-to-organizer ratio was much higher in public-sector unions (7,493 members per organizer, on average) than those in the private sector (4,234).[36] The average ratio for

36. The ratio for mixed locals is an even lower 3,044 members per organizer.

building trades locals was 2,631 members per organizer, half the average ratio (5,028 workers per organizer) in non-trades locals.

Of all the staff titles reported here, unions were least likely to hire researchers: 96.9% had none, and only 2.3% employed one or more full-time staff members in this capacity (see Table 1.4). Moreover, researchers were even more concentrated than organizers were among very few unions: of the 40 locals that did employ researchers, 11 were SEIU affiliates and 7 were HERE affiliates. Researchers on local union staffs are primarily engaged in providing support for organizing campaigns, so it is not surprising that their distribution among unions is similar to that for organizers.

The CUC data also suggest a relationship between union growth and staffing patterns, particularly in regard to organizers. One might expect unions that employ sizable numbers of organizers to be the unions that grow most rapidly, all else being equal (of course, a variety of other factors may also affect union growth or stagnation), since organizers increase a union's capacity to organize new workers. The presence of organizers can also result from past growth, since an expanded membership base increases union resources, making it possible to hire more organizers. There is indeed a correlation between the number of organizers employed by California local unions in 2001–02 and the extent to which the membership of those locals grew over the preceding five years. No such correlation was found between the employment of staff for other job titles and union growth.[37] It is likely that the unions with extensive organizing staff will be better able than their counterparts who lack such staff to respond to the challenge of increasing union density in future years.

CONCLUSION

Although union membership patterns in California are similar in many respects to those in the nation, the state's labor movement also has several distinctive features. It is to these that we must turn to explain California's recent divergence from the United States as a whole in regard to union density.

California's unusual labor history is critical in this regard. The relatively early growth of public-sector and health care unionism in the state helped give it an edge and fueled continued expansion of the unionization in the state. The SEIU's unusually large presence in California had a major impact in the 1990s, when this union became exceptionally active in organizing new members. The existence of several other vibrant unions that operate entirely or largely in the state further contributed

37. The correlation between the number of organizer FTEs and the percentage change in the number of dues-paying members in each union between 1996 and 2001–02 is $r = 0.280$ ($p < .01$). $N = 1051$.

to California's divergence from the nation. Finally, because the industrial unions of the CIO were always relatively weak in the state, the precipitous decline of these unions over the past few decades, which has been devastating for the labor movement in the rustbelt, had only a limited impact on California.

Another crucial factor that sets California apart from the nation as a whole is organized labor's extensive political influence in the state, particularly in the past decade. Through involvement in electoral politics and the legislative process, California unions increasingly have been able to use their political muscle to make organizing gains—a source of influence that is conspicuously absent on the national level. The California Labor Federation (the statewide AFL-CIO body) and many of the Central Labor Councils (local AFL-CIO bodies) are especially active and effective. On the local level, and especially in Southern California, labor has constructed a virtuous circle, translating organizing successes into political power by mobilizing at the grassroots, and then using the resulting political leverage as a resource to help foster further organizing. Thanks to this dynamic, along with the strength of public-sector unionism in Los Angeles, the once substantial gap in union density between the San Francisco Bay Area and Los Angeles has virtually disappeared.

Another gap that has all but closed in California is the longstanding gender disparity in union membership. Today union density among women is far higher in the state than it is in the United States as a whole, although women and men remain concentrated in very different parts of California's organized labor movement (as is also the case nationally). African Americans are also more extensively unionized in California than in the nation. Immigrant workers, too, have a higher unionization rate in California than in the United States, although in this case the gap is minimal. That the state's workforce includes a disproportionately large share of recent immigrants, who comprise one of the least unionized population groups (both nationally and in the state), makes California's recent gains in union density all the more impressive.

Whether the state's labor movement can maintain its recent momentum and continue to increase union density depends on a variety of complex factors, most of which are difficult to predict. But, assuming that the SEIU continues to expand and that labor remains politically influential in the state, we can conclude that the outlook for continued union growth is far more favorable in California than in the United States as a whole, where prospects of reversing the long-term density decline appear relatively bleak.

REFERENCES

California Department of Industrial Relations, Division of Labor Statistics and Research. Various years. *Union Labor in California.*

Cobble, Dorothy Sue. 1994. "Making Postindustrial Unionism Possible." In *Restoring the Promise of American Labor Law*, edited by Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald, and Ronald J. Seeber. Ithaca: ILR Press.

Freeman, Richard. 2003. "Searching Outside the Box: The Road to Union Renascence and Worker Well-Being in the U.S." Unpublished paper, presented at the Ray Marshall Center conference on "The Future of Organized Labor: Restoring the Balance in a Market Economy," Washington, D.C.

Gifford, Court, ed. 2002. *Directory of U.S. Labor Organizations: 2002 Edition.* Washington, D.C.: Bureau of National Affairs.

Greenhouse, Steven. 1999. "In Biggest Drive since 1937, Union Gains a Victory." *New York Times [national edition]*, 26 February: A1.

Hirsch, Barry T., and David A. Macpherson. Various years. *Union Membership and Earnings Data Book: Compilations from the Current Population Survey.* Washington, D.C.: Bureau of National Affairs.

Kennedy, Van Dusen. 1955. *Nonfactory Unionism and Labor Relations.* Berkeley: Institute of Industrial Relations, University of California, Berkeley.

Meyerson, Harold. 2001. "California's Progressive Mosaic." *The American Prospect* 12: 17–23.

Milkman, Ruth, and Rachel E. Dwyer. 2002. "Growing Apart: The 'New Economy' and Job Polarization in California, 1992-2000." *The State of California Labor* 2: 3–35.

Voss, Kim, and Rachel Sherman. 2000. "Breaking the Iron Law of Oligarchy: Tactical Innovation and the Revitalization of the American Labor Movement." *American Journal of Sociology* 106: 303–349.

Waldinger, Roger, and Claudia Der-Martirosian. 2000. "Immigrant Workers and American Labor: Challenge . . . or Disaster?" In *Organizing Immigrants: The Challenge for Unions in Contemporary California*, edited by Ruth Milkman. Ithaca: Cornell University Press.

Weir, Margaret. 2002. "Income Polarization and California's Social Contract." *The State of California Labor* 2: 97–131.

APPENDIX. Data and Methods

Since 1987 the only regularly collected data on union density in California have been those included once a year in the U.S. Current Population Survey (CPS). For purposes of analyzing broad national or state-level trends, these data are extremely valuable. Because they are based on a relatively small household sample, however, they are of limited utility for analysis of smaller geographic units or specific industries within the state.

In the past, the California Department of Industrial Relations (DIR) collected data on union density in the state. For four decades, from 1947 to 1987, the DIR conducted a survey of all union locals, which it published in the serial *Union Labor in California*, at first annually and then, after 1971, biannually. After 1987 this practice was discontinued, and for the years since the only publicly available data on union density in the state have been those in the CPS, with the exception of the survey we report on here.

In early 2001 the University of California's newly established Institute for Labor and Employment (ILE) approached the DIR to explore the possibility of reviving the practice of collecting union membership and union coverage data directly from union locals. The authors of this chapter led this effort. With the assistance of the DIR and the California Labor Federation, we developed a survey instrument and sent it to all the local unions in the state.

We obtained a list of all AFL-CIO affiliated union locals from the California Labor Federation and developed our own list of independent (i.e., not AFL-CIO affiliated) unions from a variety of public sources. Our approach was more inclusive than that used by DIR in the

past: whereas they excluded all private-sector independent unions with less than two employers or less than 1,000 members, we included all independent unions that had written collective bargaining agreements, regardless of size. We did exclude independent unions that lacked any such agreements.

The 2001–02 California Union Census (CUC) was modeled after the DIR's 1947–1987 surveys in some respects, but we updated some of the old questions and added some new ones. Using a mail questionnaire combined with extensive telephone follow-up, we were able to obtain an 83% response rate (1,348 of 1,620 locals) in the 2001–02 survey (although for some questions, the response rates were far lower). In some cases we obtained data from public sources to supplement and verify the data collected through the survey, and in a few instances we used this method to obtain data for nonrespondents.

Because the response rate varied among the International unions we surveyed, and between independent unions and AFL-CIO affiliates, we used a data weighting technique in the analysis reported in the text. We created a weight variable, defined as the total number of locals in each International divided by the total number of locals from whom we received responses to the survey. Thus the weights are the inverse of the probability that a local is included in our sample (probability weights). In addition, we corrected for some inconsistencies in the data, using other information provided by respondents. This involved less than 5% of the cases for the variables on which findings are reported here.

The CPS data cited in this report are from a dataset that we constructed by merging the 2001 and 2002 Outgoing Rotation Group data. Results are calculated using the CPS unrevised sampling weights. The sample includes employed civilian wage and salary workers, age sixteen and over. We followed the sample definition and weighting procedures described in Hirsch and Macpherson (2003, 1–8).

Merging the 2001 and 2002 CPS data files increases the reliability of our analysis (by doubling the number of observations), and it is the closest approximation to the timing of the CUC data collection process, which began in the fall of 2001 and continued through the summer of 2002. (We requested that CUC respondents supply data for 2001, but in some cases they gave us 2002 figures, and in other cases they provided the most recent data they had access to, which sometimes predated 2001).

The CUC data differ from those collected by the CPS in several ways, but the single most important is that the CUC's source is data obtained from the population of union locals in the state, whereas the CPS is a household sample that reaches about 1.5% of all employed wage and salary workers (see Hirsch and MacPherson 2003, 11). In both cases there are significant limitations to the data, as well as distinct advantages. For example, many individuals surveyed by the CPS may not be aware of their union or nonunion status. On the other hand, the demographic information we collected from union locals on their members was poor in quality; here the CPS data are far superior. In compiling the text, we compared the data from both sources. Where one was definitively more reliable, we used it; in cases were both are of comparable reliability, we report both.

Further details on the data and methods are available from the authors.

The State of California Labor, 2003, Vol. 2, pp. 3–37, ISSN 1531-9037, electronic ISSN 1541-9045.

The State of Organizing in California

CHALLENGES AND POSSIBILITIES

KATE BRONFENBRENNER
and ROBERT HICKEY

Since the mid-1990s the U.S. labor movement has been involved in an enormous effort to reverse the decades-long downward trend in union organizing activity and union density. This is especially true in California, which has more union members than any other state and is one of a handful of states in which unions have made major organizing gains in recent years.

Still, union density averages only 18% in California, and increases in union membership lag far behind those in non-union employment. Furthermore, the bar keeps moving higher: job losses are increasing in industries that have traditionally been union strongholds, such as the airline transportation and motion picture and broadcasting industries, at the same time that most of the state's employment expansion has been concentrated in largely unorganized industries.

In this essay we assess the status of organizing in California and examine the challenges that must be overcome if unions are significantly to boost membership and realize the gains in political clout and bargaining power that those increases would engender. The first section examines organizing gains in the context of changes that have occurred in employment, union membership, density, and workforce and union demographics over the past six years. The second section provides an analysis of the nature, extent, and outcome of National Labor Relations Board (NLRB) certification election activity in the state since 1997. In the third section we explore the nature and extent of non-NLRB election and card check recognition campaigns in the state. Finally, we discuss the characteristics of organizing campaigns in the United States and their implications for unions in California.

UNIONS AND EMPLOYMENT IN CALIFORNIA, 1997–2002

On the surface, the California employment landscape appears to be remarkably similar to that of the nation. As in the United States as a whole, the overwhelming majority of workers in California are employed in service industries (primarily in professional and business services and in health care), the public sector, or in retail

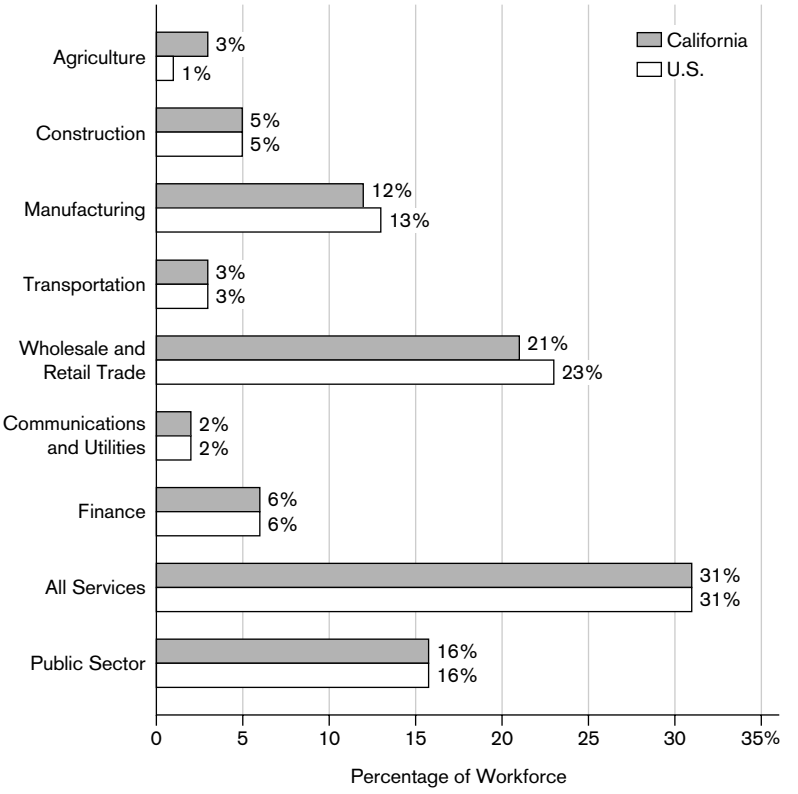

FIGURE 2.1. Employment, by Industry, California and U.S., 2002
SOURCES: BLS 2003a; EDD 2003.

and wholesale trade (Figure 2.1).[1] Not surprisingly, a slightly higher percentage of workers in California is employed in agriculture compared to the nation as a whole, while a slightly lower percentage is employed in manufacturing and wholesale and retail trade. For other industries, however, the percentages are the same for California and the nation.

California also reflected national trends in job growth and decline between 1997 and 2002 (Table 2.1). Employment in most industries grew during this period: the private sector sustained an increase of 8.8% in California and 6.2% nationwide, the public sector an increase of 14.4% in California and 8.7% nationwide. Nationally, employment in professional and business services grew by nearly 2.3 million jobs; 235,700 jobs were created in California alone. Gains also occurred in health care and retail trade.

In general, California's employment growth was stronger than the nation's. While the total civilian labor force increased by 9.7% in California, it grew by only 6.6%

1. Unless otherwise specified, throughout this chapter the term "health care" refers to both health care and social services; "communications and utilities" includes the sanitation industry.

TABLE 2.1. Employment, by Industry, California and U.S., 1997–2002

Industry	CALIFORNIA				UNITED STATES			
	Number Employed		*Net Change*	*Percentage Change*	*Number Employed*		*Net Change*	*Percentage Change*
	1997	*2002*	*1997–2002*	*1997–2002*	*1997*	*2002*	*1997–2002*	*1997–2002*
Private Sector	11,402,100	12,404,400	1,002,300	8.8%	103,133,000	109,531,000	6,398,000	6.2%
Agriculture	413,000	376,100	−36,900	−8.9	1,681,000	1,819,000	138,000	8.2
Construction	554,500	772,600	218,100	39.3	5,691,000	6,556,000	865,000	15.2
Manufacturing	1,953,000	1,775,200	−177,800	−9.1	19,271,000	17,281,000	−1,990,000	−10.3
Transportation	422,100	439,500	17,400	4.1	4,123,000	4,317,000	194,000	4.7
Retail trade	2,296,900	2,451,800	154,900	6.7	21,966,000	23,306,000	1,340,000	6.1
Wholesale trade	595,600	651,500	55,900	9.4	6,648,000	6,671,000	23,000	0.3
Communications	159,200	195,700	36,500	22.9	1,419,000	1,614,000	195,000	13.7
Utilities	89,100	90,900	1,800	2.0	866,000	842,000	−24,000	−2.8
Finance	744,300	849,900	105,600	14.2	7,109,000	7,760,000	651,000	9.2
Services	4,174,300	4,707,700	533,400	12.8	35,867,000	40,840,000	4,973,000	13.9
Professional and business services	1,855,600	2,091,300	235,700	12.7	12,598,000	14,883,000	2,285,000	18.1
Educational services	198,800	245,800	47,000	23.6	2,104,000	2,526,000	422,000	20.1
Health care	1,092,900	1,253,800	160,900	14.7	12,221,000	13,850,000	1,629,000	13.3
Entertainment	399,000	421,400	22,400	5.6	2,192,000	2,333,000	141,000	6.4
Motion picture and broadcasting	200,500	191,400	−9,100	−4.55	550,000	583,000	33,000	6.0
Other entertainment	198,500	245,700	47,000	23.6	1,642,000	1,750,000	108,000	6.6
Hotels and motels	182,800	189,700	6,900	3.8	1,746,000	1,798,000	52,000	3.0
Other services	445,200	505,700	60,500	13.6	5,006,000	5,450,000	444,000	8.9
Public Sector	2,140,700	2,448,100	307,400	14.4	19,557,000	21,260,000	1,703,000	8.7
All Industries	13,542,800	14,852,500	1,309,700	9.7	122,690,000	130,791,000	8,101,000	6.6

SOURCES: BLS 2003a; EDD 2003.

NOTE: Unless otherwise noted, "Manufacturing" includes mining, "Transportation" includes warehousing, "Retail" includes eating and drinking establishments, and "Health care" includes social services. "Other services" includes repair and maintenance services, personal and laundry services, religious services, labor organizations, and other similar civic organizations.

nationally. The rate of growth of construction jobs in California between 1997 and 2002, 39.3%, was over twice the national rate of 15.2%. Wholesale trade was nearly unchanged in the nation as a whole, but grew by 9.4% in California. Communications grew 22.9% in California, compared to 13.7% nationwide.

California employment trends diverged from the rest of the nation in agriculture and communications and utilities (Figure 2.2). Nationwide, employment in agriculture increased by 8.1% between 1997 and 2002, while in California it fell by 8.9%. Similarly, California employment in communications and utilities grew by 2.0%, while national employment in those industries fell by 2.8% over the period. Although overall employment growth in service industries was similar for California (12.8%) and the United States (13.9%), the growth rate was lower in California in several service industries, including entertainment and professional and business services. Employment in the motion picture, recording, and broadcasting portions of the entertainment industry in California fell by more than 9,000 jobs during this period, a drop of 4.5%, while nationally employment in motion picture, recording, and broadcasting grew by 6.0%, reflecting a continuing shift of film and television jobs out of California. Employment in the rest of California's entertainment industry, including arts and recreation, grew by 31,500 jobs, or 15.9%, between 1997 and 2002, for a net increase in employment in the entertainment industry of 5.6% (see Table 2.1).

Whereas most industries enjoyed employment growth during this period, manufacturing experienced massive job losses both in California and nationwide. All told, nearly two million jobs were lost in manufacturing in the United States between 1997 and 2002, reflecting a 10.3% loss in manufacturing employment nationwide. During this same period manufacturing employment declined by 9.1% in California, for a total loss of 177,800 manufacturing jobs.

Certain manufacturing industries in California were particularly hard hit by employment losses (Figure 2.3). Together, the apparel, leather, and textile industries lost nearly 25% of their employment base in California, falling from 178,800 jobs in 1997 to 134,800 jobs in 2002. Employment in the computer and electronic products industry dropped by more than 64,000 jobs, a 15% decline. Even with this drop, it employed more than 360,000 workers in California, or 20% of the total manufacturing workforce and 2% of the entire civilian workforce in the state.

Aerospace and fabricated metal products each lost around 20,000 workers in California between 1997 and 2002. The loss in aerospace followed a period in the mid-1990s when employment in the industry appeared to have stabilized after dropping by more than 50% between 1990 and 1995. By 2002 the total number of aerospace workers was only 80,100, a dramatic decrease from the 214,000 employed at the beginning of the 1990s.

The second largest manufacturing industry in California, food and tobacco products, remained relatively stable, going from 190,600 workers in 1997 to 190,500 in 2002. Three manufacturing industries—electrical equipment and appliances, furniture and related products, and metal production—all experienced slight increases in employment during this period.

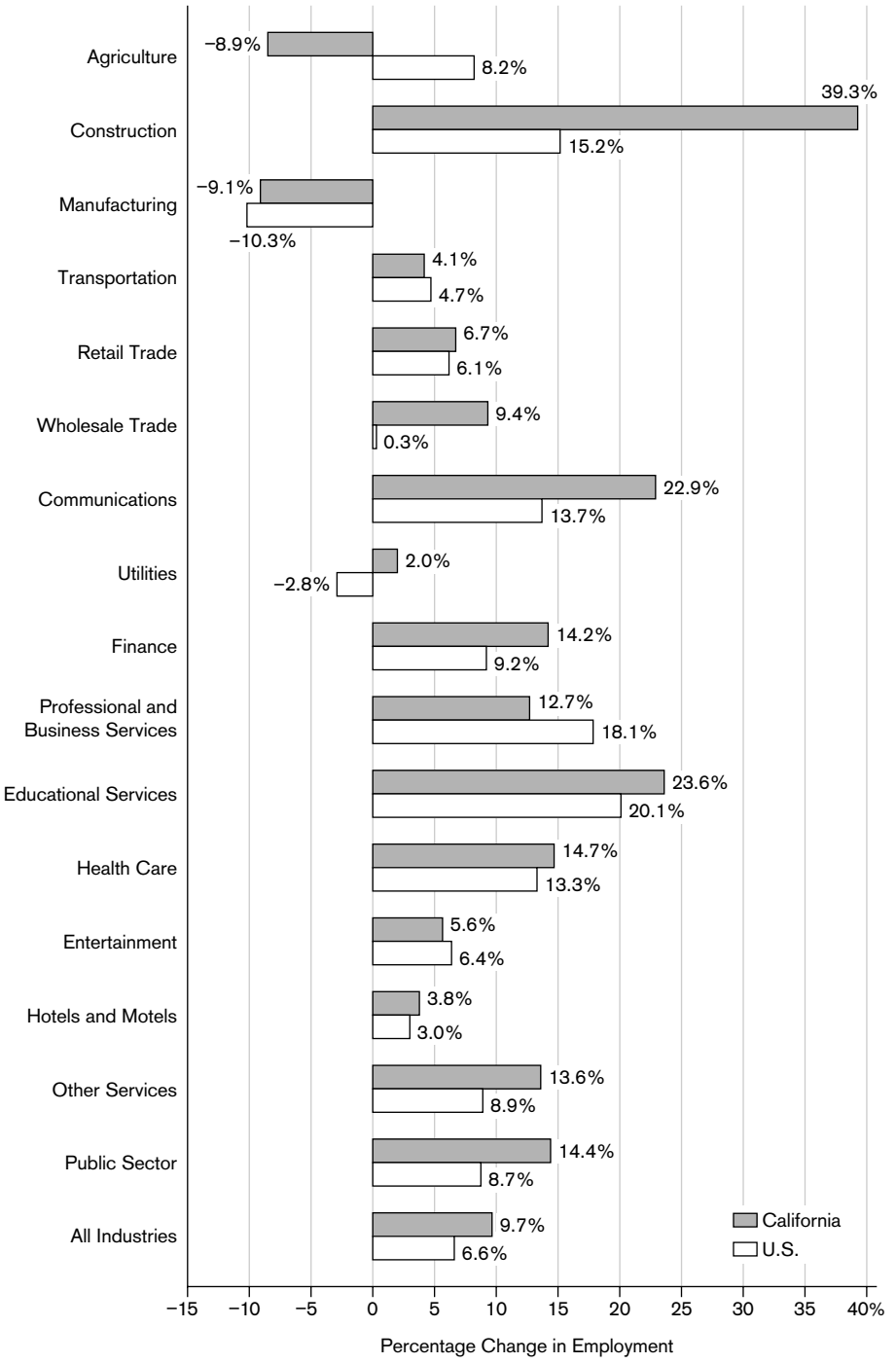

FIGURE 2.2. Change in Employment, by Industry, California and U.S., 1997–2002

SOURCES: BLS 2003a; EDD 2003.

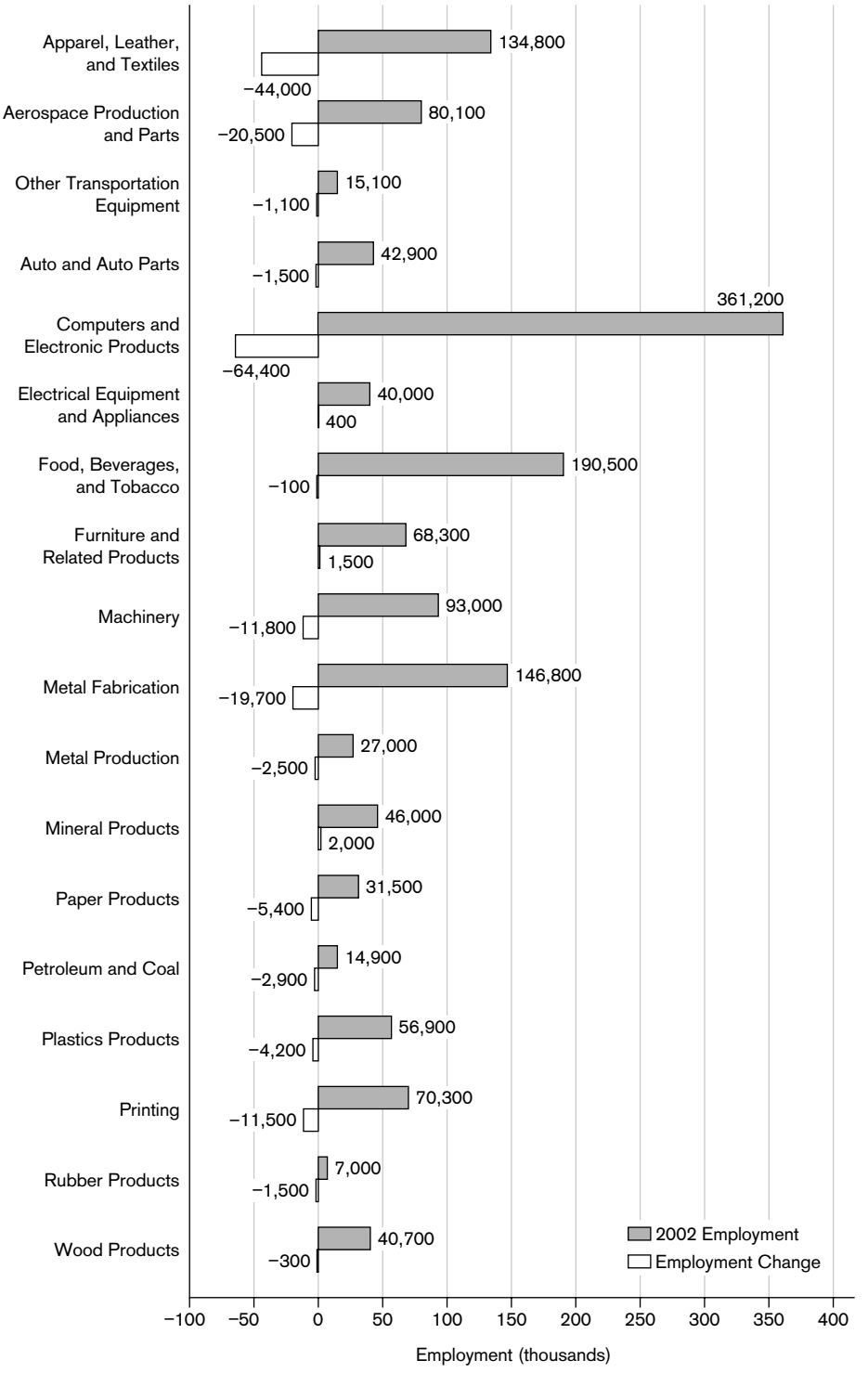

FIGURE 2.3. Manufacturing Employment, 2002, and Change in Manufacturing Employment, 1997–2002, by Industry, California
SOURCE: EDD 2003.

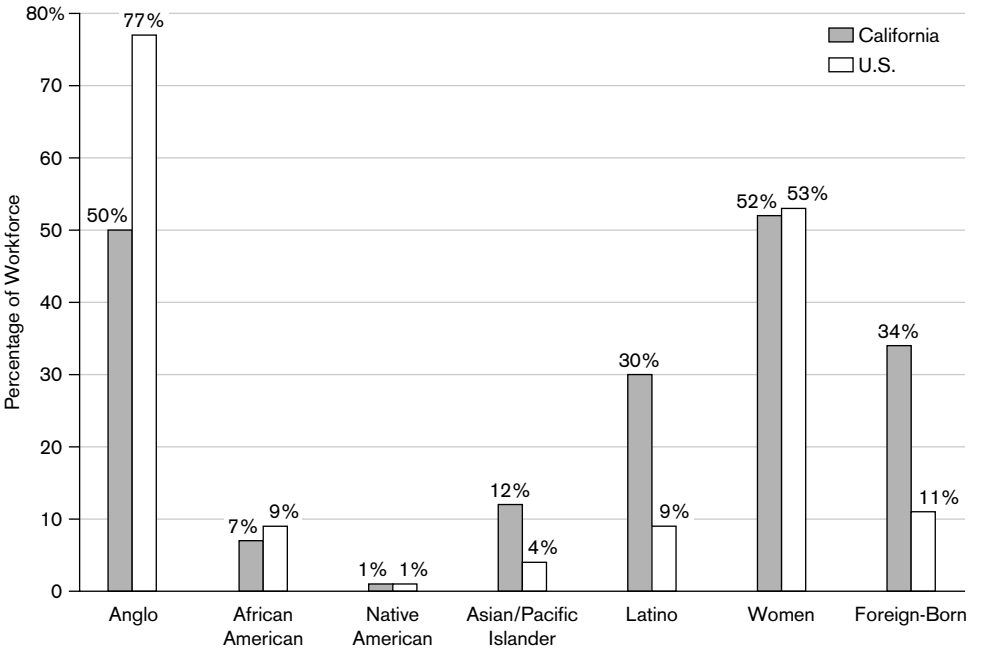

FIGURE 2.4. Selected Workforce Demographics, California and U.S., 2002
SOURCE: BLS 2003b.

Workforce Demographics

Unlike the industrial landscape, which is quite similar for California and the nation as a whole, the demographic makeup of the California workforce differs significantly from the nation's. California workers are much more likely to be non-Anglo and/or foreign born than their counterparts are in the United States as a whole (Figure 2.4). Overall, in 2002 77% of the U.S. workforce was Anglo, but in California half was non-Anglo. Most of this group was Latino (30% of the California workforce, compared to 9% nationwide) and Asian or Pacific Islander (12% of the California workforce, 4% nationwide). While the proportion of women in the workforce was fairly similar in California (52%) relative to the United States as a whole (53%), the percentage of foreign-born workers in California was more than three times higher (34%) than the national average (11%). The proportion of African American workers was, however, lower in California (7%) than nationwide (9%).

In California in 2002, workers who are Latino or Asian or Pacific Islander and/or foreign born were particularly concentrated in industries such as agriculture, hotels and motels, construction, and manufacturing (Table 2.2). The percentages for manufacturing workers were particularly striking, since nationwide a much lower proportion was identified as Latino, Asian or Pacific Islander, or foreign born. The percentage of Latino and of foreign-born workers employed in construction was also much higher in California than in the nation as a whole.

TABLE 2.2. Racial and Ethnic Composition of the Workforce, California and U.S., 2002

	PERCENTAGE ALL NON-ANGLO		PERCENTAGE AFRICAN AMERICAN		PERCENTAGE ASIAN AND PACIFIC ISLANDER		PERCENTAGE LATINO		PERCENTAGE FOREIGN BORN	
	CA	*US*	*CA*	*US*	*CA*	*US*	*CA*	*US*	*CA*	*US*
Private Sector	53%	24%	5%	9%	12%	4%	34%	10%	37%	12%
Agriculture	71	20	1	4	3	3	74	26	69	25
Construction	53	22	3	5	4	2	49	17	42	16
Manufacturing	59	23	3	8	16	4	40	11	48	14
Transportation	57	27	9	12	12	4	35	9	33	11
Retail trade	52	24	5	9	11	4	36	11	34	12
Wholesale trade	49	19	4	6	11	3	35	10	36	11
Communications	47	24	12	12	13	5	22	7	23	7
Utilities and sanitation	35	17	9	8	11	2	13	5	20	4
Finance	38	19	6	8	14	5	20	7	24	9
Health care	53	26	10	12	14	4	27	7	30	10
Entertainment	31	21	6	7	9	4	16	9	21	11
Hotels and motels	63	42	6	13	15	10	42	19	54	27
Business and other services	52	26	6	9	13	5	31	9	37	13
Public Sector	47	24	12	12	10	4	23	6	19	6
Public education	39	19	8	9	8	4	22	6	18	6
Other public sector	47	28	16	15	12	4	24	6	20	6
All Industries	50	24	7	9	12	4	30	9	34	11

SOURCE: BLS 2003b.

NOTE: "Business and other services" includes business services, professional and technical services, private sector educational services, and other services. "Other public sector" includes all public sector other than public education.

Just as they were nationwide, African American workers in California were most concentrated in non-education public-sector positions, particularly public transportation, health care, and communications and utilities. Compared to the nation as a whole, African American workers were particularly underrepresented in certain California industries: agriculture, construction, manufacturing, retail trade and wholesale trade, and hotels and motels.

Union Workers in California

Although employment patterns in California are largely representative of the national employment picture, union membership and density patterns in California contrast with the rest of the nation in several respects (see Milkman and Rooks, this

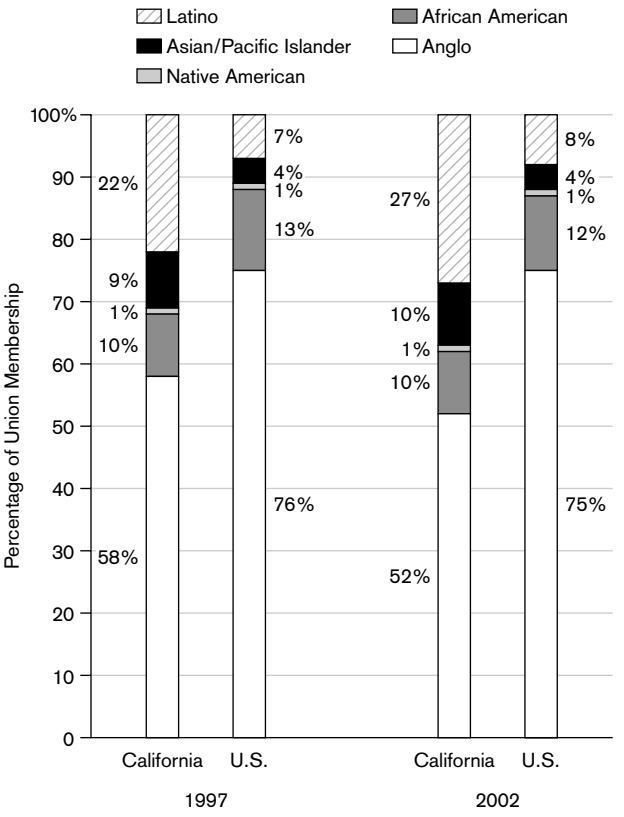

FIGURE 2.5. Union Membership, by Racial and Ethnic Background, California and U.S., 1997–2002
SOURCE: BLS 2003b.

volume). California was one of only seven states in the country where union density increased in both the public and private sectors between 1997 and 2002, with an overall percentage increase in union density of 13.2%. Yet, because recent employment growth in California has been concentrated in traditionally less-unionized industries such as computers and electronics, union density in California, even at 18%, is lower than it is in New York, Hawaii, Alaska, Michigan, New Jersey, Illinois, and Washington (all between 18% and 26%) (Hirsch and MacPherson 2003).

Given the state's increasingly diverse workforce, it is no surprise that the labor movement in California is also more diverse than it is nationwide, and that it is growing more diverse each year. For the six years from 1999 to 2002 the non-Anglo proportion of union members nationwide hovered around 25% (Figure 2.5). As early as 1997, however, 42% of all union members in California were non-Anglo, including 22% Latino, 9% Asian or Pacific Islander, 1% Native American, and 10% African American. By 2002 the proportion of union members who are Latino had increased to 27% and the overall proportion of non-Anglo workers had increased to

TABLE 2.3. Union Density, by Race and Ethnicity, Gender, and National Origin, California and U.S., 1997 and 2002

	PERCENTAGE UNIONIZED			
	1997		2002	
	California	*U.S.*	*California*	*U.S.*
Race or Ethnicity				
Anglo	18%	14%	19%	13%
African American	26	19	30	18
Native American	17	9	21	11
Asian and Pacific Islander	12	14	15	14
Latino	12	12	15	11
Gender				
Men	17	16	18	15
Women	15	12	18	12
National Origin				
U.S. born	19	14	21	14
Foreign born	10	12	12	11

SOURCE: BLS 2003b.

48%. The proportion of California union members who are foreign born also increased, from 20% in 1997 to 22% in 2002. In contrast, in 2002 only 9% of all union members nationwide were foreign born. The proportion of California union members who are female was 47% in 2002, compared to 43% in the United States.

Since 1997 union density in California has increased a few percentage points across every demographic group (Table 2.3). Most notably, union density in California increased from 12% to 15% for Asians and Pacific Islanders, 12% to 15 % for Latinos, and from 26% to 30% for African Americans. In contrast, union density for the United States as a whole declined by approximately a percentage point in almost every demographic group, with the exception of density among Native Americans, which increased from 9% to 11%, and women, which remained stable at 12%.

Women and non-Anglos continue to be underrepresented by unions in many key industries in California (Figure 2.6). Union density is lowest in agriculture, finance, retail and wholesale trade, and most service industries—precisely the industries in which women and/or non-Anglos are most concentrated. In contrast, union density in the private sector is highest in communications and utilities, where women and non-Anglos are in the minority. Union density for these two groups is highest in the public sector, particularly in education, just as it is nationwide. This is a primarily a function of the greater organizing success achieved among teachers and city employees, the majority of whom are women and/or non-Anglos (see Juravich and Bronfenbrenner 1998).

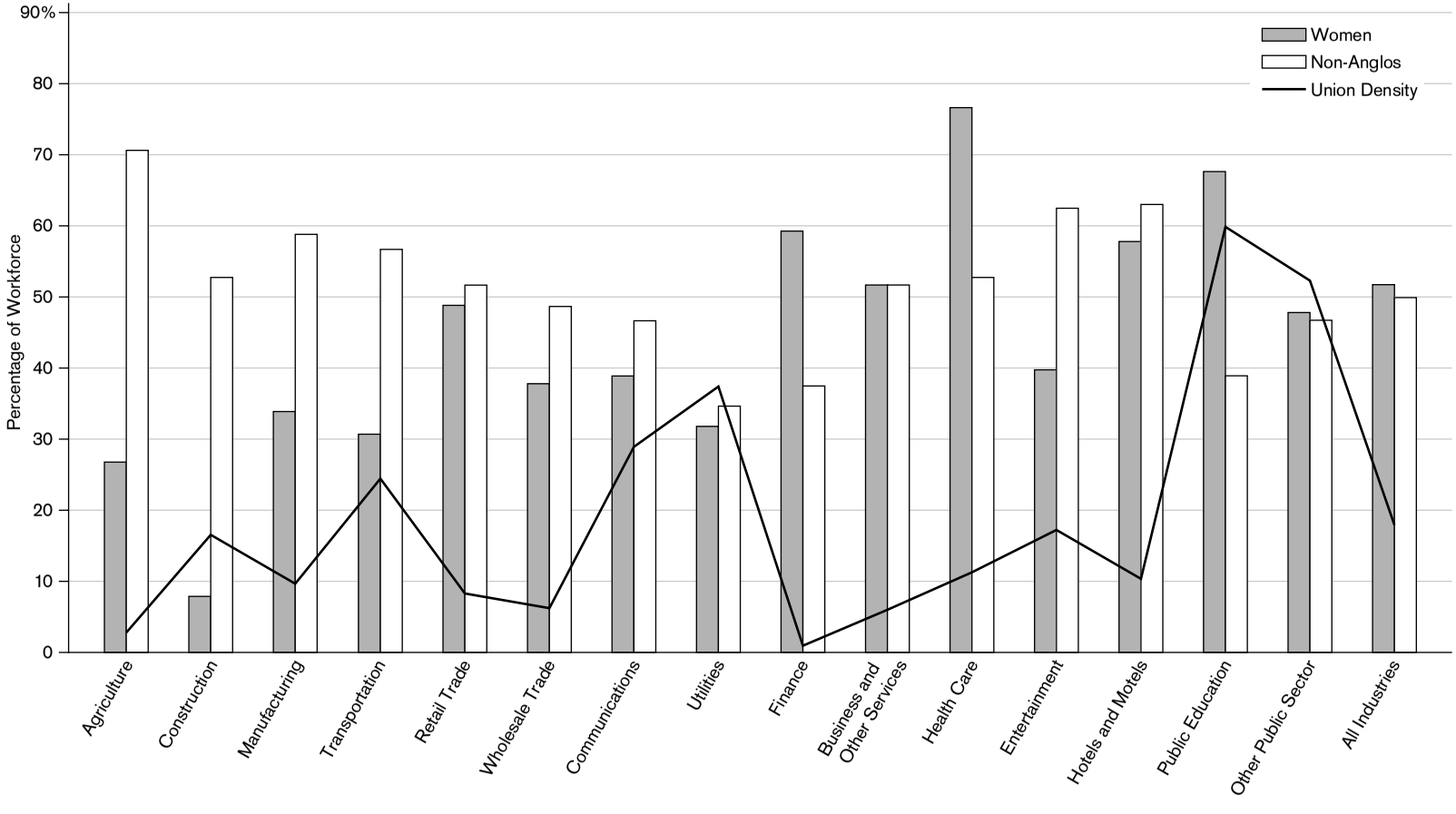

FIGURE 2.6. Women, Non-Anglos, and Union Density, by Industry, California, 2002
SOURCE: BLS 2003b.

Although the prospects for the labor movement seem brighter in California than in many other states, unions still face enormous challenges, particularly in the private sector. Unions in California still represent only 10% of the private workforce in the state. Despite a 56% union density rate in the state's public sector, public-sector jobs represent just 16% of all civilian employment (see Figure 2.1). Even if California unions were able to organize 100% of the public sector, 74% of the total workforce in the state would still be non-union. The greatest job growth has been in industries in which union density is relatively low, such as professional and business services, retail trade, and health care, or, in the case of the finance industry, virtually nonexistent. California unions will have to organize hundreds of thousands of new members a year just to keep pace with employment expansion, much less make significant gains in union density.

NLRB ELECTION ACTIVITY

To gain a better understanding of the nature and extent of organizing in California we must move beyond employment, membership, and union density data to the organizing process itself. Unfortunately, it is not easy to compile a complete picture of organizing in California. NLRB regulates labor relations in the private sector, and the only reliable data come from NLRB elections. Unions in California, however, are increasingly attempting to organize outside of the NLRB process, both in the public sector and, through card checks and other voluntary recognition campaigns, in the private sector. This section summarizes all NLRB elections that took place in California from 1997 to 2002. In the section that follows we estimate organizing gains made outside the NLRB process, which, when combined with the NLRB data, provide a much clearer understanding of how successful California unions have been in meeting the organizing challenge.

Tables 2.4 and 2.5 compare NLRB election activity in California with that in the nine other states that had the largest number of NLRB elections between 1997 and 2002. With an average of just under 300 NLRB elections each year, and a total of 1,762 elections for the six-year period, California unions averaged more elections per year than unions in any other state and were responsible for approximately 10% of all NLRB election activity that took place nationwide. Election win rates also consistently averaged higher in California than in most other states, starting at 55% in 1997, and, after dropping to 53% in 1998, remaining steady at 55% until 2002, when the win rate increased to 58%.

The true measure of organizing success is not the election win rates, but rather the number of workers who were organized. In terms of the number of workers organized in NLRB elections during this period, California was second only to New York, with between 8,516 (1997) and 12,210 (1998) newly organized workers each year. For the six years combined, unions in California won elections involving 61,714

TABLE 2.4. Number of NLRB Elections and Win Rates in the Ten States with the Largest Number of Elections, 1997–2002

	1997		1998		1999		2000		2001		2002		1997–2002	
State	*Number*	*Win Rate*	*Number*	*Win Rate*	*Number*	*Win Rate*	*Number*	*Win Rate*	*Number*	*Win Rate*	*Number*	*Win Rate*	*Number*	*Win Rate*
California	**311**	**55%**	**350**	**53%**	**306**	**55%**	**310**	**55%**	**230**	**55%**	**255**	**58%**	**1,762**	**55%**
New York	301	56	302	62	316	64	272	58	227	59	243	57	1,661	59
Illinois	239	55	235	57	187	47	207	48	191	63	200	57	1,259	54
Pennsylvania	229	49	216	50	206	45	209	49	184	55	182	56	1,226	50
New Jersey	175	47	194	45	190	47	137	58	140	51	148	58	984	51
Michigan	167	50	190	47	181	48	149	54	110	53	158	56	955	51
Ohio	198	44	186	45	175	51	144	51	95	47	151	45	949	47
Washington	123	62	104	55	93	58	79	54	67	57	73	62	539	58
Missouri	117	51	90	56	99	54	80	54	72	50	73	40	531	51
Florida	98	56	73	47	95	60	79	43	95	59	74	55	514	54
All states	3,268	51	3,297	52	3,108	52	2,868	53	2,361	54	2,540	56	17,442	53

SOURCE: BNA PLUS 2002, 2003.

TABLE 2.5. Number of Voters in All NLRB Elections and in Elections Won for the Ten States with the Largest Number of Newly Organized Workers, 1997–2002

	1997		1998		1999		2000		2001		2002		1997–2002	
State	*Number of Voters*	*Voters in Elections Won*	*Number of Voters*	*Voters in Elections Won*	*Number of Voters*	*Voters in Elections Won*	*Number of Voters*	*Voters in Elections Won*	*Number of Voters*	*Voters in Elections Won*	*Number of Voters*	*Voters in Elections Won*	*Number of Voters*	*Voters in Elections Won*
New York	**20,659**	**10,582**	**20,553**	**14,719**	**18,569**	**11,608**	**23,626**	**14,178**	**19,532**	**11,495**	**23,383**	**11,733**	**126,322**	**74,315**
California	20,051	8,516	23,705	12,210	20,809	8,825	25,675	11,690	18,170	9,190	20,841	11,283	129,315	61,714
Illinois	15,179	7,171	16,993	8,833	13,228	5,665	11,417	4,875	8,605	5,044	10,753	3,970	76,175	35,568
Pennsylvania	18,158	5,363	13,760	5,985	15,973	7,010	14,012	6,094	9,740	3,444	9,265	3,016	80,908	30,912
Michigan	9,101	3,973	13,467	5,447	16,511	6,114	14,448	8,247	6,073	2,571	7,949	3,750	67,549	30,102
Ohio	15,323	4,214	13,370	4,590	19,294	8,625	9,631	3,633	10,350	1,946	7,963	1,874	75,931	24,882
New Jersey	9,675	3,226	10,744	3,758	12,671	5,728	8,171	4,004	9,628	3,376	9,997	4,116	60,886	24,208
Florida	9,110	4,082	5,787	1,944	13,184	5,011	7,140	2,715	6,807	4,676	9,962	2,632	51,990	21,060
Washington	6,431	3,900	7,590	4,247	3,975	2,286	2,834	1,493	20,862	2,690	4,722	3,004	46,414	17,620
Massachusetts	5,241	1,876	6,801	4,057	6,074	2,560	3,509	1,535	5,685	3,260	2,110	890	29,420	14,178
All states	220,242	86,161	232,977	106,354	244,255	106,734	212,816	93,482	193,331	68,728	180,820	72,908	1,284,441	534,367

SOURCE: BNA PLUS 2002, 2003.

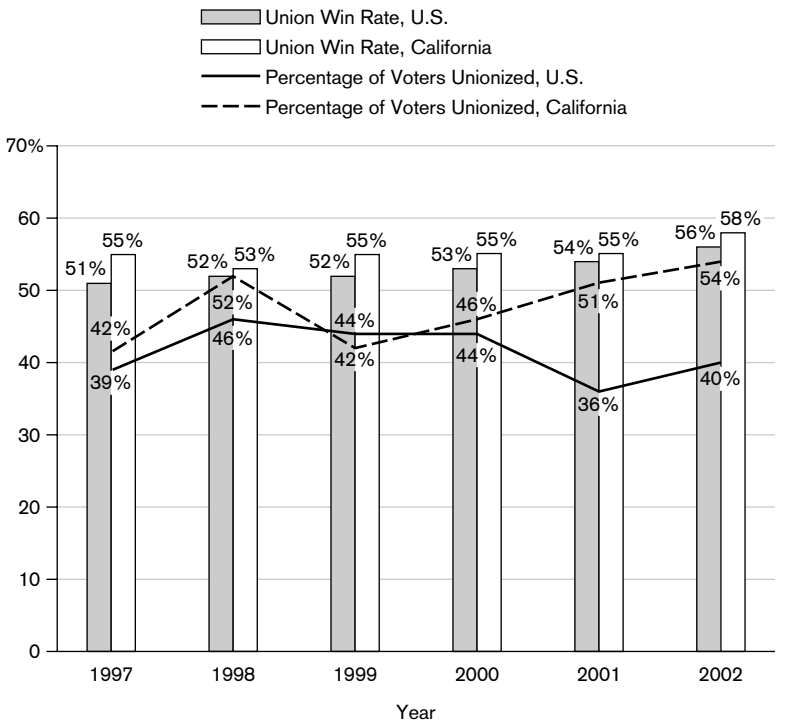

FIGURE 2.7. Union Win Rates and Percentage of Voters Unionized in NLRB Elections, California and U.S., 1997–2002
SOURCE: BNA PLUS 2002, 2003.

of the 129,315 eligible voters who participated in NLRB elections. In contrast, unions in New York won elections involving 74,315 of the 126,322 eligible voters. The number of workers organized then drops precipitously, to 35,558 in Illinois and 30,912 in Pennsylvania. Of the nearly 1.3 million voters who participated in NLRB certification elections nationwide between 1997 and 2002, only 42% of these voters were in units where the election was won. The figure was higher in California, with 48%.

Nationally, the gap has been widening between the number of NLRB elections won and the percentage of voters who were organized through NLRB elections (Figure 2.7). While the election win rate for all NLRB elections in the United States increased from 51% in 1997 to 56% in 2002, the percentage of voters won increased only 1% over the six-year span, from 39% in 1997 to 40% in 2002. In California, however, a very different pattern emerges. Although the percentage of eligible voters in elections won was only 42% in 1997, by 2002 it had increased to 54%, only four percentage points lower than the 2002 election win rate of 58%.

Election wins, both in California and the nation as a whole, were most frequent in elections with a relatively small number of eligible voters (Figure 2.8). In California 64% of all NRLB elections from 1997 to 2002 occurred in units with fewer than

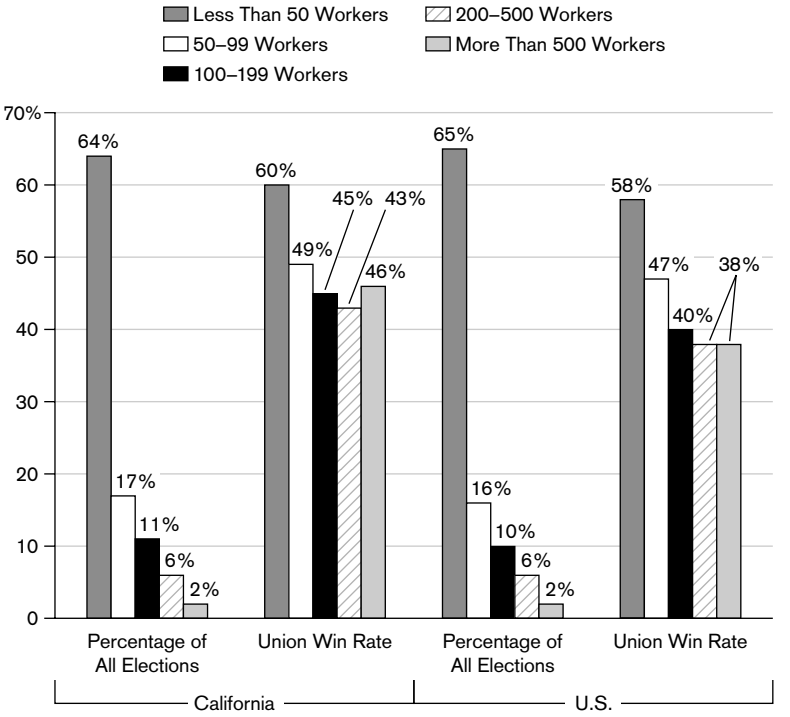

FIGURE 2.8. NLRB Elections and Union Win Rates, by Unit Size, California and U.S., 1997–2002
SOURCE: BNA PLUS 2002, 2003.

fifty eligible voters; only 6% were in units with between 200 and 500 eligible voters and only 2% were in units with more than 500 voters. The national pattern is nearly identical. For the United States as a whole, win rates steadily declined as the number of eligible voters increased, from a high of 58% in units with fewer than 50 eligible voters down to 38% in units with more than 500 voters. In California win rates were 60% in the smallest units, dropping down to 43% in units with 200 to 500 eligible voters, and increasing slightly to 46% in units with more than 500 eligible voters.

This pattern reflects the tendency of unions to target small "hot shops" (where workers have already expressed an active interest in organizing) and their failure to take on and win the larger, more strategic, units in their industries. One win in a unit of 5,000 workers is far more significant than one hundred wins in units with fewer than 50 eligible voters, and it can take just as much time and just as many resources to bargain a contract for 5,000 workers as for 5. With 5,000 workers the union has the power and the dues to do what it takes to win a strong first contract, something that is greatly lacking in bargaining for small units (Bronfenbrenner 1996). Thus, if unions participating in NLRB elections in the private sector are committed to organizing new members on the scale necessary to significantly increase union density, they will have no choice but to target larger units.

NLRB Election Activity by Industry

Figure 2.9 compares NLRB election activity and win rates for California and the United States for 1997 through 2002. Unions in California concentrated their NLRB election activity in different industries than their counterparts did nationwide, but there is little difference in industry win rates between California and the nation as a whole. California unions ran a higher percentage of elections in transportation (17% in California versus 13% nationwide), retail and wholesale trade (15% versus 12%), entertainment (5% versus 2%), hotels and motels (3% versus 2%), and communications and utilities (8% versus 6%). California unions ran a smaller percentage of elections in construction, manufacturing, and health care. Both nationally and within California, NLRB win rates were highest—above 60%—in service industries such as health care, entertainment, and business services. Win rates were lower in manufacturing, construction, and communications and utilities.

This election activity looks much less substantial when the number of elections in California is broken down by industry and year, as Table 2.6 reveals. Even in the most active areas of the economy—manufacturing, transportation, health care, and retail and wholesale trade—the average number of elections over the six-year span ranged from only 34 to 63. In other industries the number of elections was much lower, particularly in hotels and motels and communications, which both averaged under 8 elections a year, and in finance, with a total of only 7 elections during the entire six-year period.

The average number of eligible voters involved in NLRB elections in California for the six-year period was also quite small (Figure 2.10). With the exception of health care, which had an average of 158 eligible voters per election, the average number was fewer than 100. Averages were even lower for the number of workers who participated in winning elections, with retail and wholesale trade having the fewest, at 26. Once again, health care had not only the largest average number in this regard (153) but also the smallest drop (2%) between the average number of eligible voters and the average number of voters involved in a win.

Manufacturing and health care had by far the highest yearly average number of eligible voters (5,695 and 5,310, respectively) (Figure 2.11). In manufacturing, an average of 63 elections took place each year; the average unit size was 90 workers. In health care, an average of 34 elections took place each year; the average unit size was 158 (see Figure 2.10). However, because average NLRB win rates in California were so much lower in manufacturing (44%) than in health care (69%) (see Table 2.6), the average number of newly organized workers in manufacturing in California was only 2,189, compared to 3,549 workers organized in health care. Transportation also showed a significant drop: only 1,428 workers organized, although 2,953 participated in NLRB elections. The most dramatic difference was in retail and wholesale trade, where the majority of elections won were concentrated in small units. On average, only 524 of the 2,545 workers who participated in NLRB elections in the retail and

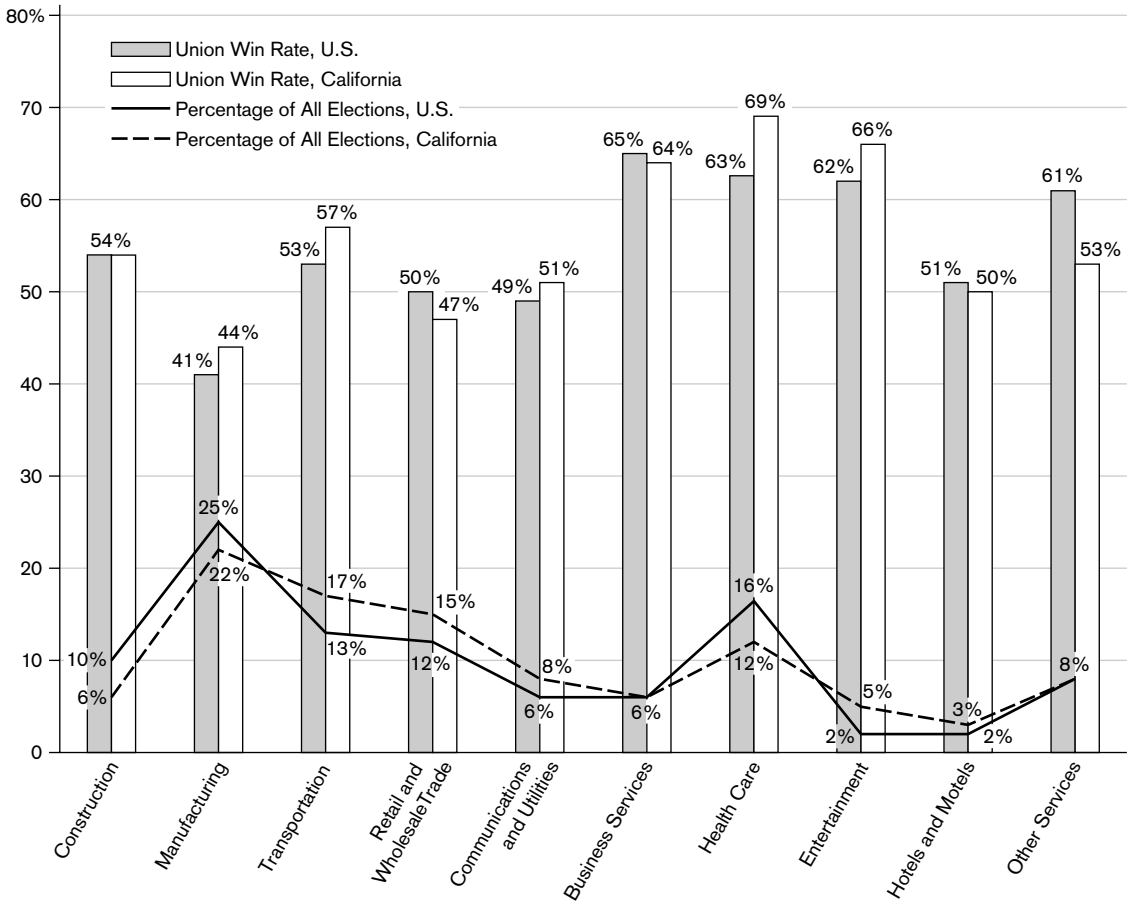

FIGURE 2.9. NLRB Elections and Union Win Rates, by Industry, California and U.S., 1997–2002

SOURCE: BNA PLUS 2002, 2003.
NOTE: "Other services" includes professional, educational, and other services.

wholesale industries each year were in units where the election was won. Gains were also small in construction and in communications and utilities.

Few differences were evident in win rates between NLRB elections in California and the United States as a whole, as noted above, but there were significant differences in regard to the type of industry in which election activity was concentrated and the average number of eligible voters participating in the elections (Figure 2.12). For example, only 21% of newly organized workers in California were in manufacturing, compared to 26% nationwide. They were also less concentrated in retail and wholesale trade, although only slightly: 5% in California versus 6% in the United States as a whole. On the other hand, newly organized workers in California were slightly more concentrated in health care, transportation, and communications and utilities.

TABLE 2.6. Number of NLRB Elections and Win Rates, by Industry, California, 1997–2002

Industry	1997		1998		1999		2000		2001		2002		1997–2002	
	Number of Elections	*Win Rate*	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*
Construction	19	39%	37	62%	10	50%	21	43%	10	70%	16	63%	113	54%
Manufacturing	74	41	70	50	66	44	63	41	44	41	63	49	380	44
Transportation	57	63	51	47	54	63	60	57	40	50	34	62	296	57
Retail and wholesale trade	42	48	62	45	62	50	28	61	37	41	26	42	257	47
Communications	7	86	5	20	6	83	1	0	4	0	8	38	31	48
Utilities	13	62	26	58	14	43	17	35	17	76	19	42	106	53
Finance	0	—	0	—	0	—	3	100	1	0	3	67	7	71
Health care	31	55	27	70	29	76	49	61	30	73	36	81	202	69
Other services	68	71	72	54	65	55	68	66	47	66	50	68	370	63
Business and personal services	14	86	23	61	16	56	26	56	10	50	14	79	103	64
Hotels and motels	11	45	5	40	4	75	4	50	9	33	11	64	44	50
Entertainment	15	53	15	33	19	63	11	82	11	73	8	88	79	66
All private-sector industries	311	55	350	53	306	55	310	55	230	55	255	58	1762	55

SOURCE: BNA PLUS 2002, 2003.
NOTE: Other services includes all services other than health care.

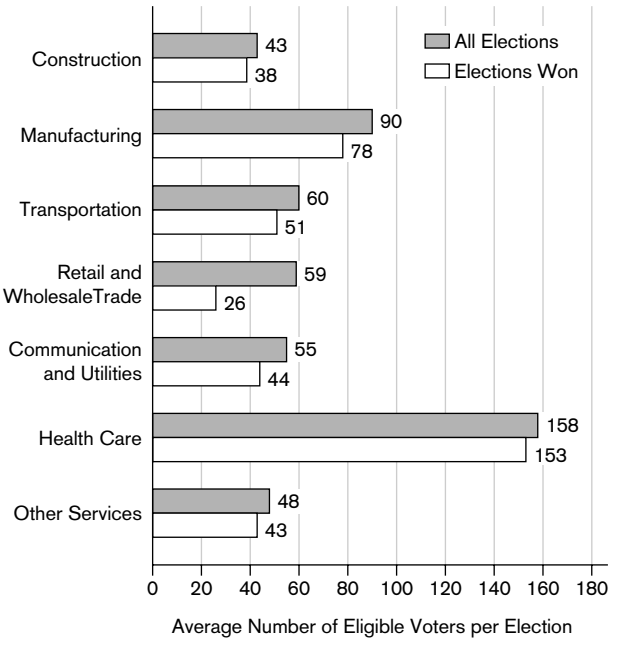

FIGURE 2.10. Average Number of Voters per NLRB Election, by Industry, California, 1997–2002

SOURCE: BNA PLUS 2002, 2003.

NOTE: "Other services" includes all services other than health care.

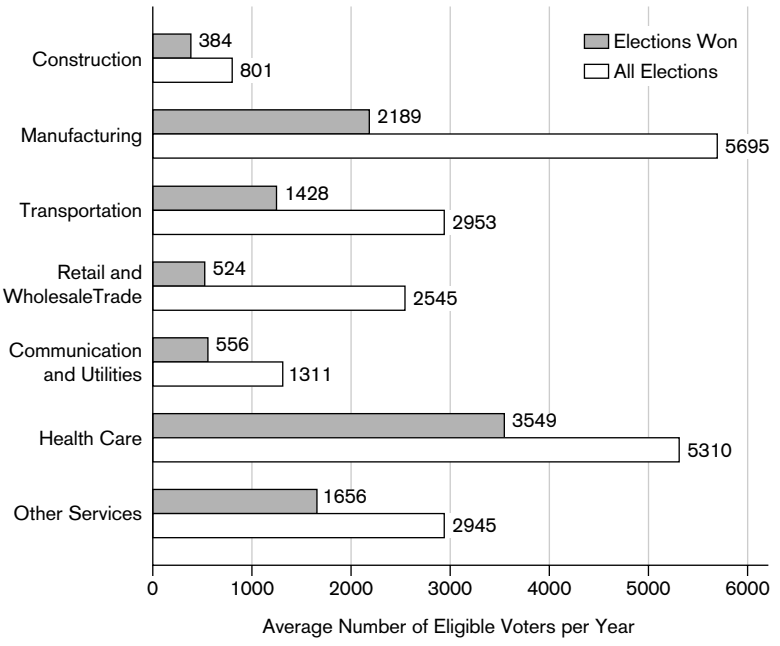

FIGURE 2.11. Average Number of Voters per Year in NLRB Elections, by Industry, California, 1997–2002

SOURCE: BNA PLUS 2002, 2003.

NOTE: "Other services" includes all services other than health care.

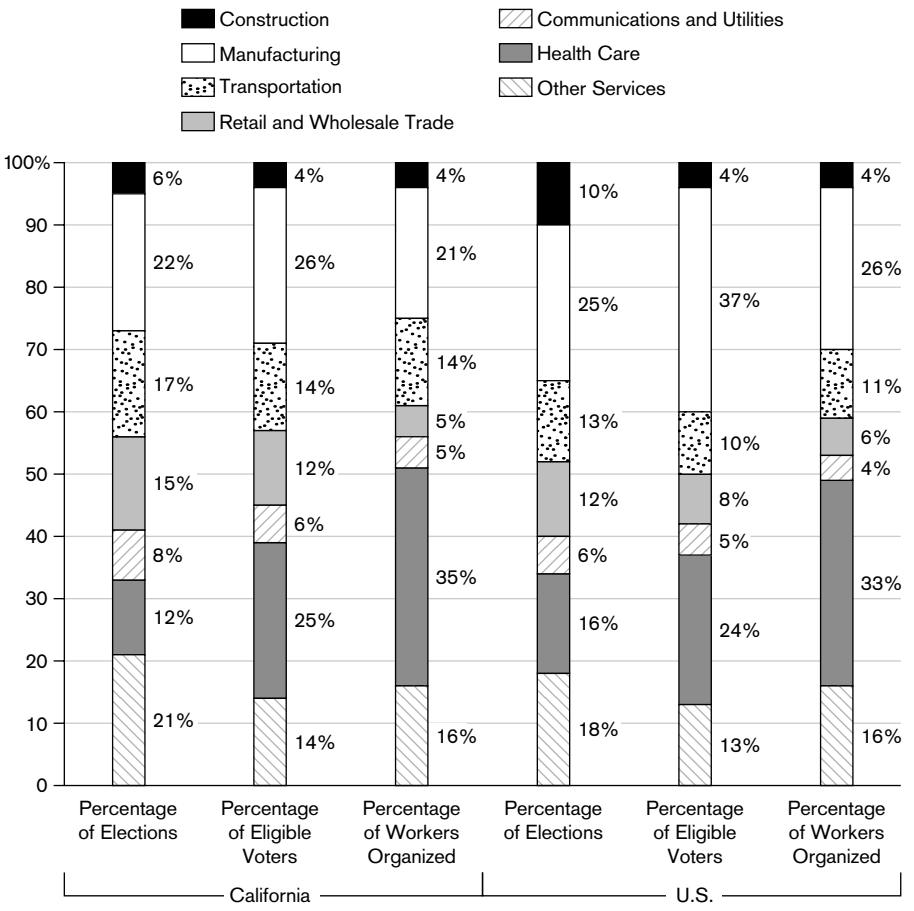

FIGURE 2.12. NLRB Elections, Voters, and Newly Organized Workers, by Industry, California and U.S., 1997–2002

SOURCE: BNA PLUS 2002, 2003.
NOTE: "Other services" includes all services other than health care.

Unions and NLRB Activity in California

Table 2.7 provides summary data for the primary unions active in NLRB elections in California. As they are nationwide, the International Brotherhood of Teamsters (IBT) was involved in the greatest number of elections by far, participating in 693, or 39%, of the 1,762 NLRB elections that took place in California between 1997 and 2002 (Figure 2.13). With an average win rate over the six-year period of 50%, the Teamsters were able to gain representation for 14,062 workers during this period, representing 35% of all eligible voters participating in Teamsters elections and 23% of all workers organized under the NLRB in California for the six-year period (Figure 2.14). These figures compare favorably with the national

TABLE 2.7. NLRB Election Activity, by Union, California, 1997–2002

Union	*Total Number of Elections*	*Percentage of all Elections*	*Win Rate*	*Average Number of Voters per Year*	*Average Number of Voters Won per Year*	*Total Number of Voters Won*	*Percentage of Voters Won*	*Percentage of Total New Workers Organized*
IBT	693	39%	50%	6,725	2,344	14,062	35%	23%
SEIU	120	7	73	2,861	2,208	13,249	77	22
CNA	15	1	80	1,138	735	4,409	64	7
IAM	113	6	61	713	333	1,999	47	3
LIUNA	62	4	48	1,177	317	1,900	27	3
GCIU	29	2	52	692	302	1,813	44	3
UFCW	77	4	47	1,195	290	1,740	24	3
ILWU	63	4	62	505	257	1,542	51	3
IUOE	115	7	63	432	241	1,447	56	2
CWA	45	3	58	455	188	1,130	41	2
AFSCME	15	1	73	275	184	1,101	67	2
IBEW	47	3	57	366	166	996	45	2
UTU	8	0	88	143	127	764	89	1
UBC	26	1	46	428	110	662	26	1
UE	6	0	50	199	99	596	50	1
PAT	31	2	65	134	92	554	69	1
HERE	23	1	39	263	92	552	35	1
OPEIU	15	1	73	199	81	486	41	1
UAW	10	1	50	188	75	447	40	1
ATU	13	1	69	111	71	428	64	1
USWA	14	1	29	383	63	377	16	1
BCTGM	14	1	43	192	57	339	29	1
PACE	11	1	64	104	53	315	51	1
IATSE	26	1	50	190	47	279	24	1
UFW	2	0	100	41	41	243	100	0
AFTRA	9	1	78	33	32	191	96	0
BSOIW	14	1	29	71	32	191	45	0
AFT	5	0	80	38	30	177	77	0
SMW	30	2	17	185	20	118	11	0
IFPTE	2	0	50	35	17	100	48	0
UNITE	2	0	50	16	10	59	62	0
SIUNA	10	1	20	131	7	42	5	0
UWUA	2	0	50	11	6	33	49	0
GMPPAW	7	0	14	122	4	25	3	0
PPF	5	0	20	30	2	10	6	0
All unions	1,762	100	55	21,558	10,286	61,714	48	100

SOURCE: BNA PLUS 2002, 2003.

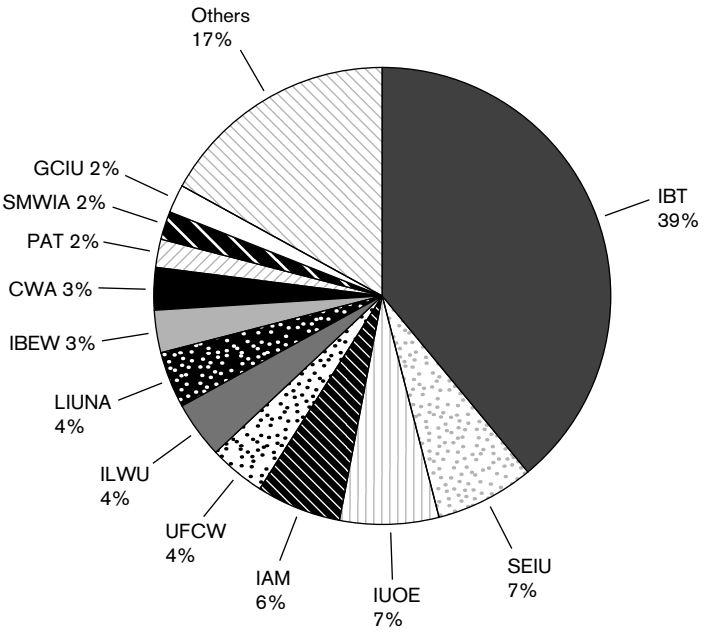

FIGURE 2.13. NLRB Elections, by International Union, California, 1997–2002
SOURCE: BNA PLUS 2002, 2003.

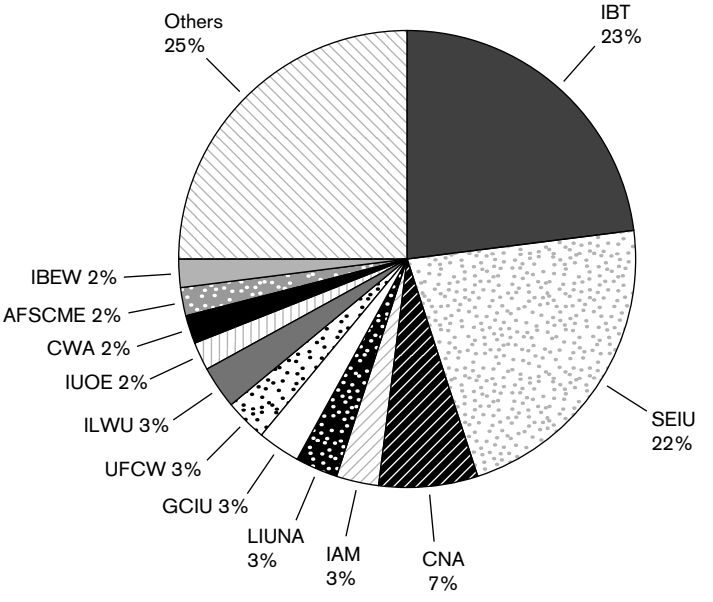

FIGURE 2.14. Workers Newly Organized through NLRB Elections, by International Union, California, 1997–2002
SOURCE: BNA PLUS 2002, 2003.

data for the Teamsters. With an average win rate of 44% and an average unit size in elections won of only 36, the union was able to gain representation for only 30% of the workers who voted in the Teamsters's elections nationwide (Bronfenbrenner and Hickey 2002).

Following the Teamsters is the Service Employees International Union (SEIU). Despite participating in only 120 NLRB elections in the last six years, a combination of an extremely high win rate of 73% and a high percentage of victories in larger units enabled SEIU to gain representation for 13,249 workers, or 77% of all workers participating in SEIU's NLRB elections and 22% of all workers organized in California during this period. When these gains are combined with the even larger number of workers SEIU organized outside the traditional NLRB process (see the discussion below), SEIU moves far ahead of any other union in the state in terms of organizing gains between 1997 and 2002.

The Teamsters and the SEIU are responsible for 46% of all NLRB elections and 45% of all workers organized under the NLRB in California since 1997. In terms of the number of elections, they are followed by the International Union of Operating Engineers (IUOE), the International Association of Machinists (IAM), the United Food and Commercial Workers International Union (UFCW), the International Longshore and Warehouse Union (ILWU), and the Laborers' International Union of North America (LIUNA). Together these unions were responsible for 24% of all NLRB elections that took place in California between 1997 and 2002, but only 15% of all workers organized through these elections. LIUNA and the UFCW showed a significant difference between win rates and the percentage of voters in all elections won (48% versus 27% for LIUNA, 47% versus 24% for UFCW), which suggests that these unions have been unable to make significant gains in larger units. In this regard they contrast with the California Nurses Association (CNA) and the American Federation of State, County, and Municipal Employees (AFSCME), which, while they each only participated in 15 elections during this period, made more significant membership gains because of high win rates (80% for CNA, 73% for AFSCME) and a larger average unit size. CNA gained representation for 64% of its workers who participated in NLRB elections; for AFSCME that figure was 67%.

Unions in the United States are increasingly organizing workers outside of their traditional jurisdictions (see Bronfenbrenner and Hickey 2002), and, as Figure 2.15 shows, California is no exception. Although some unions continue to concentrate more than 75% of their organizing in one of their traditional jurisdictions, just as many are organizing across a variety of industries. For some unions, such as UFCW and CWA, this reflects the merger of unions from more than one area. Some unions have targeted two divergent industries; for example, UAW has organized workers in the auto and auto parts industry and in higher education. Other unions, such as the Teamsters, LIUNA, and IAM, have increasingly acted more like general unions, organizing across every industrial area. One trend, however, stands out: nearly every union, including industrial unions and those representing the building

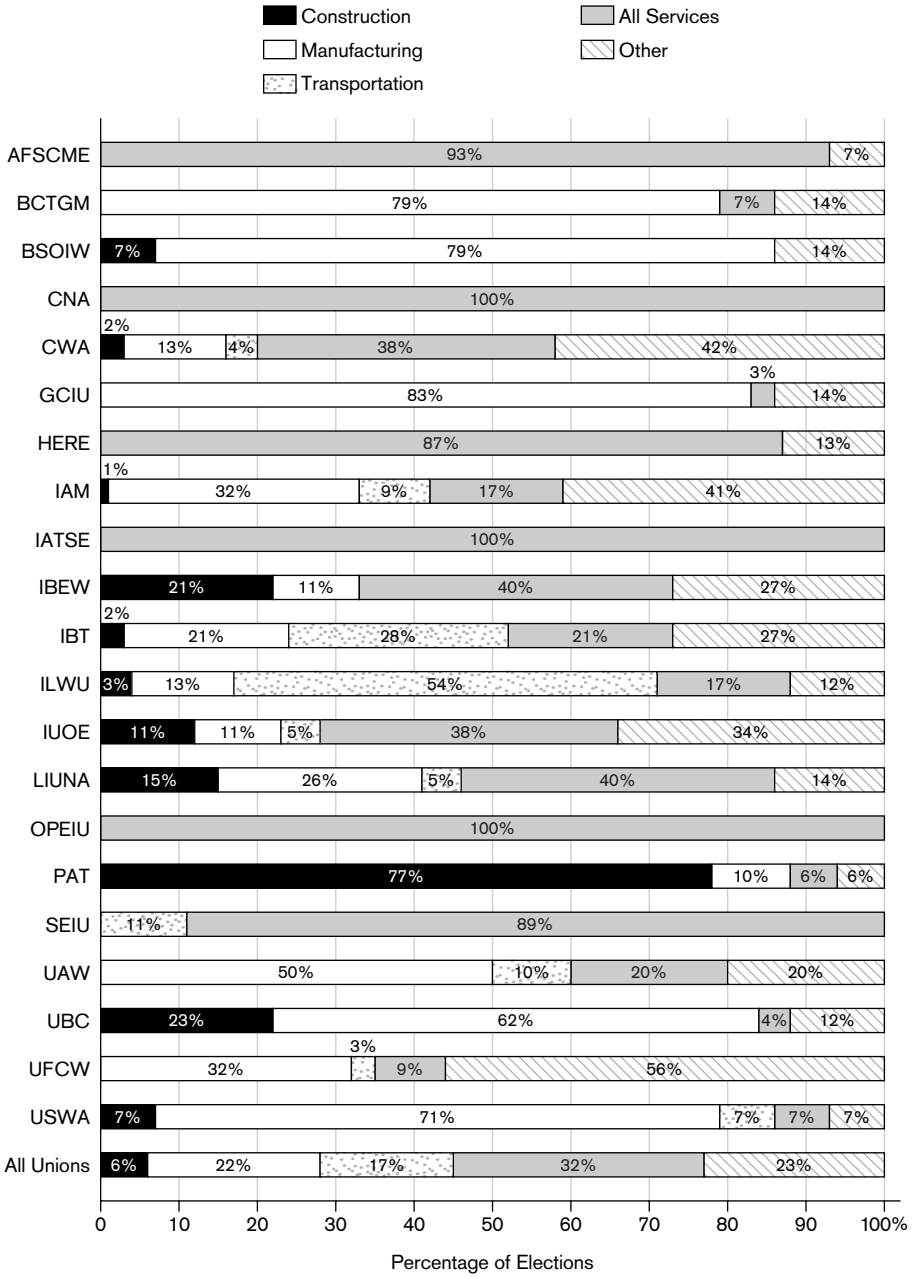

FIGURE 2.15. NLRB Election Activity, by International Union and Industry, U.S., 1997–2002

SOURCE: BNA PLUS 2002, 2003.

trades, is engaged in some organizing in the service industries, particularly in health care.

In Table 2.8 unions are distributed into six groups that indicate their primary jurisdiction: industrial, building trades, transportation (primarily the Teamsters and ILWU), service and public sector, independents (CNA, UE, and other unions not affiliated with the AFL-CIO), and "other," which includes unions with primary jurisdiction in communications (CWA), utilities (UWUA), retail and wholesale trade (UFCW), and agriculture (UFW).[2] With the exception of transportation unions, all had average win rates of more than 60% in NLRB elections in service industries. Industrial unions had an average win rate only 40% in manufacturing but 66% in services; building trades unions averaged 44% in construction but 63% in services.

The attraction of service industries, particularly health care, is obvious. At a time when almost every area of the economy has been touched by globalization, capital mobility, and transnational ownership and investment structures that are large and diffuse, the majority of health care industries continue to be non-profit and thus cannot move out of the country, or credibly threaten to move out of the country, in response to unionization (Bronfenbrenner 2000). Still, if more and more industrial, building trades, and transportation unions shift their organizing efforts to target the service sector, who will organize in their traditional jurisdictions, and what will happen to the union's bargaining power in those industries?

Although unions organizing in manufacturing, construction, transportation, and retail and wholesale trade may face employers that are more multinational, more mobile, and more aggressively anti-union, these industries have the density that is needed to bargain successfully and to build public and government support. Rather than using their power in traditional jurisdictions to run aggressive and comprehensive campaigns to gain more members, many unions have been seeking easier election wins in service-sector industries. It is in service industries in California that unions have been most innovative in their use of bargaining and community leverage in organizing campaigns.

ORGANIZING OUTSIDE THE NLRB

NLRB elections do not offer the only path to organization in California and nationwide. Unions are also gaining new members through public-sector elections, card check and voluntary recognition campaigns in public and private sectors, and

2. Even though they are no longer affiliates of the AFL-CIO, we have not included either the UBC or the UTU under independents because for most of the years on which this study is focused they were still affiliated with the AFL-CIO. Thus the only major unions included in the independent group are CNA and UE. Most of the others are small independents, including many security guard unions, that have been organized in business services.

TABLE 2.8. NLRB Elections and Win Rates, by Primary Union Jurisdiction and Industry, U.S., 1997–2002

	CONSTRUCTION		MANUFACTURING		TRANSPORTATION		ALL SERVICES		OTHER INDUSTRIES	
Primary Jurisdiction	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*	*Number of Elections*	*Win Rate*
Industrial unions	17	41%	12	40%	63	75%	12	66%	63	56%
Building trades unions	73	59	10	44	68	50	10	63	68	52
Transportation unions	18	39	160	46	199	57	160	55	199	47
Service and public-sector unions	0	—	14	—	5	64	14	68	5	60
Small independent unions	3	100	3	78	2	100	3	83	2	100
Other unions	2	50	4	45	64	100	4	61	64	47

SOURCE: BNA PLUS 2002, 2003.

NOTE: "Other unions" includes CWA, UFCW, UWUA, and UFW. The independent unions include CNA, UE, and other unions not affiliated with the AFL-CIO. "Other industries" includes retail and wholesale trade, utilities, and communications.

organizing under the Railway Labor Act. According to one AFL-CIO estimate, five times as many workers are being organized today outside the traditional NLRB process than through NLRB certification elections (AFL-CIO 2003).

It is extremely difficult to estimate the number of workers organized outside the NLRB process. The only systematic analysis of organizing activity and outcomes in the public sector was conducted in the early 1990s (Bronfenbrenner and Juravich 1995). The study examined all state and local certification election and voluntary recognition activity from the forty-three state agencies in thirty-four states and the District of Columbia that had collective bargaining legislation covering at least some public-sector workers in the state. The authors of the study found that approximately 45,000 workers had been organized in the public sector nationwide each year, including more than 6,000 workers in California alone. None of that data has been updated in the last decade, so we have no reliable or comprehensive data source on current public-sector organizing activity and outcomes.

Collecting accurate public-sector data is particularly difficult in California. Although election data can be obtained for state government and public education elections supervised by the State of California's Public Employment Relations Board (PERB), the majority of public-sector workers in the state, including all city and county employees, organize under a much more informal system under the jurisdiction of the California Board of Mediation and Conciliation, which has no reliable centralized data collection and reporting process.

Data on elections won under the Railway Labor Act (RLA) are available, but because most of these elections are in airline units that include workers from more than one state, there is no way of knowing, for example, how many of the 10,000 USAIRWAYS ticket agents organized by CWA, the 19,000 ticket agents organized by the IAM at United Airlines, or 5,000 mechanics organized by the Teamsters at Continental Airlines are based in California. California unions have also used other non-NLRB strategies in the private sector, particularly in the hotel and motel, building services, construction, and retail industries. Most such organizing involves a card check recognition procedure, where employers agree to recognize the union if a majority of the workers in the unit sign authorization cards. Some card check agreements further stipulate that the employer will remain neutral during the union's organizing campaign.

Data on the growing number of private-sector organizing gains from card check and voluntary recognition campaigns are even more difficult to find than data on public-sector campaigns, since no government body is responsible for collecting and reporting data on non-NLRB private-sector campaigns. The only sources of information are reports generated by AFL-CIO affiliates and sent to the national AFL-CIO; these reports are summarized each week in the AFL-CIO's *Work In Progress* reports (1997–2003). The data gleaned from these reports, supplemented with whatever organizing reports we were able to obtain from PERB, enable us to provide some rough estimates of the nature and extent of non-NLRB organizing in California between 1997 and 2002.

Organizing in California in the Public Sector, 1997–2002

The AFL-CIO's *Works in Progress* (WIP) for 2003 reported that 188,737 public-sector workers organized in California between 1997 and 2002. PERB reported that an additional 2,919 employees organized in 2001 and 2002 (PERB 2001, 2002). Most of the workers participating in PERB elections were local school district employees who were forming independent associations. In combination, the PERB and WIP data suggest that more than 191,000 public-sector workers organized in California from 1997 to 2002. Because these data only include PERB figures from 2001 and 2002 and do not include any data on county and municipal elections, we estimate that the total number of public-sector workers organized in California during this period is closer to 200,000.

The vast majority of the newly organized public-sector workers, 148,600, were home care workers, who provide in-home services to the elderly and disabled (Table 2.9). In 1999, 75,000 home care workers in Los Angeles County joined SEIU. This was the largest successful organizing campaign in California since the recognition of the UAW at Ford's massive River Rouge automobile plant some sixty years earlier (Greenhouse 1999). The victory followed a decade-long campaign by the union for legislation that would create a public authority to serve as the employer of record for the home care workers in the county (AFL-CIO 2003). Between 1997 and 2002 California unions organized nearly 150,000 home care workers through similar legislation passed by county and municipal supervisory boards.

Another significant achievement in public-sector organizing took place when the UAW won representation rights for some 10,000 graduate student employees at the eight campuses in the University of California system. These employees work as readers, tutors, and teaching assistants (AFL-CIO 2003). This victory spurred UAW organizing efforts among graduate student employees in other states. In 2000 the UAW became the first union to successfully organize graduate student employees at a private university, New York University. Graduate student employees in the private sector had previously been barred from organizing under the National Labor Relations Act because they were classified as students, not employees.

Non-NLRB Organizing in the Private Sector

According to WIP reports for 1997 through 2002, 25,374 workers were organized through card check procedures; 16,867 of these workers were in the private sector. In the private sector, the Hotel and Restaurant Employees International Union (HERE) was the union that used card check procedures most frequently, employing it to organize over 5,500 workers, particularly in the hotel and motel industry. The UFCW scored the single largest card check victory, organizing 4,600 retail employees at Thrifty Rite-Aid.

Despite the fact that the vast majority of organizing campaigns in the construc-

TABLE 2.9. Non-NLRB Organizing Reported in California, 1997–2002

	CARD CHECK		ELECTIONS		TOTAL	
	Number of Bargaining Units	*Number of Workers in Unit*	*Number of Bargaining Units*	*Number of Workers in Unit*	*Number of Bargaining Units*	*Number of Workers in Unit*
Public Sector	7	8,507	83	183,149	90	191,656
Education	3	6,327	38	18,855	41	25,182
Home care	4	2,180	18	148,600	22	150,780
Other public sector			26	15,681	26	15,681
Private Sector	43	16,867	3	849	46	17,716
Agriculture			3	849	3	849
Construction	2	23			2	23
Manufacturing	1	200			1	200
Communication	2	260			2	260
Retail and wholesale trade	7	5,600			7	5,600
Health care	6	1,745			6	1,745
Building services	2	1,600			2	1,600
Professional and business services	6	2,185			6	2,185
Entertainment	3	1,900			3	1,900
Hotels and motels	14	3,354			14	3,354
Total Non-NLRB	50	25,374	86	183,998	136	209,372

SOURCES: AFL-CIO 2003; PERB 2001, 2002.

NOTE: The number of workers in unit reflects the reported number of newly organized workers. The AFL-CIO reported 188,737 workers organized in California through non-NLRB procedures. PERB reported 2,919 workers organized through public-sector certification election procedures.

tion industry occur outside the NLRB process, only two small non-NLRB campaigns, covering a combined total of twenty-three workers, were included in the WIP data for 1997 through 2002. Absent these data there is no way to estimate reliably the number of construction workers who have been organized outside the NLRB process, although it is obviously substantially more than what has been reported. What we do know is that union membership in construction increased by more than 48,000 between 1997 and 2002, and a good portion of that was from new organizing (Hirsch and Macpherson 2003).

The California labor movement also pushed for political legislation to support card check recognition procedures in the private sector. In 1998 San Francisco Mayor Willie Brown signed legislation that requires restaurants and hotels on city property or in which the city has a financial interest to grant card check recognition to unions for which a majority of workers sign authorization cards (AFL-CIO 2003; see also Logan, this volume). As part of that initiative, the San Francisco Airport Com-

mission passed the "Labor Peace/Card Check Rule," under which the airport agreed to card check recognition procedures. The Machinists, the SEIU, and the Teamsters organized over 2,000 workers at the San Francisco airport under those procedures. Some of their organizing gains were eliminated by changes in airport security and the removal of union representation rights for thousands of federal workers following passage of the Homeland Security Act.

In combination, the WIP and PERB data suggest that more than 209,000 workers organized in California outside the NLRB process between 1997 and 2002. It is also apparent, however, that many newly organized California workers are missing from these data, particularly workers in city and county government and the construction industry and those who organized under the RLA. If those workers are added, even our most conservative estimates of the total number of workers organized outside of the NLRB in California between 1997 and 2002 would be 230,00 workers. That, with the 61,579 organized through NLRB elections, brings the total number of newly organized workers statewide close to 300,000.

COMPANY CHARACTERISTICS AND UNION ORGANIZING STRATEGIES

The national data on NLRB elections and non-NLRB campaigns provide an overview of the industries in which unions are organizing and the win rates across unions and industries. The changing nature of the organizing environment and the employer and union response to those changes are further illuminated by our microlevel survey research on NLRB certification election campaigns that took place in 1998 and 1999 (Bronfenbrenner 2000; Bronfenbrenner and Hickey 2003a, forthcoming).[3]

The survey data suggest that unions organizing today are operating in a much more global, mobile, and rapidly changing corporate environment (Figure 2.16).[4] Although most private-sector organizing campaigns continue to be concentrated in

3. Our study was based on a random sample of 600 elections in units with fifty or more eligible voters that took place in 1998 and 1999. For each case in the sample we conducted in-depth surveys of the lead organizer for the campaign by mail and phone. We were able to complete surveys for 412 of the 600 cases in our sample for a response rate of 68%. We also conducted computerized corporate, media, legal, and union database searches, reviewed Securities and Exchange Commission filings, IRS 9909s forms, and NLRB documents to collect data on company ownership, structure and operations, employment, financial condition, and unionization, and data on employer characteristics and practices.

4. Although our sample was representative across industry, union, region, and bargaining unit, the total number of cases for California, 34, is too small for us to provide any detailed analysis of the California data. Thus, in this section we primarily use national-level data to gain a better understanding of the current nature of organizing campaigns.

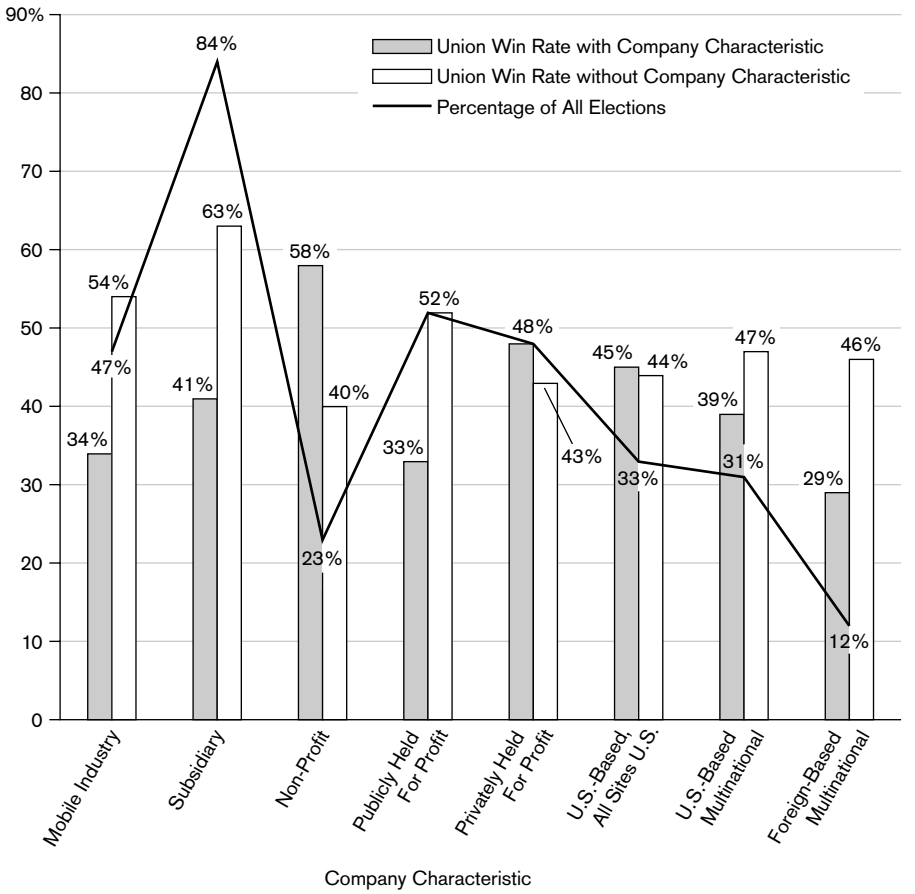

FIGURE 2.16. NLRB Elections, Union Win Rates, and Corporate Structure, National Sample, 1998–1999

SOURCE: Bronfenbrenner and Hickey, forthcoming.

relatively small units in U.S.-owned for-profit companies, these companies are increasingly subsidiaries of larger parent companies, including many multinationals. This is not because unions are targeting large multinational companies, but because the U.S. private sector is increasingly dominated by multinational firms. Nationwide, only one-third of all campaigns occur in for-profit companies with all sites and operations based in the United States, while 23% take place in non-profit companies such as hospitals, social service agencies, or educational institutions (Bronfenbrenner and Hickey, forthcoming).

Fifty-four percent of all NLRB elections are concentrated in mobile industries—those for which production can easily be shifted out of state or out of the country. Not surprisingly, win rates average just 34% in campaigns conducted in mobile industries compared to 54% in immobile industries. Organizing win rates average as high as 58% in non-profit companies, compared to 40% in for-profit companies.

Among for-profit companies, win rates are highest for U.S.-based companies with all sites in the U.S. (45%) and lower for foreign-based multinationals (29%) and U.S.-based multinationals (39%). Win rates are also much higher (63%) in the 16% of the companies that are not subsidiaries of larger parent companies; the win rate for companies that are subsidiaries is 41%.

An analysis of the national data on NLRB elections and non-NLRB campaigns reveals that unions in California are conducting a higher percentage of their organizing activity in service industries and the public sector than are unions in most other states. Thirty-seven states (74%) have a higher percentage of NLRB elections in manufacturing industries than California does (21%), whereas California's percentage of elections in service industries (33%) is greater than the percentage of service industry elections in thirty other states. This suggests that unions organizing in California are less likely to confront large multinationals with sites and operations around the globe, and more likely to organize among non-profits and other less mobile service industries.

Bargaining Unit Demographics

Our earlier discussion of demographic data reveals that California unions are organizing a more diverse workforce and are much more diverse than their counterparts are across the nation. According to our survey data, win rates increase substantially as the proportion of women and non-Anglo workers increase (Figure 2.17). Although win rates average only 35% in units with a majority of Anglo men, they average 53% in units with a majority of non-Anglo workers, 56% in units with at least 75% non-Anglo workers, 58% in units with a majority of women, and 62% in units with at least 75% women. The highest win rate, 82%, is in units with 75% or more non-Anglo women. The higher win rates in these units indicate that, first, women and non-Anglos—particularly non-Anglo women—are participating in union elections in ever increasing numbers, and, second, the vast majority of new workers coming into the labor movement today are women and non-Anglos. This is particularly true in California, especially in the areas of the economy where California unions have been concentrating their organizing efforts.

Figure 2.17 also provides data on organizing activity among recent immigrants and undocumented workers. Nationwide, immigrants have played a major role in many of the largest organizing victories in the last six years, which have occurred in industries such as home care, hotel, laundry, building services, drywall, and asbestos removal. Most of those campaigns were not conducted within the NLRB process (AFL-CIO 2003). Only 8% of all of the elections in our survey were in units with 25% or more recent immigrants, and only 7% of the campaigns had undocumented workers in the unit. Win rates are 58% in units with at least 25% recent immigrants. In units with undocumented workers the win rate drops to 36%, which reflects the ability and willingness of employers to use the threat of deportation to thwart organizing efforts among these workers. The limited success of

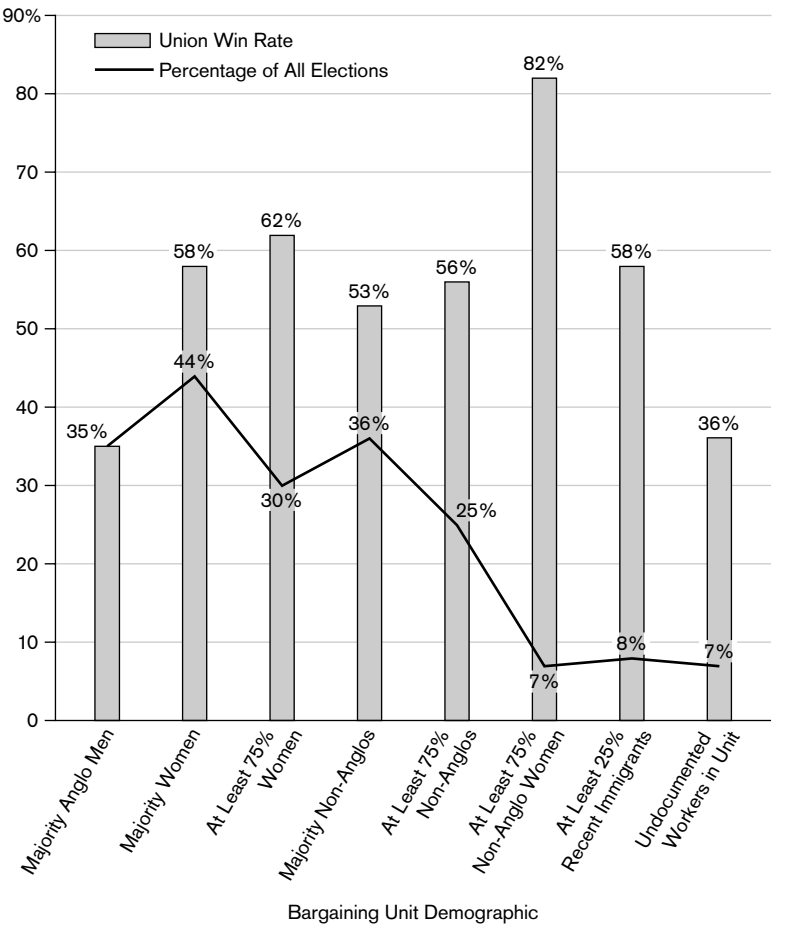

FIGURE 2.17. NLRB Elections and Union Win Rates, by Selected Demographics, National Sample, 1998–1999
SOURCE: Bronfenbrenner and Hickey, forthcoming.

NLRB elections in these units suggests that card check neutrality campaigns have become important in California because, in part, of the large numbers of undocumented workers in the state.

Employer Behavior

Not only are unions organizing in a corporate environment that has become much more complex and diverse in recent years, they are also facing extremely sophisticated and aggressive employer opposition. According to our survey, the overwhelming majority of employers aggressively oppose union organizing efforts through a combination of threats, discharges, promises of improvements, unscheduled unilateral changes

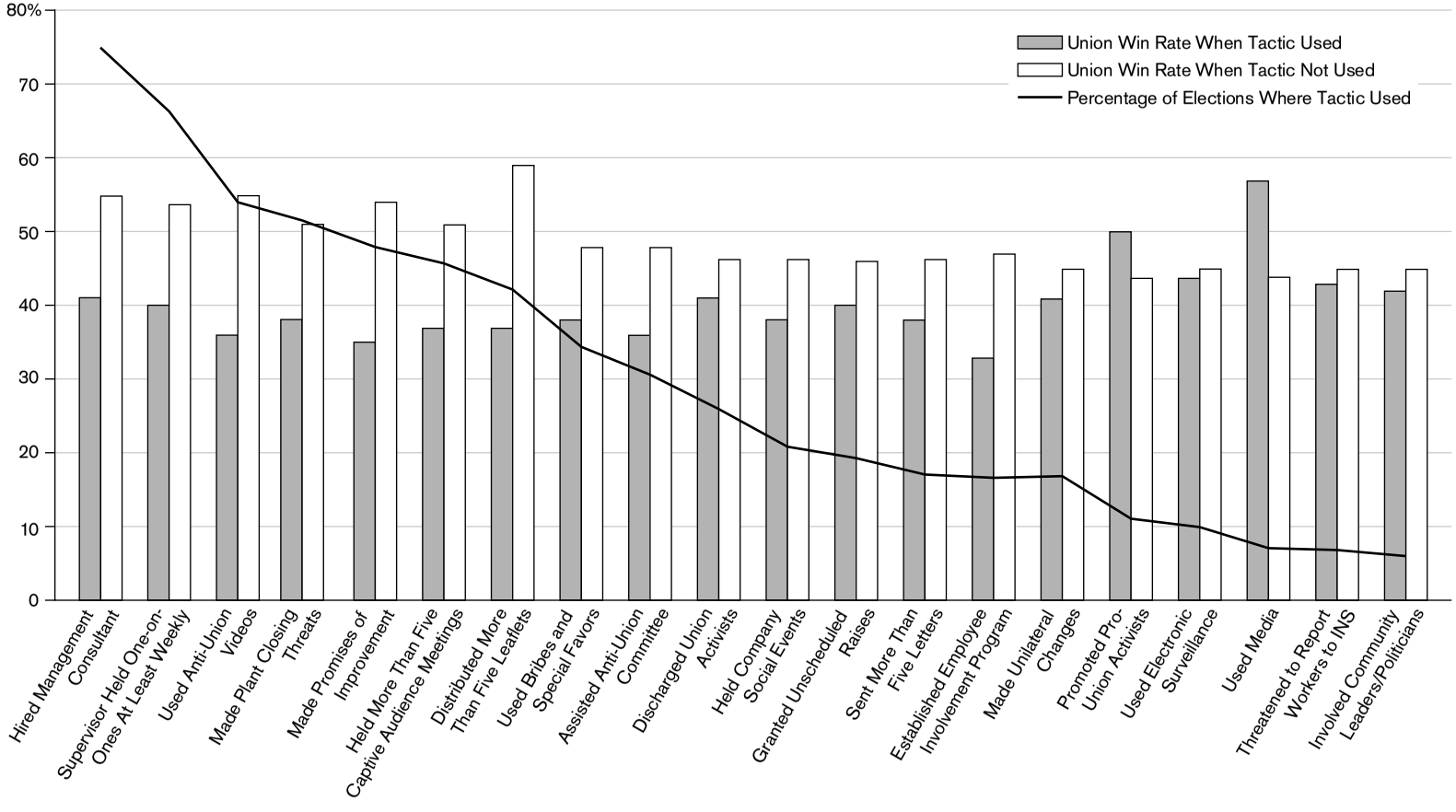

FIGURE 2.18. NLRB Elections and Union Win Rates, by Employer Tactic, National Sample, 1998–1999
SOURCE: Bronfenbrenner and Hickey, forthcoming.

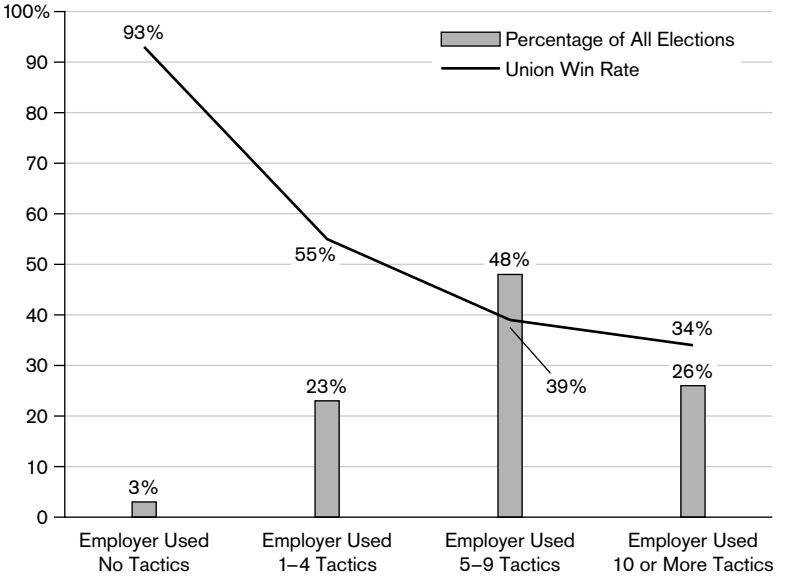

FIGURE 2.19. NLRB Elections and Union Win Rates, by Intensity of Employer Campaign, National Sample, 1998–1999
SOURCE: Bronfenbrenner and Hickey, forthcoming.

in wages and benefits, bribes, and surveillance (Bronfenbrenner 2000). Figure 2.18 presents the employer anti-union tactics that are most commonly used in NLRB elections, listed by frequency of use. As the survey data show, the use of many such tactics has become pervasive. Moreover, these tactics, whether used individually or in combination, are extremely effective in reducing union election win rates.

Fifty-two percent of all employers and 68% of those in mobile industries make threats of full or partial plant closure during the organizing drive. Approximately one in every four (26%) discharge workers for union activity, 48% make promises of improvement, 20% give unscheduled wage increases, and 17% make unilateral changes in benefits and working conditions. Sixty-seven percent of the employers hold one-on-one meetings between supervisors and employees at least weekly, 34% give bribes or special favors to those who oppose the union, 31% assist the anti-union committee, and 10% use electronic surveillance of union activists during the organizing campaign. Employers threaten to refer undocumented workers to the Immigration and Naturalization Service (INS) in 7% of all campaigns and in 52% of cases where undocumented workers are present. For the most aggressive employer tactics, win rates average ten to twenty percentage points lower when an anti-union tactic is used than when it is not.

Most employers use a combination of tactics (Figure 2.19). Forty-eight percent of the employers ran moderately aggressive anti-union campaigns, using five to nine tactics, and 26% of the employers ran extremely aggressive campaigns, using more

than ten tactics. Twenty-three percent ran weak campaigns, using one to five anti-union tactics. Employers ran no campaign whatsoever against the union in only 3% of the cases in our survey—and unions won each of these elections. Overall, the win rate drops to 55% for units where employers use one to five tactics, 39% where they use five to nine tactics, and 34% where they use ten or more. The fact that only a slight drop occurs between moderately aggressive and extremely aggressive employer campaigns suggests that aggressive anti-union behavior by employers may reach a point of diminishing returns, particularly at a time when unions are running more aggressive and sophisticated campaigns and workers' trust in corporations is declining.

COMPREHENSIVE UNION ORGANIZING STRATEGIES

Increasing organizing activity and success is extremely difficult in the face of employers' increasingly sophisticated opposition and the dramatic growth of corporate restructuring and capital mobility. Still, it is too easy to blame employer opposition alone for the labor movement's failure to organize. As we have seen, some unions are making significant organizing gains even in extremely hostile climates. The difficulty lies in the fact that the majority of unions continue to run relatively weak, non-strategic campaigns (Bronfenbrenner and Hickey 2003). They have invested some money in organizing, recruited more organizers, and added one or two new tactics to their arsenal, but they have not made the wholesale strategic, structural, and cultural changes required to take on the diffuse, globally connected, and extremely mobile corporate structures that dominate America today.

To make significant gains in the private sector, unions have to mount organizing campaigns that are more aggressive, creative, and strategic, and they need to recruit and train enough organizers to effectively mount them. Our analysis suggests that a comprehensive union-building strategy incorporates the following ten elements, each of which is a cluster of key union tactics critical to union organizing success:

1. Adequate and appropriate staff and financial resources.
2. Strategic targeting and research.
3. Active and representative rank-and-file organizing committees.
4. Active participation of member volunteer organizers.
5. Person-to-person contact inside and outside the workplace.
6. Benchmarks and assessments to monitor union support and set thresholds for moving ahead with the campaign.
7. Issues that resonate in the workplace and in the community.
8. Creative, escalating internal pressure tactics involving members in the workplace.
9. Creative, escalating external pressure tactics involving members outside the workplace at local, national, and/or international levels.
10. Building for the first contract during the organizing campaign.

TABLE 2.10. Union Use of Comprehensive Organizing Strategies, National Sample, 1998–1999

	Percentage of NLRB Elections	*Percentage of NLRB Elections Won*	*Percentage of NLRB Elections Lost*	*Win Rate*
Adequate and appropriate staff and financial resources	14%	21%	9%	64%
Strategic targeting	39	45	34	51
Active representative rank-and-file committee	26	33	21	56
Effectively utilized member volunteer organizers	27	31	23	52
Person-to-person contact inside and outside the workplace	19	23	16	53
Benchmarks and assessments	24	35	14	66
Issues that resonate in the workplace and community	23	25	21	49
Escalating pressure tactics in the workplace	37	42	33	50
Escalating pressure tactics outside the workplace	17	18	16	48
Building for the first contract before the election	35	39	31	50

SOURCE: Bronfenbrenner and Hickey, forthcoming.

Table 2.10 presents summary statistics for these comprehensive organizing tactics, showing how extensively unions use them in NLRB elections. Overall, only 14% of all the union campaigns devote adequate and appropriate resources to the campaign, only 19% engage in person-to-person contact inside and outside the workplace, and only 17% engage in escalating pressure tactics outside the workplace such as rallies, community forums, stockholder actions, and pressure on customers, suppliers, and investors. Fewer than 30% have active representative committees or effectively utilize member volunteer organizers, while fewer than 25% use benchmarks and assessments or focus on issues that resonate in the workplace and broader community. The highest percentages are found for strategic targeting (39%), escalating pressure tactics inside the workplace (37%), and building for the first contract before the election is held (35%).

All the organizing tactics are more likely to be used in winning campaigns than in losing ones. The results are particularly striking for adequate and appropriate resources (used in 21% of winning campaigns but 9% of losing campaigns), active

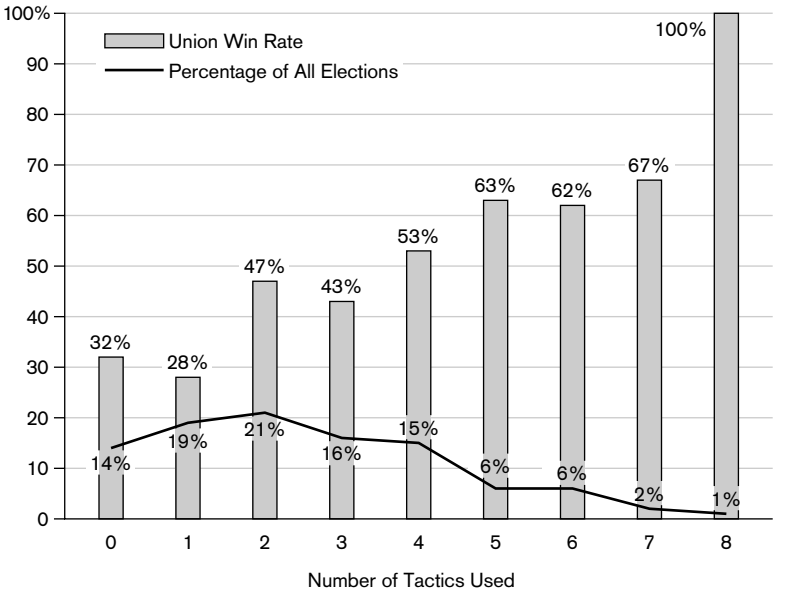

FIGURE: 2.20. NLRB Elections and Union Win Rates, by Number of Comprehensive Organizing Tactics Used, National Sample, 1998–1999
SOURCE: Bronfenbrenner and Hickey, forthcoming.

representative committees (33% of winning campaigns compared to 21% of losing campaigns), and benchmarks and assessments (35% of winning campaigns compared to 14% of losing campaigns). Each of the individual elements are associated with win rates that average between 4 to 28 percentage points higher when unions use the tactic than when they do not. Once again, the most dramatic differences in win rates are associated with adequate and appropriate resources (64% when present, 41% when not present), active representative committee (56% when present, 41% when not present), and benchmarks and assessments (66% when present, 38% when not present).

It is in combination that these tactics are most effective. As Figure 2.20 shows, the win rate increases dramatically for each additional tactic used. Win rates start at 32% for no organizing tactics, and then increase to 63% when five tactics are used, and 100% for the 1% of the campaigns in which unions use eight tactics. These data also suggest that only a very small number of unions are using more than a few of these tactics. Fourteen percent of all campaigns use no organizing tactics and 56% use between one and three, but only 15% of all campaigns use five or more tactics. None use more than eight.

Across all industrial sectors, win rates are much higher in elections where unions use a comprehensive organizing strategy incorporating more than five comprehensive tactics, compared to campaigns in which they use five or fewer tactics (Figure

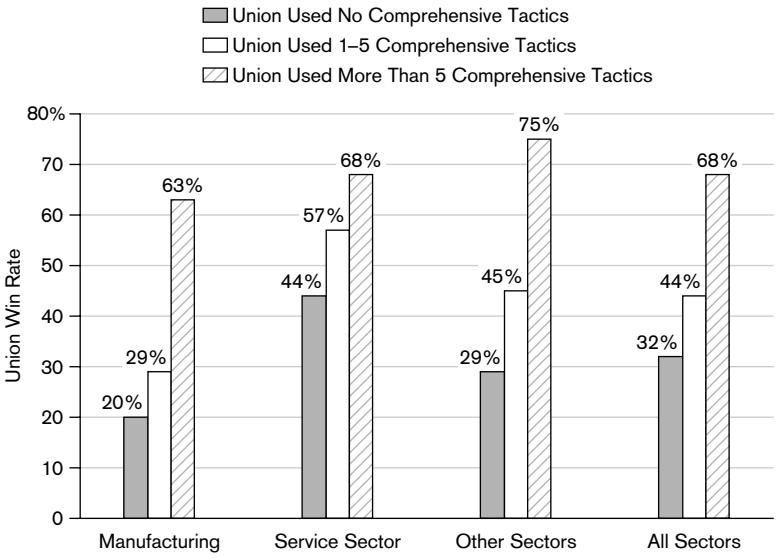

FIGURE 2.21. Union Win Rates, by Sector and Number of Comprehensive Organizing Tactics Used, National Sample, 1998–1999
SOURCE: Bronfenbrenner and Hickey, forthcoming.

2.21). In manufacturing, the win rate averages only 20% in campaigns in which unions use no comprehensive organizing tactics, increasing only slightly to 29% when they use between one and five tactics, but then jumps to 63% in the campaigns in which they use more than five tactics. In the service sector the unions win 44% of campaigns when no tactics are used, 57% when one to five tactics are used, and 68% when more than five comprehensive tactics are used. In all other sectors combined (communications, construction, transportation, retail and wholesale trade, and utilities) the win rate associated with campaigns in which unions use no comprehensive tactics is 29%, increasing to 45% when one to five tactics are used, and 75% when more than five comprehensive tactics are used. Thus, we find that a comprehensive organizing strategy improves election outcomes substantially, across all sectors of the economy, even in the most mobile and global industries.

The importance of comprehensive organizing campaigns is most evident in the context of employer behavior (Figure 2.22). Win rates average 93% when the union runs a comprehensive campaign while the employer mounts a moderately aggressive campaign against it, but drop to 35% when the union's campaign is not comprehensive. Even in campaigns with aggressive employer opposition, win rates average 52% overall with a comprehensive campaign, compared to only 29% without. Our research finds that these trends hold true not only across all sectors but also across company characteristics and bargaining unit demographics. Even first contract rates are higher when unions use five or more tactics during the organizing phase of the campaign (Bronfenbrenner and Hickey, forthcoming). Although the majority of

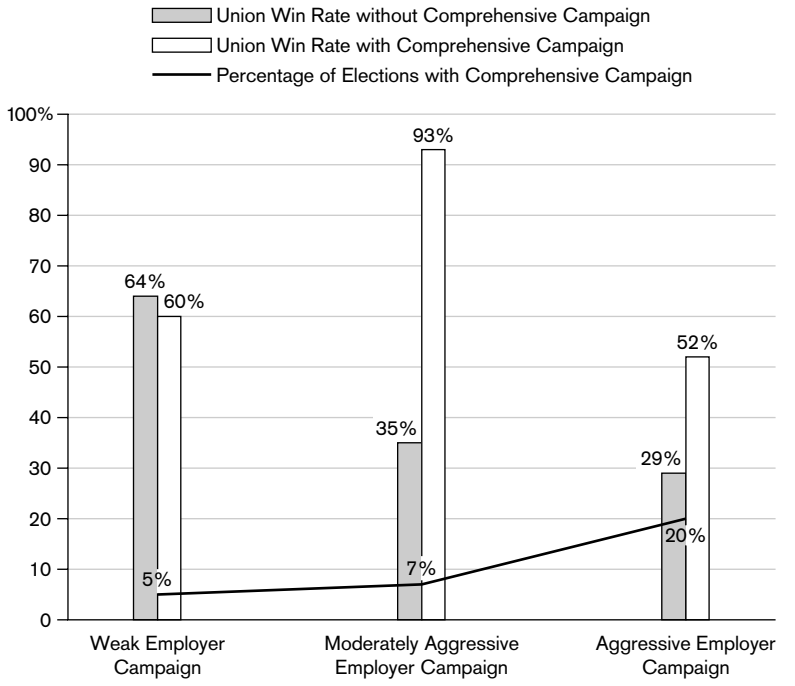

FIGURE 2.22. Comprehensive Campaigns and Union Win Rates, by Intensity of Employer Opposition, National Sample, 1998–1999

SOURCE: Bronfenbrenner and Hickey, forthcoming.

NOTE: "Comprehensive campaigns" includes all campaigns in which the union used five or more comprehensive organizing tactics.

employers run aggressive campaigns, taking full strategic advantage of a broad range of anti-union tactics, the majority of unions continue to run fairly weak campaigns, even when faced with aggressive employer opposition. Indeed, in only two campaigns in our sample did unions use more than six comprehensive organizing tactics when they faced aggressive employer opposition—both elections were won. Thus, although employer anti-union campaigns can and often do have a devastating impact on union attempts to organize workers, unions can increase their win rates, even in the face of the most aggressive employer opposition, if they run comprehensive campaigns.

CALIFORNIA UNIONS AND COMPREHENSIVE CAMPAIGNS

Our survey findings suggest that California unions are no exception to the national pattern: they use only a limited number of organizing tactics during NLRB campaigns (Figure 2.23). Use of these tactics by most unions in California is similar to that of unions nationwide, which explains why NLRB win rates continue to average

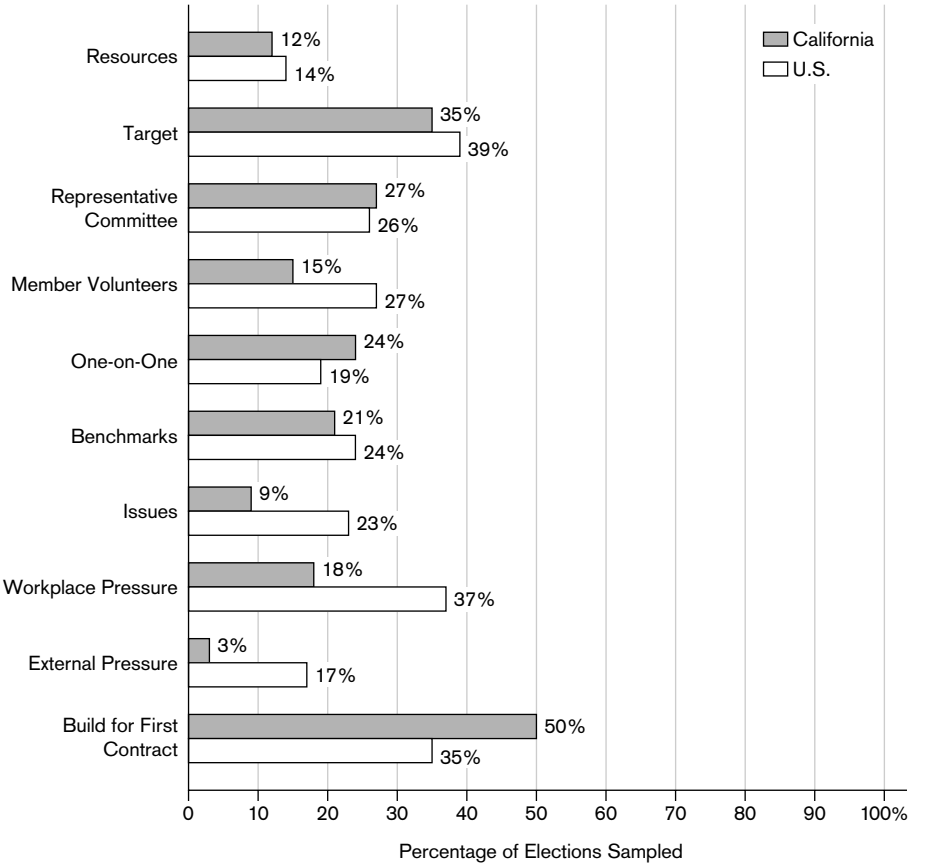

FIGURE 2.23. Use of Selected Organizing Tactics in California and U.S, National Sample, 1998–1999

SOURCE: Bronfenbrenner and Hickey, forthcoming.

between 55% to 58% a year and why the number of workers gained through NLRB elections in California has had a limited impact on union density in the state.

Unions have seen more dramatic gains in non-NLRB campaigns in California, especially in card check neutrality agreements, where we have found the most comprehensive use of organizing strategies. Although our survey data are limited to NLRB campaigns, interviews with organizers and union leaders who have successfully employed card check neutrality agreements suggest that organizing strategies are critical to the success of non-NLRB strategies. The unions that have brought in the most new members through organizing outside the traditional NLRB process (SEIU in building services and homecare, CWA in wireless technologies, HERE in hotels, and UNITE in laundries) have succeeded in these endeavors because they have been following a more comprehensive organizing strategy. Those that have been least successful in winning non-NLRB campaigns have focused on external leverage and have

neglected to develop an active representative committee, person-to-person contact in the workplace and community, and escalating internal pressure tactics. Often they have also failed to do strategic research or to commit sufficient resources to mount the kind of campaign necessary to make the cost of fighting the union greater than the cost of voluntarily recognizing the union and bargaining for a first agreement.

CONCLUSION

Our analysis of union organizing activity shows that unions in California have been more successful than the U.S. labor movement as a whole in reversing the decline of union density: the California labor movement has increased union density in both the private and the public sectors. In contrast to losses in union membership nationwide between 1997 and 2002, California unions gained more than 500,000 members during that period (Hirsch and Macpherson 2003). The size and diversity of the California labor movement further suggests that unions could substantially increase union membership and density and build the bargaining power and political influence that results from a large and expanding labor movement.

Despite these encouraging trends, the record of organizing success in California remains modest, particularly within the NLRB framework. Union win rates in NLRB certification elections are only slightly higher in California than in the nation as a whole. California unions added just over 61,500 new members from 1997 to 2002 through NLRB elections. This pales in comparison to California's employment growth during the same period: over one million people began working in private-sector industries. Organizing activity outside the NLRB process has shown much greater promise, adding more than three times the number of new union members gained under the NLRB. This non-NLRB organizing activity, however, has been concentrated in a limited number of unions and industries. California unions have scored their greatest organizing successes when they have wielded their political influence and bargaining power in combination, as they have in the home care industry. The historic victories among home care workers in the last six years have transformed organizing activity in the state. Private-sector organizing outside the NLRB has been far more modest.

The labor movement has tremendous potential in California, for unions could organize at a scale much larger than is possible in most other states. To tap that potential, California unions, like the U.S. labor movement in general, will have to run more comprehensive organizing campaigns both within and outside the NLRB process. But unlike the labor movement in other states, unions in California have a solid foundation upon which to build and a diverse workforce that is ripe for organizing.

REFERENCES

AFL-CIO. 2003. *Work in Progress.* Newsletters dated 6 January 1997–6 January 2003. Paged electronic document. Retrieved 10 June 2003 from http://aflcio.org/aboutaflcio/wip/.

BLS (U.S. Bureau of Labor Statistics). 2003a. *Current Population Survey: Merged Outgoing Rotation Groups with Earnings Data.* Washington, D.C.: Bureau of Labor Statistics. Available online from http://www.ciser.cornell.edu.

———. 2003b. Online database for the current employment statistics from the monthly establishment survey. Unpaged electronic document. Retrieved 10 June 2003 from http://data.bls.gov/labjava/outside.jsp?survey=ce.

BNA PLUS. 2002. Database of NLRB certification elections 1997–2001. Prepared specifically for the Cornell Office of Labor Education Research by BNA PLUS, the research division of The Bureau of National Affairs, Inc., Washington, D.C.

———. 2003. Database of NLRB elections 2002. Prepared specifically for the Cornell Office of Labor Education Research by BNA PLUS, the research division of The Bureau of National Affairs, Inc., Washington, DC.

Bronfenbrenner, Kate. 1996. "Lasting Victories: Successful Union Strategies for Winning First Contracts." In *Proceedings of the Forty-Eighth Annual Meeting.* Madison, Wisconsin: Industrial Relations Research Association.

———. 2000. *Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages, and Union Organizing.* Washington, D.C.: U.S. Trade Deficit Review Commission. Available online from http://www.ustdrc.gov/research/bronfenbrenner.pdf.

Bronfenbrenner, Kate, and Robert Hickey. 2002. "Overcoming the Challenges to Organizing in the Manufacturing Sector." Unpublished report submitted to the AFL-CIO.

———. 2003a. *Blueprint for Change: A National Assessment of Winning Union Organizing Strategies.* Ithaca, N.Y.: Office of Labor Education Research, Cornell University.

———. Forthcoming. "Changing to Organize: A National Assessment of Union Organizing Strategies." In *Rebuilding Labor: Organizing and Organizers in the New Union Movement*, edited by Ruth Milkman and Kim Voss. Ithaca, N.Y.: Cornell University Press.

Bronfenbrenner, Kate, and Tom Juravich. 1995. *Union Organizing in the Public Sector: An Analysis of State and Local Elections.* Ithaca, N.Y.: ILR Press.

EDD (State of California, Employment Development Department). 2003. "California Industry Employment and Labor Force, by Annual Averages. March 2002 Benchmark." Spreadsheet. (Updated on 7 May 2003.) Paged electronic document. Retrieved 10 June 2003 from http://www.calmis.ca.gov/file/indhist/cal$haw.xls.

Greenhouse, Steven. 1999. "In Biggest Drive since 1937, Union Gains a Victory." *The New York Times* 1(3) February 25.

Hirsch, Barry T., and David A. Macpherson. 2003. "Union Membership and Coverage Database from the Current Population Survey: Note." *Industrial and Labor Relations Review* 56(2): 349–354.

Juravich, Tom, and Kate Bronfenbrenner. 1998. "Preparing for the Worst: Organizing and Saying Organized in the Public Sector." In *Organizing to Win: New Research on Union Strategies*, edited by Kate Bronfenbrenner, Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald, and Ronald L. Seeber. Ithaca: N.Y.: ILR Press.

PERB (State of California, Public Employment Relations Board). 2001. *2000–2001 Annual Report.* Paged electronic document. Retrieved 10 June 2003 from http://www.perb.ca.gov/pdfs/annual_report_2001.pdf.

———. 2002. *2001–2002 Annual Report.* Paged electronic document. Retrieved 10 June 2003 from http://www.perb.ca.gov/pdfs/annual_report_2002.pdf.

APPENDIX. Method and Sources

We used a combination of data sources for this study. Our primary source for national employment data was the Bureau of Labor Statistics (BLS) online data from the monthly establishment survey (BLS 2003a). Our primary source for California employment data was the State of California Employment Development Department (2003) website. We created aggregate industry totals from these two data sources. Union density and demographic information for California and the United States were derived from Current Population Survey (CPS) data compiled from the BLS "Current Population Survey: Merged Outgoing Rotation Groups with Earnings Data" (Bureau of Labor Statistics 2003b).

The CPS data files for 1997 and 2002 are from the Cornell Institute for Social and Economic Research. We created new aggregate industry variables based on the existing industry classification to ensure adequate response levels for California industry data, but no other manipulations or weighting schemes were used to alter the existing data. Union density and demographic estimates include all respondents employed in the industry, including those not currently working, but exclude those not in the labor force or self-employed. CPS uses an industrial classification system equivalent to the Standard Industrial Classification (SIC). We again derived broader industrial categories from the detailed industrial classifications.

The NLRB statistics were compiled from specialized databases, prepared by BNA Plus, that cover all NLRB certification elections from 1 January 1997 through 31 December 2002. These databases include election information on company name, petitioning union, number of eligible voters, election type, vote count, outcome, and certification date (BNA Plus 2002, 2003). For the elections in which the bargaining unit's industrial classification was not recorded in the BNA database, the authors used online data sources, such as LexisNexis and Hoovers Online, to identify the proper industrial classification for the company and bargaining unit listed. These data were supplemented by information on non-NLRB campaigns compiled through a search for California cases in the AFL-CIO *Work in Progress* reports from 1997–2002 (AFL-CIO 2003). Informal interviews with union organizing directors and staff provided additional information on non-NLRB organizing activity.

Annual reports compiled by the State of California's Public Employment Relations Board (PERB) for the state legislature provided additional information on public-sector organizing activity PERB 2002). PERB supervises certification elections only for state employees and school district employees, including community colleges. Organizing among county and city government employees occurs under the jurisdiction of the California Mediation and Conciliation Service; however, the elections themselves are supervised by a diversity of officials and agencies such as the American Arbitration Association. Thus there is no centralized data collection authority for union organizing among county and municipal employees in California.

Additional data on NLRB campaign characteristics were based on findings from a survey commissioned in May 2000 by the United States Trade Deficit Review Commission to update previous research on the impact of capital mobility on union organizing and first contract campaigns in the U.S. private sector (Bronfenbrenner 2002; Bronfenbrenner and Hickey 2002, 2003a, 2003b).

The State of California Labor, 2003, Vol. 3, pp. 39–83, ISSN 1531-9037, electronic ISSN 1541-9045.

Immigrant Employment and Mobility Opportunities in California

FRANK D. BEAN and
B. LINDSAY LOWELL

More immigrants come to the United States than to any other country in the world. In 2000 an estimated 1.20 million foreign-born persons were added to the U.S. population—850,000 who entered legally plus some 350,000 unauthorized entrants (United Nations Population Division 2003).[1] California, which in 2000 had the fifth or sixth largest economy in the world, received the largest share. More than 329,000 (about 217,000 legal and 112,000 unauthorized) immigrants, or 28%, settled in the state. In contrast, about 129,000 arrived in New York, the state with the second largest immigration (U.S. Immigration and Naturalization Service 2002, 2003).

Americans in general, and Californians in particular, often display ambivalence about immigration, welcoming the inexpensive labor that immigrants provide, for example, but worrying (probably unnecessarily) that immigration may erode cultural solidarity and national identity and cohesion (Bean and Stevens 2003; Clark 2003). Anxieties about immigration notwithstanding, the latter half of the 1990s witnessed growing recognition that immigrants were playing an important and increasingly prominent role in the U.S. economy (Mexico-U.S. Migration Panel 2001). Eleven percent of the country's total population was foreign born in 2000, but 14% was between the ages of eighteen and sixty-four—the prime employment years (U.S. Bureau of the Census 2000). Among the population in that age group actually working, the percentage of foreign born was equally high, at 14%. The percentage of children in the population who were either immigrants or the children of immigrants was even higher, nearly 20%, indicating that the nation's future workforce will be even more dependent on immigration (Hernandez 1999). And in California, where these percentages are larger still, the immigrant share of the workforce is even more striking.

Many immigrants come to the United States expressly for the purpose of working, including those who come as unauthorized labor migrants from Mexico and those who enter under various kinds of employment-based visas. Most of those who

1. On a net basis. This was over 900,000 more than the number added to the Russian Federation, the world's second leading immigration country.

ostensibly come for non-work–related reasons, including those who enter under the various preference categories for family reunification visas, end up holding jobs that are similar in kind and pay to those who enter the country with work-related visas (Sorensen et al. 1992). Indeed, for legal immigrants, neither placement within the workforce nor economic status is appreciably determined by what type of visa they use to enter the country.

The nature and magnitude of newcomer arrivals must be understood in the context of economic restructuring in the United States and California. The role of immigrants in state and national workforces has grown while employment structures have changed. Both California and the nation are experiencing a relative decline in manufacturing employment (especially high-wage, unionized jobs), a relative increase in service-industry employment, declining or stagnant real earnings at the middle and the bottom of the income distribution, a growing number of working-age males (especially young African Americans) who are dropping out of the labor force, decreasing wage gaps between men and women at equivalent levels of education, and declining levels of childbearing among native-born women (Bean and Bell-Rose 1999; Bean and Stevens 2003).

The bimodal educational distribution of immigrants entering the United States in recent years is another important phenomenon. Immigrants coming to the country have had either a high level of education (i.e., a college degree) or a low level (i.e., without a high school diploma). In 2000, for example, 26% of adult immigrants had completed a college degree or higher, a figure slightly larger than that for the native population (25%). At the same time, 33% of all adult immigrants had not completed high school, compared to only 13% of adult natives. Among those with a high school diploma or some college (but not a college degree), immigrants were relatively less numerous than natives (41% compared to 61%) (U.S. Bureau of the Census 2000). This "hollowed out" educational distribution mirrors the pattern of change in the labor market in recent years, namely substantial growth in the numbers of high- and low-end jobs, with much lower increases in the middle range (Milkman and Dwyer 2002).

The growth in numbers of less-skilled immigrants presents a puzzle for social scientists. The migration has continued even as earnings at the bottom of the income distribution have stagnated and the employment opportunities of disadvantaged native racial/ethnic minorities, especially African Americans, have stalled (Bean and Bell-Rose 1999; Waldinger and Lichter 2003). Given the relative disappearance of manufacturing jobs in cities, where many African Americans live, and the movement of middle-class African American role models to the suburbs, which has further disadvantaged African Americans (Wilson 1987, 1996), how does one explain the growth in less-skilled immigration? Why should more and more less-skilled Mexican migrants come to the United States when the demand for less-skilled labor appears to be declining? The answer has partly to do with imbalances in demography and economy in Mexico, which continue to generate more labor supply than

demand (Mexico-United States Binational Study 1997). Although this disequilibrium is less extreme today than in the past, the lack of job opportunities in Mexico still makes even the worst jobs and limited employment prospects in the United States attractive to many (Porter 2003). Moreover, social networks among less-skilled immigrant groups foster migration and confer recruitment and hiring advantages relative to African American workers at the low end of the wage scale (Massey et al. 1987; Waldinger 2001; Waldinger and Lichter 2003).

Two decades of empirical research on the labor market consequences of immigration have found few adverse short-run effects for native workers, although this research has shown that increased immigration of less-skilled workers does limit employment opportunities for less-skilled immigrants who had arrived earlier (Bean, Van Hook, and Fossett 1999; Friedberg and Hunt 1999). Does this mean that the prospects for moving up the job ladder into the economic mainstream are diminishing for today's immigrants, relative to earlier generations? Are opportunities for immigrants lessening in part because economic restructuring is hollowing out the middle of the job structure, leaving fewer pathways to upward mobility? To what degree is this worrisome possibility exacerbated by the fact that so many of the new immigrants are non-Anglo and thus are presumably subject to racial/ethnic discrimination?[2]

IMMIGRATION AND THE STRUCTURE OF EMPLOYMENT OPPORTUNITIES

In recent decades the structure of job opportunities in the United States in general and California in particular has increasingly taken an "hourglass" or "U-shaped" form (Bell 1973; Milkman and Dwyer 2002; Piore and Sabel 1984; Wright and Dwyer 2002). The relative decline in the manufacturing sector (which shifted from employing 33% of private-sector workers in 1970 to 17% in 2000) has resulted in fewer jobs that provide a middle-class lifestyle, especially for persons without college educations. Although many factors affect the structure of the labor market, these trends suggest diminishing opportunities for upward mobility, particularly for workers without college degrees.

Discrimination in hiring, pay, and promotion on the basis of ascriptive characteristics such as race/ethnicity, nativity, and gender is harder to overcome under conditions of declining opportunities, especially for persons at the bottom of the social hierarchy, whose chances for betterment depend on the number and kind of mid-range opportunities for employment as well as the nature and strength of barriers that stand in the way of achievement. Research indicating that racial/ethnic groups,

2. Throughout this chapter, "Anglo" refers to non-Latinos, or what the U.S. Census Bureau calls "non-Hispanic whites"; "African American," similarly, refers to non-Latino African Americans, or "non-Hispanic Blacks."

especially female workers, are concentrated at the bottom of the job distribution heightens concerns about emergent hourglass structures of employment and job mobility. This is the context in which we must evaluate the prospects for new immigrants. They are not only newcomers to America's workforce but also new members of ethnic groups whose prospects for mobility are impeded to the extent that they are treated as racialized minorities. Evidence of upward mobility among low-end immigrants would suggest that immigrant status might not constrain opportunity to the degree that perspectives focusing on the effects of race/ethnicity alone (without taking nativity into account) would imply. It is thus crucial to disaggregate outcomes by nativity. Moreover, it is also important to ascertain the extent of gender variation, given that immigrant women may start out in very low-level jobs. In what follows we disaggregate employment and mobility outcomes by race/ethnicity, nativity, *and* gender, something all too often neglected in labor market studies.

IMMIGRATION AND RACE AND ETHNICITY

Ascertaining whether and to what degree racial/ethnic discrimination might worsen opportunities for upward mobility for today's less-skilled immigrants requires considering the extent to which predictions about their economic incorporation involve assumptions about their status as members of racialized groups. Competing theories of immigrant incorporation offer optimistic (in the case of assimilation perspectives) or pessimistic (in the case of ethnic disadvantage perspectives) pictures of the process, or a mixture of the two (in the case of segmented assimilation views) (Bean and Stevens 2003). The predominance of any one of these views has depended substantially, if not always explicitly, on whether a given immigrant group is treated as a racialized, disadvantaged minority group. Ethnic disadvantage perspectives tend to perceive immigrant groups as non-Anglo minorities subject to discrimination, whereas assimilation perspectives tend to deemphasize racial/ethnic status and focus on nativity. Thus, the issue of immigrant economic incorporation in the United States is inextricably confounded with the issue of race/ethnicity (Bean and Bell-Rose 1999). To be sure, the difference between the two perspectives is relative rather than absolute. Nonetheless, the question of the pace of assimilation cannot be separated from the question of the extent to which new immigrants tend to be regarded (and to regard themselves) as members of disadvantaged and racialized minority groups.

The case of the Mexican-origin population exemplifies the difficulty of strictly applying either perspective to new immigrants. Each view finds some evidence in support of its claims. On the one hand, research suggests that persons of Mexican origin often face job discrimination, although less frequently than African Americans do (Bean and Tienda 1987; Perlmann and Waldinger 1999). It is also evident that data *not* disaggregated by nativity present an incomplete picture. The large gap

in education and earnings between immigrant and native-born persons of Mexican origin may have more to do with the different levels of economic development in Mexico and the United States than with discrimination (see, e.g., Bean, Berg, and Van Hook 1996; Bean, Gonzalez-Baker, and Capps 2001; Trejo 1996, 1997). Research that lumps all Mexican-origin persons together thus tends to yield a negatively biased view of the economic position of Mexican natives.

To address the question of the role and position of immigrants in the California workforce, we provide a profile of the California labor force as well as an analysis of job quality and mobility in the late 1990s. We begin by examining employment patterns in California, disaggregated by race/ethnicity, nativity, and gender, in 1990 and 2000. We then go on to look at job quality and mobility, with job quality defined by occupation, industry, and relative earnings, using the 1994 and 2000 Current Population Survey (CPS).

IMMIGRANT EMPLOYMENT IN CALIFORNIA: A PROFILE

Our profile focuses on immigrant employment in California as a whole and on the state's two largest metropolitan areas—Los Angeles and San Francisco—using the decennial census data for 1990 and 2000.[3] These data not only allow an assessment of patterns of aggregate change since 1990; the large numbers of observations also permit us to gauge variations by nativity, race/ethnicity, gender, industry, and metropolitan area simultaneously. If inequities in employment opportunities and outcomes facing certain groups of Californians are to be improved by public policies, insight into the factors causing the inequities is crucial. This knowledge can be obtained only if we know which groups are most severely affected.[4]

3. We use the 1-percent PUMS (Public Use Microdata Series) for 1990 and 2000, for all California civilian workers between the ages of 18 and 64. Differences exist between the 1990 and 2000 PUMS in geographic, race, and industry/occupational codes. We address these primarily by using the Integrated Public Use Microdata Series version of these data compiled for comparability at the University of Minnesota (IPUMS 2003).

   The data for Los Angeles and San Francisco are for two Consolidated Metropolitan Statistical Areas (CMSAs): the Los Angeles–Anaheim–Riverside CMSA, and the San Francisco–Oakland–San Jose CMSA. In the text all references to "Los Angeles" refer to the former CMSA, and all references to "the San Francisco Bay Area," "the Bay Area," or "San Francisco–San Jose" refer to the latter CMSA.

4. We classified race using the 1990 census codes and assigned "Spanish write-in" to the "other" race category (hence, our figures correspond to published figures). In 2000 we assigned "primary" race and placed those persons identifying themselves in more than one race category (4.4% of adult respondents in California) into "other" race. Arguments can be advanced to categorize differently, but the alternatives have both advantages and disadvantages, as does the approach we use here. In 2000 it is necessary to combine metropolitan aggregates (PMSAs) with sub-metropolitan aggregates containing at least 400,000 population ("Super PUMAs") to construct comparable 1990 consolidated metropolitan statistical areas (CMSAs), which

TABLE 3.1. Labor Force Participation Rate, by Race/Ethnicity, Nativity, and Gender, Los Angeles, San Francisco, and California, 2000

	PERCENTAGE MALE			PERCENTAGE FEMALE		
Racial/Ethnic and Nativity Group	*Los Angeles CMSA*	*San Francisco CMSA*	*California*	*Los Angeles CMSA*	*San Francisco CMSA*	*California*
Latino foreign-born	73.6%	76.3%	74.5%	49.1%	55.8%	50.4%
Asian foreign-born	75.4	79.4	76.5	61.1	64.9	61.8
Latino native-born	76.2	77.5	74.0	67.4	74.6	68.2
Asian native-born	74.5	79.2	76.8	71.2	77.2	73.3
Anglo	88.1	84.8	86.9	70.7	75.2	71.3
African American	68.4	67.6	65.4	68.7	71.0	68.9
Other race/ethnicity	73.7	81.9	76.0	65.3	69.9	64.7

SOURCE: IPUMS 2003 (census microdata for civilian workers ages 18 to 64).

TABLE 3.2. Labor Force Participation Rate, by Race/Ethnicity, Nativity, and Gender, Los Angeles, San Francisco, and California, 1990

	PERCENTAGE MALE			PERCENTAGE FEMALE		
Racial/Ethnic and Nativity Group	*Los Angeles CMSA*	*San Francisco CMSA*	*California*	*Los Angeles CMSA*	*San Francisco CMSA*	*California*
Latino foreign-born	90.4%	89.9%	89.3%	59.8%	64.2%	59.8%
Asian foreign-born	81.3	84.9	80.6	64.0	67.6	63.3
Latino native-born	82.6	84.1	82.3	66.6	70.6	66.5
Asian native-born	85.1	83.3	84.5	78.7	76.3	77.1
Anglo	88.1	88.8	87.3	71.0	74.9	70.9
African American	74.9	75.7	73.6	67.7	71.1	68.5
Other race/ethnicity	78.6	80.6	79.2	70.0	75.9	67.2

SOURCE: IPUMS 2003 (census microdata for civilian workers ages 18 to 64).

results in some size discrepancies (with 1990 and with the actual 2000 CMSA size). More difficult is the wholesale change in the nature and codes for industry (and occupation) used in the 2000 census. We use the University of Minnesota IPUMS (2003) that generates a comparable industry coding from the 1950 census to the present. We further aggregate these latter codes into the familiar 13-category classification (further collapsed to 12) often used in the pre-2000 census era.

Table 3.1 shows labor force participation rates (the number of persons employed or looking for work divided by the total adult population) in 2000 for California, Los Angeles, and the San Francisco Bay Area, for each gender, by major racial/ethnic category and by nativity for Latinos and Asians. As would be expected, males of all groups show higher rates of labor force participation than females. Anglo males exhibit notably higher rates than any of the other groups, a pattern that holds nationally and across all parts of the state. Among California's major metropolitan areas, overall participation rates were highest in San Francisco, reflecting the high-tech boom there during the 1990s. Participation rates for male Latino immigrants were lower than those of Latino natives in 2000, in contrast to 1990, when the reverse was true (Table 3.2). Exactly what accounts for this relative drop is not clear, although it may be related to the rapid increase in Latino immigration during the late 1990s (perhaps causing a crowding effect). On the other hand, Asian immigrants' participation rates were generally lower than those of their native counterparts in both 1990 and 2000, especially for women, perhaps reflecting the high proportion of refugees in this population and more traditional gender relations among immigrants.

By 2000 more than one in four of California's workers were foreign born, up from slightly less than one in five in 1990. Figures 3.1 and 3.2 show that the proportion of male and female immigrant workers exceeded that of natives in primary industries (agriculture, forestry, fishing, and mining). Immigrant women also held the larger share in nondurable manufacturing.

The already significant role of immigrants in the state's labor force increased appreciably over the decade. Figure 3.3 shows that changes in the immigrant share varied by industry, as one might anticipate. For example, immigrant women's share of the personal services industry jumped over 8 percentage points, and immigrant men's share of the manufacturing workforce outstripped gains by immigrant women.

In no other state do immigrants play such an important role in the labor force, although their specific contribution varies by gender, metropolitan area, and industry. Tables 3.3, 3.4, and 3.5 show the distribution of immigrant and native-born workers across major industries in California and in its two leading metropolitan areas—Los Angeles and the San Francisco Bay Area. While California's labor force experienced net growth for most industries during the 1990s, marked differences were apparent between immigrants and natives. The state's immigrant labor force grew much faster than its native-born counterpart and was the main source of net growth in the state overall. California's economic recession during the early 1990s also generated a net out-migration of natives, especially among Anglos, even as the immigrant influx continued. Native out-migration slowed somewhat during the boom years of the 1990s (Frey 2002, 2003), but resumed during the post-2001 recession, especially from Los Angeles (Martin 2003).

Table 3.3 shows that the net losses of native workers in California were concentrated in construction and manufacturing; the drop in manufacturing reflected the

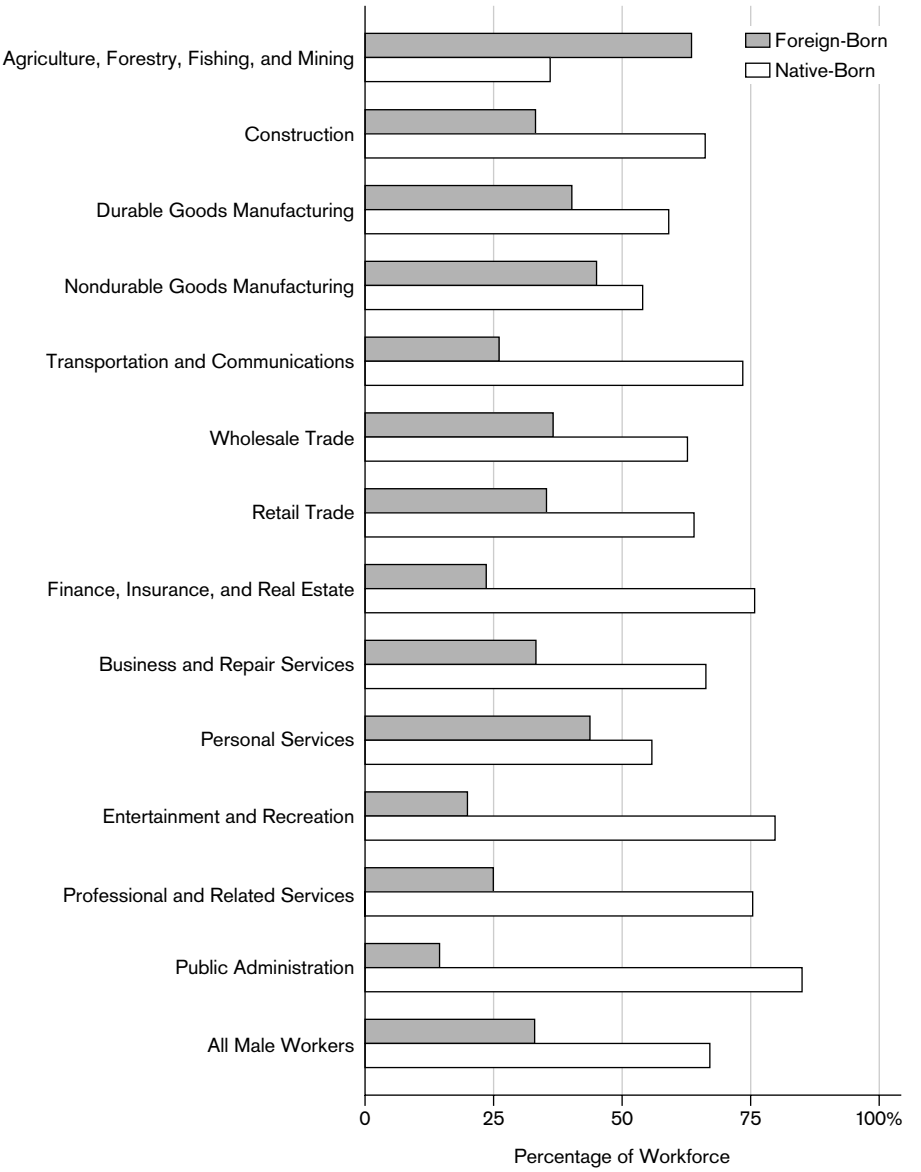

FIGURE 3.1. Male Workforce, by Nativity and Industry, California, 2000
SOURCE: IPUMS 2003.

collapse of the aerospace and defense industries after the demise of the Soviet Union. Restructuring of the civilian aerospace industry played a role as well. The impact on manufacturing was especially severe in the Los Angeles metro area. On the other hand, the already large share of native workers in professional and related industries grew markedly, as did the native share of the entertainment industry, particularly in Los Angeles. More surprising, immigrants as well as natives increasingly found

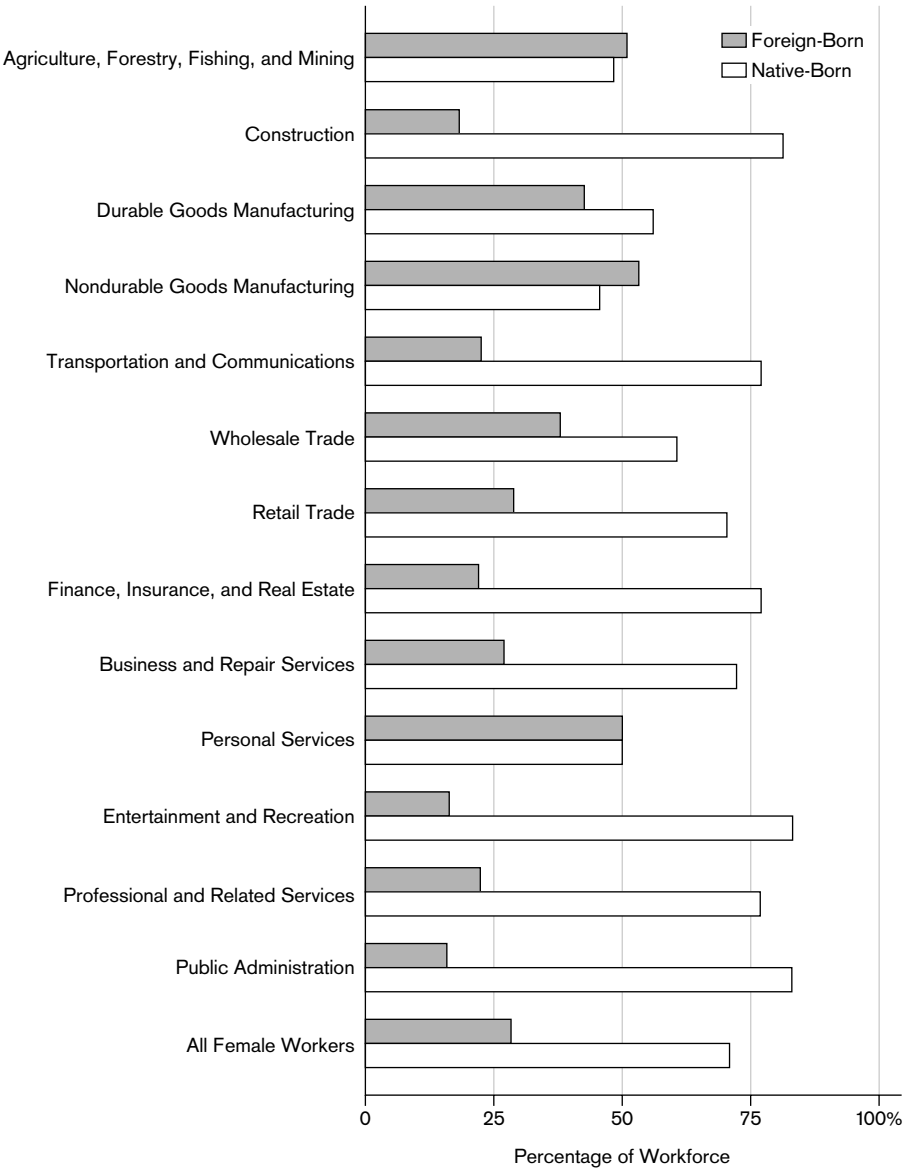

FIGURE 3.2. Female Workforce, by Nativity and Industry, California, 2000
SOURCE: IPUMS 2003.

employment in professional and related industries. For both groups, employment in manufacturing jobs fell, reflecting the broader shift toward service sector and information jobs in the 1990s.

Employers in California are increasingly likely to employ immigrants (of either gender). Male immigrants now make up over 40% of the state's workforce in four of the twelve industry categories examined here, and female immigrants are a majority

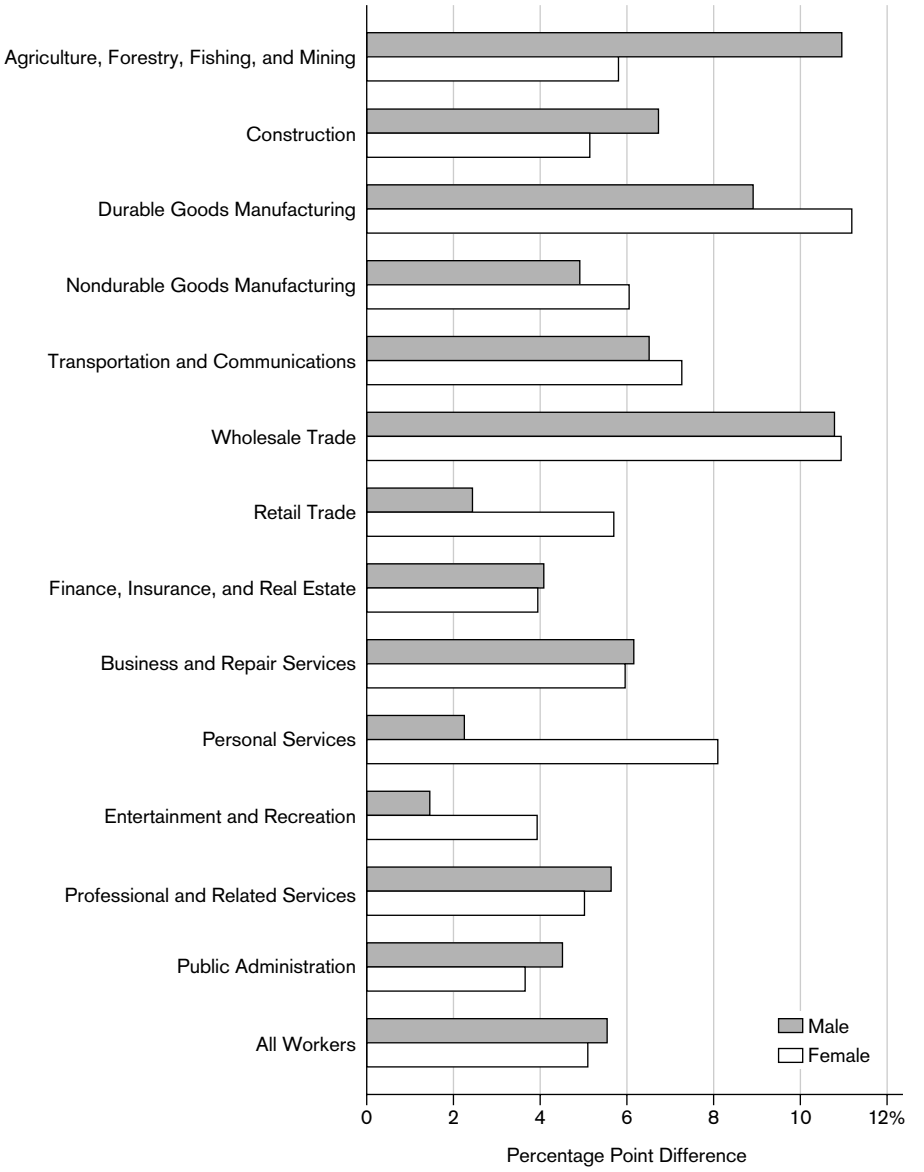

FIGURE 3.3. Net Change in Foreign-Born Workforce, by Industry, California, 1990 to 2000

SOURCE: IPUMS 2003.

of workers in three of the twelve. Immigrants comprise an even larger share of the workers in Los Angeles.

Immigrants' share of employment increased more slowly (or not at all) in white-collar industries where natives were most concentrated (entertainment and recreation, professional and related, and public administration), as Figures 3.3, 3.4, and

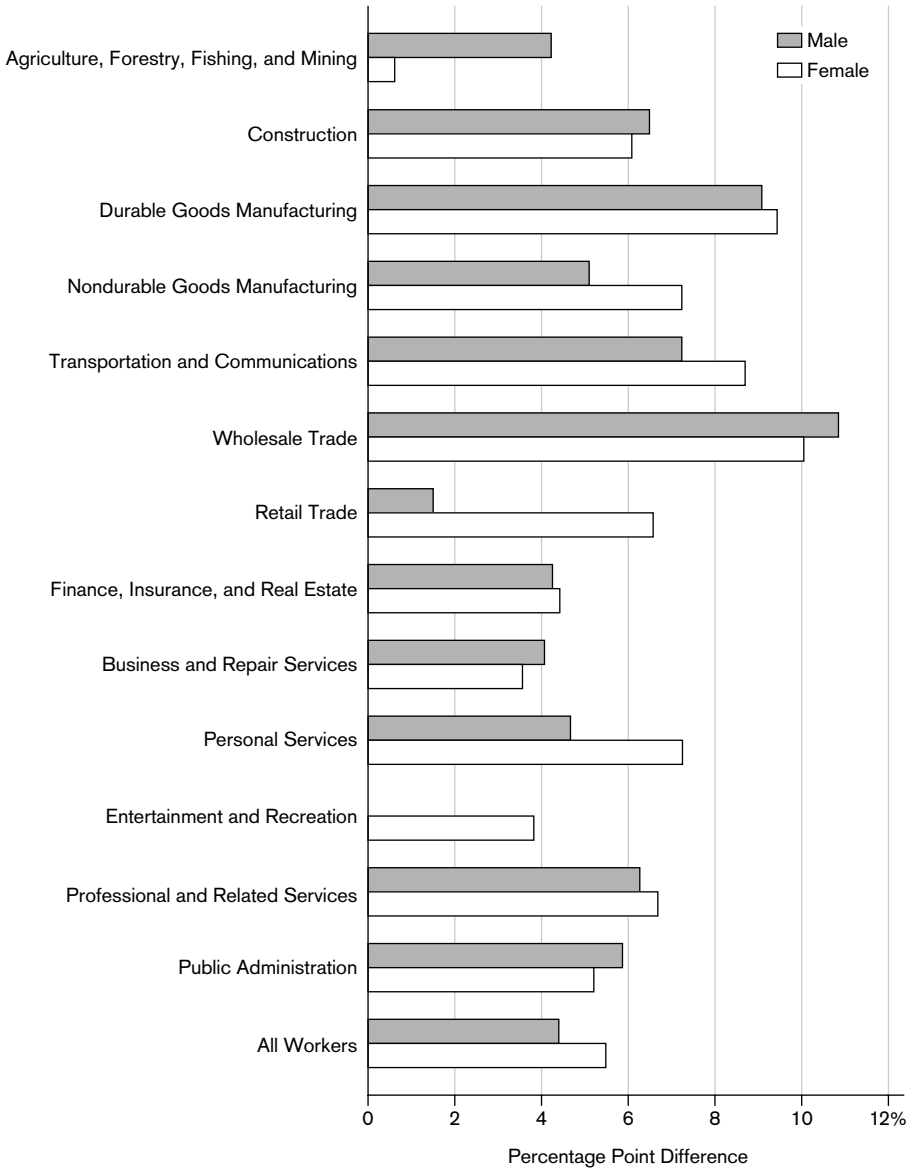

FIGURE 3.4. Net Change in Foreign-Born Workforce, by Industry, Los Angeles, 1990 to 2000
SOURCE: IPUMS 2003.

3.5 show. Overall, immigrant employment in the 1990s was concentrated in the lower reaches of the American job structure. This raises the question of the degree to which immigrants may have contributed to the increasingly bifurcated pattern of job growth, with more jobs being added at the high and low ends of the employment distribution and fewer being added in the middle.

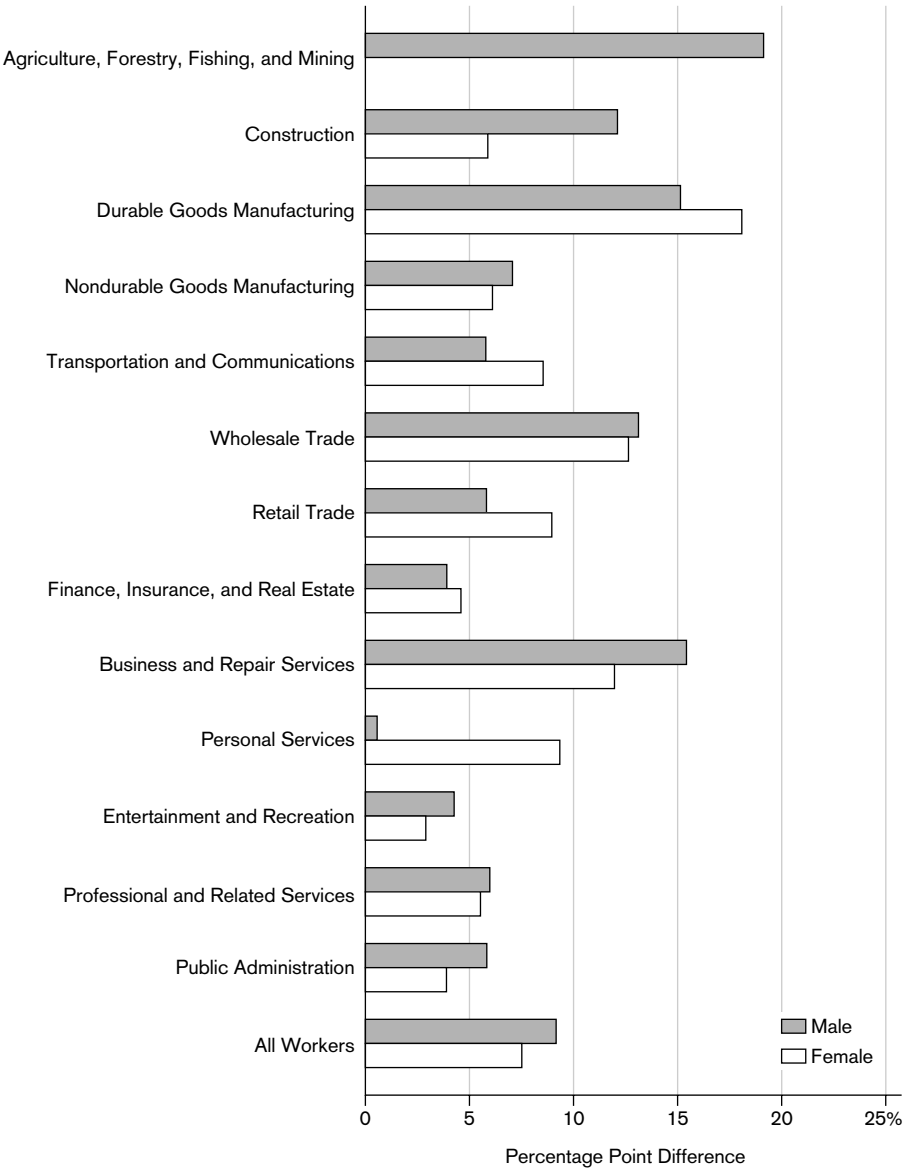

FIGURE 3.5. Net Change in Foreign-Born Workforce, by Industry, San Francisco, 1990 to 2000

SOURCE: IPUMS 2003.

TABLE 3.3. Workers Employed in Major Industry Category, by Nativity and Gender, California, 1990 and 2000

Industry	1990 Percentage Native Born	1990 Percentage Foreign Born	1990 Total Number	2000 Percentage Native Born	2000 Percentage Foreign Born	2000 Total Number
Male						
Agriculture, forestry, fishing, and mining	2.6%	9.4%	383,071	2.5%	9.5%	380,243
Construction	11.6	11.0	933,777	10.7	10.7	883,535
Durable goods	13.0	16.0	1,102,673	9.3	13.0	873,982
Nondurable goods	5.1	9.1	500,201	4.6	7.7	465,297
Transportation, communications	7.3	4.7	534,066	6.6	4.7	496,443
Wholesale trade	4.9	4.5	387,881	4.4	5.1	384,919
Retail trade	13.9	18.4	1,247,051	15.0	16.9	1,315,545
Finance, insurance, and real estate	5.7	3.6	425,451	5.2	3.3	390,604
Business and repair services	7.5	7.4	615,446	9.5	9.6	803,319
Personal services	1.6	3.0	160,082	1.7	2.7	172,225
Entertainment and recreation	2.8	1.7	207,753	4.5	2.3	314,968
Professional and related	12.9	7.9	950,261	17.3	11.5	1,285,887
Public administration	10.3	3.0	657,202	8.6	2.9	542,527
Total	100.0	100.0	8,104,915	100.0	100.0	8,309,494
Female						
Agriculture, forestry, fishing, and mining	1.3	3.7	117,676	1.0	3.0	100,909
Construction	1.9	1.0	102,076	1.6	0.9	97,336
Durable goods	6.7	10.4	466,128	4.4	8.4	373,872
Nondurable goods	4.1	12.2	373,347	3.3	9.5	340,329
Transportation, communications	4.4	2.6	249,808	3.3	2.4	206,623
Wholesale trade	2.9	3.6	191,009	2.3	3.7	182,410
Retail trade	16.8	16.8	1,053,689	16.7	17.3	1,154,069
Finance, insurance, and real estate	10.6	7.7	620,347	8.6	6.2	543,975
Business and repair services	6.7	5.9	413,673	6.6	6.2	447,186
Personal services	3.9	9.3	324,974	3.5	8.9	340,568
Entertainment and recreation	2.4	1.1	131,534	3.4	1.7	197,432
Professional and related	32.4	22.7	1,875,783	39.0	28.7	2,459,438
Public administration	6.0	2.9	328,120	6.1	3.0	347,242
Total	100.0	100.0	6,248,164	100.0	100.0	6,791,389

SOURCE: IPUMS 2003 (census microdata for civilian workers ages 18 to 64).

TABLE 3.4. Workers Employed in Major Industry Category, by Nativity and Gender, Los Angeles, 1990 and 2000

	1990			2000		
Industry	*Percentage Native Born*	*Percentage Foreign Born*	*Total Number*	*Percentage Native Born*	*Percentage Foreign Born*	*Total Number*
Male						
Agriculture, forestry, fishing, and mining	1.7%	5.5%	118,469	1.4%	4.4%	96,785
Construction	11.2	12.1	467,051	9.4	11.0	380,935
Durable goods	15.2	17.4	625,040	9.9	13.7	426,005
Nondurable goods	5.5	10.8	290,394	5.0	10.0	260,700
Transportation, communications	7.5	4.4	256,737	6.8	4.8	227,301
Wholesale trade	5.3	5.0	205,686	4.8	5.9	195,973
Retail trade	13.5	19.0	621,725	14.7	18.2	611,530
Finance, insurance, and real estate	6.3	3.8	220,519	5.8	3.6	187,749
Business and repair services	8.0	8.0	321,997	9.7	9.6	369,237
Personal services	1.6	3.1	82,290	1.5	3.0	81,424
Entertainment and recreation	4.0	1.9	132,418	6.6	2.5	191,986
Professional and related	13.0	7.1	439,959	17.8	11.3	579,151
Public administration	7.4	1.8	216,398	6.6	2.2	179,568
Total	100.0	100.0	3,998,683	100.0	100.0	3,788,344
Female						
Agriculture, forestry, fishing, and mining	0.8	1.5	29,198	0.5	0.7	18,285
Construction	1.8	0.8	43,693	1.4	0.8	37,766
Durable goods	8.0	11.0	261,079	4.9	7.7	177,451
Nondurable goods	4.3	14.7	220,285	3.4	12.2	193,794
Transportation, communications	4.7	2.6	121,745	3.5	2.5	97,660
Wholesale trade	3.2	3.9	101,829	2.6	3.7	92,549
Retail trade	16.1	16.7	494,403	16.3	17.7	512,107
Finance, insurance, and real estate	11.3	7.8	309,946	9.1	6.2	246,797
Business and repair services	6.7	6.2	200,200	6.7	5.7	195,155
Personal services	3.5	9.8	163,449	3.1	9.3	160,023
Entertainment and recreation	3.0	1.2	75,504	4.5	1.8	110,547
Professional and related	32.0	21.7	872,235	38.9	29.2	1,092,233
Public administration	4.5	2.1	115,466	5.0	2.5	125,880
Total	100.0	100.0	3,009,032	100.0	100.0	3,060,247

SOURCE: IPUMS 2003 (census microdata for civilian workers ages 18 to 64).

TABLE 3.5. Workers Employed in Major Industry Category, by Nativity and Gender, San Francisco, 1990 and 2000

Industry	1990 Percentage Native Born	1990 Percentage Foreign Born	1990 Total Number	2000 Percentage Native Born	2000 Percentage Foreign Born	2000 Total Number
Male						
Agriculture, forestry, fishing, and mining	1.6%	4.9%	47,632	1.4%	4.6%	46,797
Construction	10.9	9.1	188,370	10.4	10.3	189,202
Durable goods	14.2	18.2	266,162	11.2	17.7	242,344
Nondurable goods	5.4	6.6	105,261	4.7	5.1	88,751
Transportation, communications	7.8	6.8	133,341	6.5	4.9	109,657
Wholesale trade	4.9	3.7	82,316	3.9	3.8	73,378
Retail trade	13.8	19.2	275,418	14.3	16.4	277,854
Finance, insurance, and real estate	6.2	4.6	103,623	6.6	4.0	106,722
Business and repair services	8.4	7.6	149,968	11.3	13.7	220,789
Personal services	1.4	3.1	32,526	1.6	2.3	35,005
Entertainment and recreation	2.0	1.4	34,320	3.3	1.8	50,142
Professional and related	14.6	10.8	245,180	19.0	12.7	305,255
Public administration	8.5	4.1	130,260	5.8	2.7	88,013
Total	100.0	100.0	1,794,377	100.0	100.0	1,833,909
Female						
Agriculture, forestry, fishing, and mining	0.9	1.3	16,250	0.7	0.7	10,972
Construction	1.8	1.2	24,180	1.7	1.1	23,617
Durable goods	8.2	12.5	134,108	5.8	12.8	120,071
Nondurable goods	4.2	7.2	71,240	3.8	5.7	67,638
Transportation, communications	5.0	3.6	70,304	3.7	3.0	51,545
Wholesale trade	3.3	3.0	48,113	2.2	2.5	34,933
Retail trade	15.6	16.5	235,768	14.9	16.7	239,663
Finance, insurance, and real estate	10.9	10.3	157,235	9.1	7.4	133,745
Business and repair services	7.8	6.3	111,488	8.9	9.3	138,091
Personal services	3.0	8.4	63,999	2.9	7.9	68,182
Entertainment and recreation	1.9	1.0	25,298	2.5	1.2	31,626
Professional and related	32.0	24.8	445,601	38.8	28.5	546,370
Public administration	5.1	3.9	71,890	5.0	3.3	68,272
Total	100.0	100.0	1,475,474	100.0	100.0	1,534,725

SOURCE: Census microdata for civilian workers ages 18 to 64.

JOB QUALITY AND EMPLOYMENT GROWTH

We now turn to the shifting patterns of employment in the United States and California in the late 1990s, disaggregating our data by nativity, race/ethnicity, and gender. Here we define "jobs" as positions occurring at the intersection of industry and occupation, arrayed by their relative earnings into quintiles of the labor force, using the CPS data for the boom years of 1994 to 2000.[5]

Wages are only one measure of job quality, but they are the only consistently available indicator available in most sources of data on the labor force. Moreover, the distribution of jobs by relative earnings is fundamental for tracking the forces driving changes in income inequality. We follow the example of research in this vein by Milkman and Dwyer (2002) who, in turn, elaborated the methods of Wright and Dwyer (2000–01, 2002).[6] We share their interest in the changing distribution of jobs during the 1990s expansion. Where their unit of analysis is job-quality deciles, however, we use job-quality quintiles. Further, our starting date is 1994, not 1992 (when the national economic recovery officially began), because CPS data on nativity were not available before that date. Arguably, 1994 is an appropriate start point because the expansion began later in California than in the country as a whole. In addition, labor market conditions for immigrants and other disadvantaged groups did not begin to improve until well after 1992 (Suro and Lowell 2002).

We examine a matrix of 1,035 possible jobs created by crossing 45 occupational and 23 industrial categories.[7] Median hourly earnings were calculated for each job in

5. Stiglitz originally developed the idea of using industry and occupation matrices to identify "good" jobs—those with earnings greater than the national median wage—and applied the schema to jobs created between 1994 and 1996. He concluded that during the two-year period, 68% of net job creation involved good quality jobs (see U.S. Council of Economic Advisors 1996).
6. The Current Population Survey is a national population survey collected by the Census Bureau for the Bureau of Labor Statistics. We used the Merged Outgoing Rotation Group data (MORG) provided by the National Bureau of Economic Research. These data include just the portion of the CPS sample that is dropped each month and combine all twelve months of CPSs for each year. The resulting MORG data files are roughly three times as large as any single CPS and provide a better sample size.
7. Like Milkman and Dwyer (2002) our sample includes only full-time workers ages eighteen to sixty-four who are not self employed. We rely on the self-reporting of full time status in the CPS to exclude part-time workers. Like Milkman and Dwyer we also disaggregate one of the typical 22 industry groups into its two components of "business services" and "automotive and repair services" (for 23 industry groups). We also follow them, as well as Wright and Dwyer (2001), in including all jobs with any sample size in the analysis. In a nontrivial number of jobs this means that the sample size is rather small. But because these jobs are further collapsed within the quintiles that are analyzed, the effect of keeping them in the analysis does not substantially affect the results while it retains information. The variation in median earnings for the small jobs-cells would generally not put the job into a different quintile (even if a larger sample were available to generate a different estimate of the job's median wage).

TABLE 3.6. Selected Characteristics of the Three Largest Jobs in Each Job-Quality Quintile, U.S., 1994

Quintile	*Industry/Occupation*	*Median Wage*	*National Workforce*
1st	Retail trade/Sales workers, retail and personal services	$6.90	2,408,524
	Retail trade/Food services	$6.23	1,887,953
	Medical care not in hospitals/Health services	$6.75	940,472
2nd	Manufacturing (nondurable)/Machine operators and tenders, except precision workers	$8.10	2,198,567
	Retail trade/Supervisors and proprietors, sales occupations	$9.78	1,811,759
	Manufacturing (durable)/Machine operators and tenders, except precision workers	$9.40	1,629,491
3rd	Construction/Construction trades	$11.50	2,265,207
	Manufacturing (durable)/Other precision production, craft, and repair	$12.00	1,659,730
	Transportation/Motor vehicle operators	$10.67	1,126,299
4th	Education/Teachers, except college and university	$15.00	2,875,860
	Public administration/Protective services	$14.29	1,276,603
	Finance, insurance, and real estate/Sales, finance, and business services	$14.40	868,424
5th	Hospital/Health assessment and treatment	$17.50	1,140,075
	Finance, insurance, and real estate/Other executives, administrators, and managers	$15.38	930,876
	Manufacturing (durable)/Other executives, administrators, and managers	$19.80	922,451

SOURCE: U.S. Bureau of Labor Statistics 1994.

the matrix. We then rank-ordered the jobs from lowest to highest median hourly earnings and divided them into five groups, each containing roughly 20% of all full-time workers. The exact share in each quintile, so defined, is not exactly 20% because the wage cutoffs arrayed across jobs do not neatly divide up the wage array. What results is a fivefold classification of jobs that range from the "lower," or first, quintile (the lowest 20% of median wage earners) to the "upper," or fifth, quintile (the highest 20%). Table 3.6 shows the jobs that had the three largest workforces in each quintile in 1994. The lowest wage jobs were in retail trades such as food service. At the upper end were professionals in the health industry, along with executives, administrators, and managers.

Figure 3.6 shows that in 2000 about 20.8 million full-time workers were employed nationally in the top job-quality quintile. In California, as shown in Figure 3.7, over 2.6 million full-time workers had high-quality jobs, a share that was slightly higher

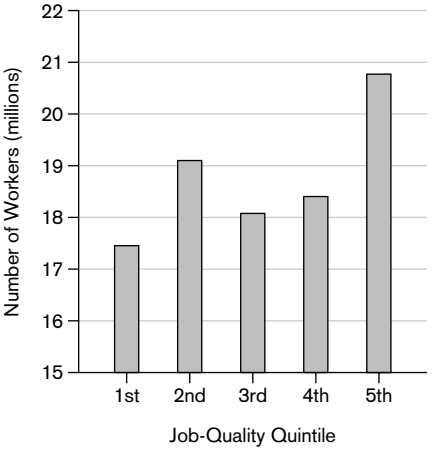

FIGURE 3.6. Distribution of Full-Time Workers, by Job Quality, U.S., 2000
SOURCE: CPS (see footnote 6).

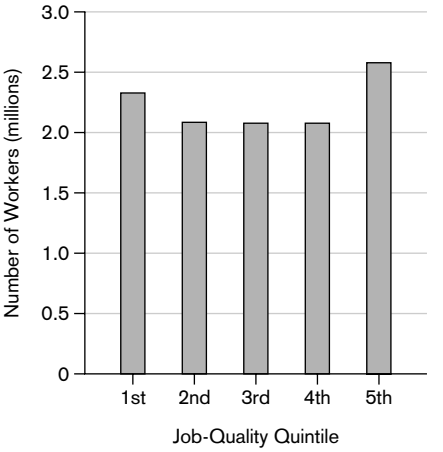

FIGURE 3.7. Distribution of Full-Time Workers, by Job Quality, California, 2000
SOURCE: CPS (see footnote 6).

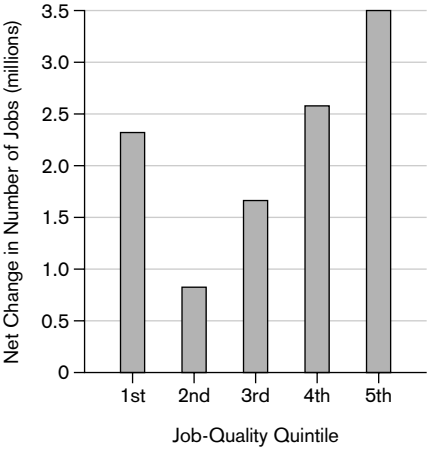

FIGURE 3.8. Job Growth for Full-Time Workers, by Job-Quality Quintile, U.S., 1994 to 2000
SOURCE: CPS (see footnote 6).

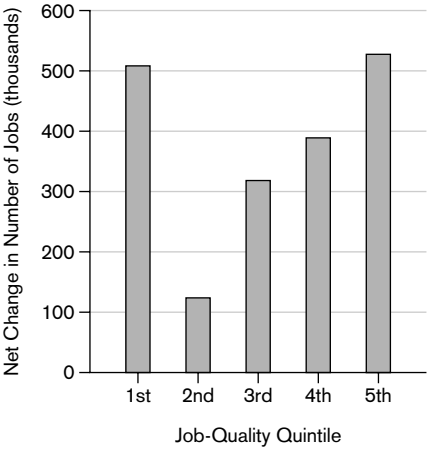

FIGURE 3.9. Job Growth for Full-Time Workers, by Job-Quality Quintile, California, 1994 to 2000
SOURCE: CPS (see footnote 6).

than might be expected given California's population. The number of persons employed in the lowest quintile, almost 2.4 million, was even more disproportionate relative to the nationwide pattern.

Our analysis next focuses on the *net change* in the number of full-time employees from 1994 to 2000 in the United States and California. The measure captures job destruction as well as creation, and in some cases employment declined over the period. This U-shaped pattern implies that the economic boom of the 1990s did not eliminate (and possibly reinforced) an hourglass pattern of job distribution (see Milkman and Dwyer 2002). Figures 3.8 and 3.9 show the net change in the number of persons employed in each job-quality quintile over the 1994–2000 period. In the United States, and in California especially, growth was disproportionate at each end: both low-quality and high-quality jobs grew to a much greater degree than did those of middle quality. The boom of the 1990s contributed to the state's advantageous position as an economic leader, with substantial gains in the number of high-quality jobs. But this good news for the state's residents and politicians was balanced by apparent bad news: an even greater number of low-quality full-time jobs was created in California, accounting for just over one-fifth of the net growth of these jobs in the United States.

To interpret these data for immigrants, we first disaggregate the findings by gender. Immigrant women start at disproportionately lower points in the United States's job structure than do immigrant men (reflecting women's more traditional roles in many countries of origin and their lower levels of educational and professional achievement), but greater numbers of immigrant women work outside the home in the United States compared to women in their countries of origin. Immigrant women also improve their economic status faster in this country than their male counterparts do (Bean, Gonzalez-Baker, and Capps 2001), at least across successive generations, because of the United States's relatively egalitarian opportunity structure.

As Figures 3.10 and 3.11 show, males and females contributed differentially to employment growth between 1994 and 2000. Women contributed more to the polarized pattern of job growth than men did in both the United States and in California. Nonetheless, in California the gender-specific contributions to the U-shaped pattern were smaller than in the country as a whole. Nationwide, women contributed to growth at both the high and low ends, while growth among men was concentrated at the high end.

The disproportionate presence of immigrants in California's labor force—33% as opposed to 13% nationwide—is a crucial factor in the contrast between California and U.S. growth patterns (see Figures 3.8 and 3.9). Immigrants are likely to start out at low points in the job distribution, as Figures 3.12 and 3.13 illustrate. In the United States as a whole, immigrants were relatively evenly distributed over the quintiles. In California, however, where the job growth pattern was more polarized, and where immigrants were a much larger proportion of the workforce, they accounted for more than half of the growth in both the lowest and highest quintiles, substantially

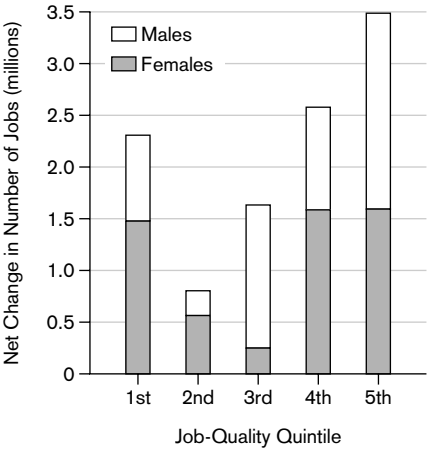

FIGURE 3.10. Job Growth for Full-Time Workers, by Job-Quality Quintile, Stacked by Gender, U.S., 1994 to 2000

SOURCE: CPS (see footnote 6).

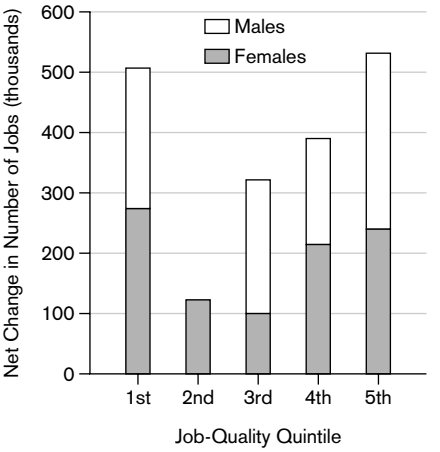

FIGURE 3.11. Job Growth for Full-Time Workers, by Job-Quality Quintile, Stacked by Gender, California, 1994 to 2000

SOURCE: CPS (see footnote 6).

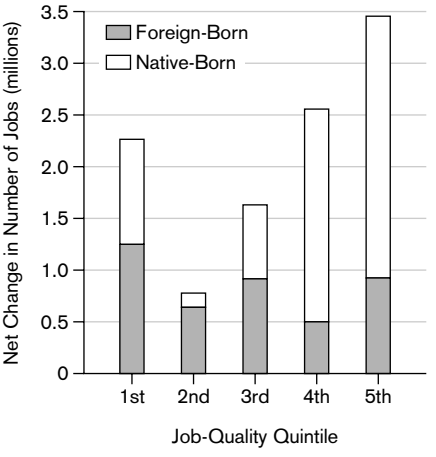

FIGURE 3.12. Job Growth for Full-Time Workers, by Job-Quality Quintile, Stacked by Nativity, U.S., 1994 to 2000

SOURCE: CPS (see footnote 6).

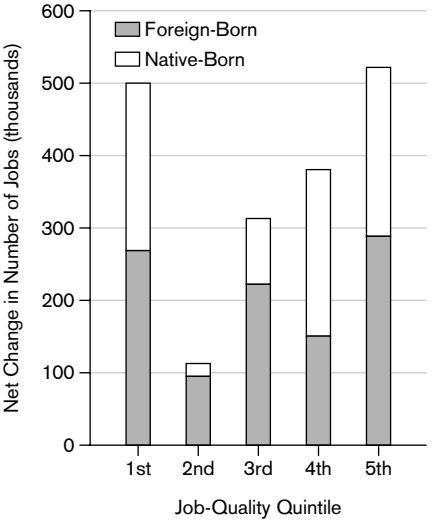

FIGURE 3.13. Job Growth for Full-Time Workers, by Job-Quality Quintile, Stacked by Nativity, California, 1994 to 2000

SOURCE: CPS (see footnote 6).

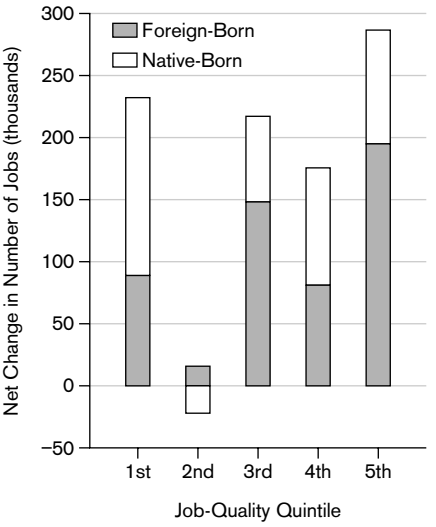

FIGURE 3.14. Job Growth for Full-Time Male Workers, by Job-Quality Quintile, Stacked by Nativity, California, 1994 to 2000
SOURCE: CPS (see footnote 6).

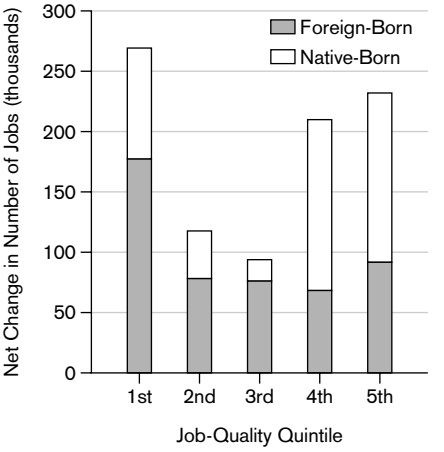

FIGURE 3.15. Job Growth for Full-Time Female Workers, by Job-Quality Quintile, Stacked by Nativity, California, 1994 to 2000
SOURCE: CPS (see footnote 6).

contributing to the more polarized structure of growth. Immigrants also made up a large share of growth in the middle part of California's job distribution during 1994–2000, accounting for over three-fourths of that increase.

As Figures 3.14 and 3.15 show, there were strikingly different gender dynamics at work. Foreign-born males accounted for appreciable portions of employment growth in the high and middle parts of the distribution (about two-thirds and three-fifths, respectively), whereas foreign-born females accounted for a large portion (about two-thirds) of the growth in the lower part of the distribution. The U-shaped pattern that characterizes the distribution of job quality growth in California during this period thus has distinctive gender and nativity origins, with immigrant women accounting for the largest single component of low-end growth and immigrant men the largest single component of middle- as well as high-end growth.

Disaggregating these results by race/ethnicity as well as gender and nativity further illuminates the dynamics underlying the job growth pattern in California. As Figure 3.16 shows, Asian male immigrants contributed just under half of the growth of California's upper quality jobs, while Latino male immigrants and natives made up just over one-third of the growth of the lowest quality jobs. More surprising, however, Latino immigrants contributed almost half of California's rather strong growth in middle-range jobs among males. This Asian-Latino pattern is not as clear-cut for women. As Figure 3.17 shows, Asian immigrant women made significant contributions to the growth of upper end jobs, but Asian females also made substantial

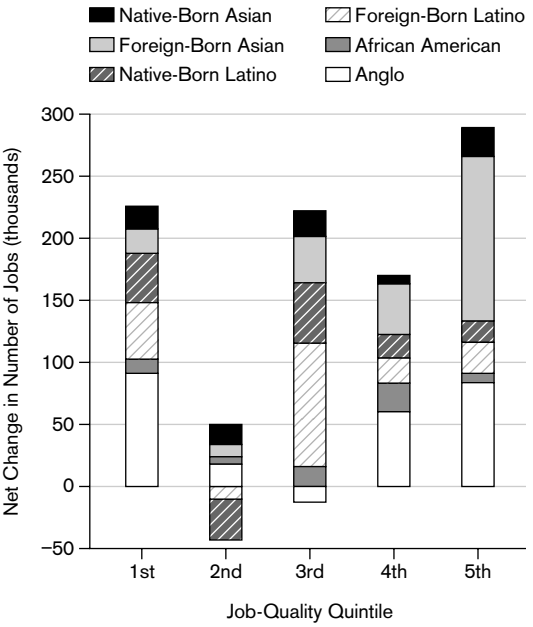

FIGURE 3.16. Job Growth for Full-Time Male Workers, by Job-Quality Quintile, Stacked by Race/Ethnicity and Nativity, California, 1994 to 2000

SOURCE: CPS (see footnote 6).

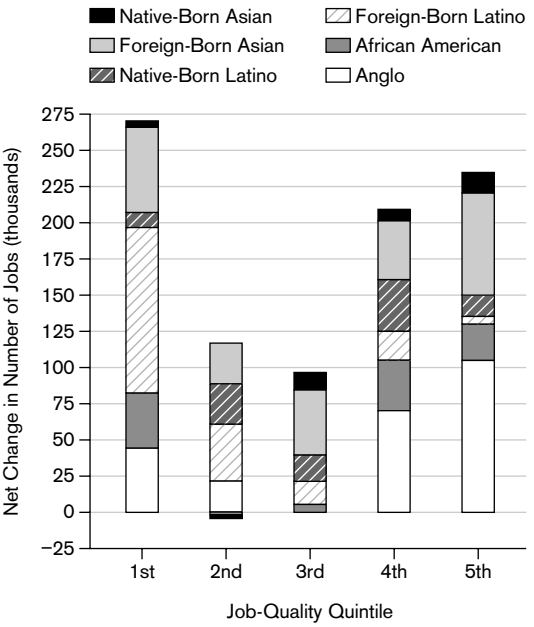

FIGURE 3.17. Job Growth for Full-Time Female Workers, by Job-Quality Quintile, Stacked by Race/Ethnicity and Nativity, California, 1994 to 2000

SOURCE: CPS (see footnote 6).

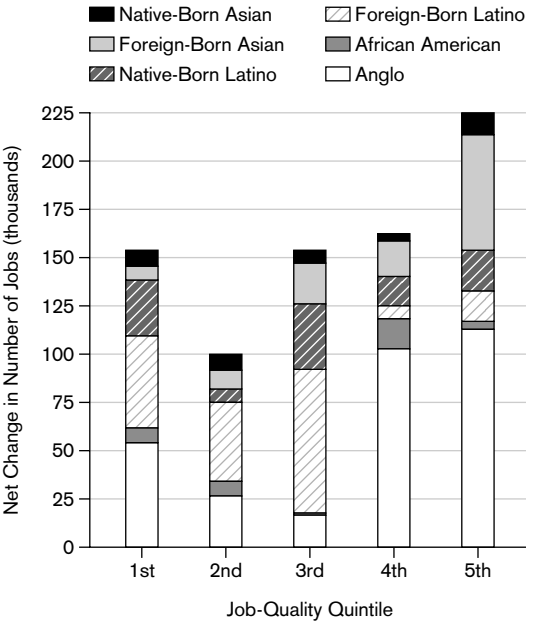

FIGURE 3.18. Job Growth for Full-Time Male Workers, by Job-Quality Quintile, Stacked by Race/Ethnicity and Nativity, Los Angeles, 1994 to 2000

SOURCE: CPS (see footnote 6).

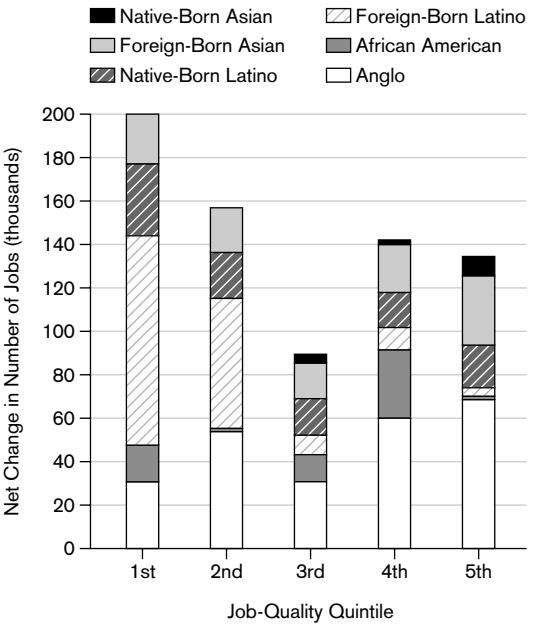

FIGURE 3.19. Job Growth for Full-Time Female Workers, by Job-Quality Quintile, Stacked by Race/Ethnicity and Nativity, Los Angeles, 1994 to 2000

SOURCE: CPS (see footnote 6).

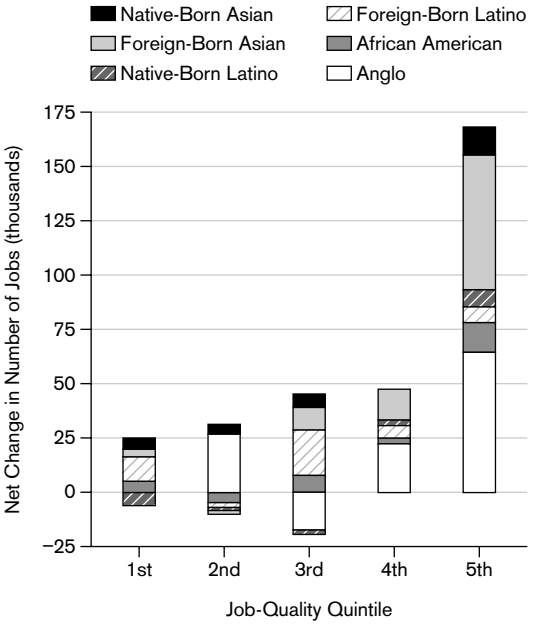

FIGURE 3.20. Job Growth for Full-Time Male Workers, by Job-Quality Quintile, Stacked by Race/Ethnicity and Nativity, San Francisco, 1994 to 2000
SOURCE: CPS (see footnote 6).

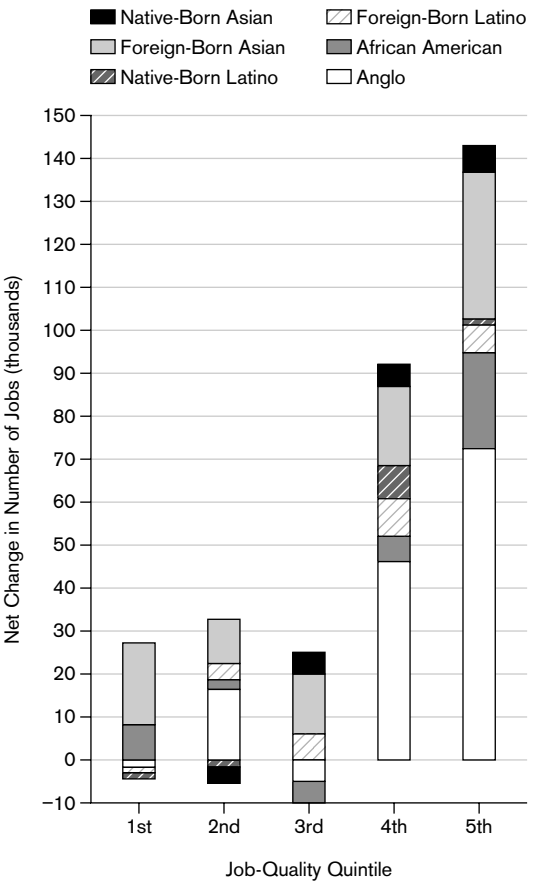

FIGURE 3.21. Job Growth for Full-Time Female Workers, by Job-Quality Quintile, Stacked by Race/Ethnicity and Nativity, San Francisco, 1994 to 2000
SOURCE: CPS (see footnote 6).

contributions to lower end job growth. Native Latino women made stronger contributions to high-end job growth than did immigrant Latino women, who were the single largest contributors to the growth of low-quality jobs in the state, surpassing their male counterparts. The bimodal pattern of job quality growth, in short, was especially stark for women, regardless of race/ethnic group. For male full-time workers the bimodality loosely mirrored whether workers were Asian or Latino immigrants.

Figures 3.18 through 3.21 provide a similar disaggregation for the Los Angeles and the San Francisco metropolitan areas. The U-shaped pattern of net employment change is again partly driven by upper end growth for males and lower end growth for females. In Los Angeles, as in California, Asian immigrant males tended to dominate jobs in the top quintile, while Latino males, especially immigrants, predomi-

nated in the lower and middle quintiles. Asian female immigrants were distributed across the quintiles relatively evenly, as were Latino native-born women. Latino immigrant women in Los Angeles, however, disproportionately contributed to the growth of lower quality jobs.

The San Francisco Bay Area had a very different pattern of job growth during the 1990s boom, as Milkman and Dwyer (2002) note. Some of the same gender, nativity, and race/ethnicity dynamics seen in the state and in Los Angeles were evident nonetheless, as Figures 3.20 and 3.21 illustrate. For example, Asian male immigrants were the strongest contributors to upper end job growth, and immigrant Latino women played this role at the low end.

JOB QUALITY MOBILITY AMONG IMMIGRANTS

These results illustrate the significance of immigration in employment patterns in California, and they indicate why it is important to consider the possibility that newcomer dynamics, in addition to racialized group dynamics, may play an important role (Bean and Stevens 2003). Although most recent immigrants are members of racial/ethnic groups, this fact may not fully explain why they are more likely to start out at low points in the job distribution. Another possibility is, simply, that they are inexperienced societal newcomers. If this were the case, however, one would expect their labor market outcomes to improve as they gain job experience and familiarity with employment opportunities in the destination country.

The public policies intended to provide avenues for upward mobility for less-skilled members of racial/ethnic groups have generally focused on generating more work opportunities in the middle part of the job distribution by solving demand-side difficulties. Insofar as workers experience prejudice based on their race and ethnicity, the development of successful policies may require further efforts to overcome the effects of discrimination. But if today's Latino and Asian immigrants are more like earlier waves of newcomers (mostly of European origin): they will be able move up once they gain experience in the labor market. The effects of newcomer status and those of discrimination are not, of course, mutually exclusive, but an attempt to disentangle their effects is nonetheless useful.

All workers, native and immigrant, tend to earn more as they age and as they gain job experience. For many immigrants, however, years of work experience can be separated into experience in the home country and experience gained after entering the U.S. labor market. Upon arrival, immigrants often lack language and U.S.-specific job skills; as skills and language improve, they are rewarded with better jobs and earnings. Research on earnings that compares natives' work experience in the United States and immigrants' experience outside the country generally supports the claim that recent immigrants earn less than natives who have an equal number of years of work experience. Yet, even after two decades of U.S.-specific experience, immigrants

generally fail to catch up to the earnings levels of otherwise similar native workers (controlling for such factors as education) (Smith and Edmonston 1997).[8]

Lacking longitudinal data, a fully adequate analysis of the earnings growth process is not possible, but we can get a good approximation of immigrant mobility by tracking year-of-arrival cohorts over time. To do this, we grouped immigrants into three cohorts according to the years that they reported arriving in the United States:[9] those who arrived between 1980 and 1983, between 1984 and 1989, and between 1990 and 1994–95 (the 2000 CPS data do not differentiate 1994 and 1995). To the degree that job quality mobility occurs, one would expect that immigrants in these arrival cohorts shifted into higher quality jobs during the economic boom years, from 1994 to 2000.

Figures 3.22, 3.23, 3.24, and 3.25 show the percentage point change for each cohort across job-quality quintiles for the United States, California, San Francisco, and Los Angeles.[10] For example, Figure 3.22 shows that the percentage of the 1990–1994-95 cohort in the top quintile increased by about half a percentage point in the United States as a whole. In contrast, the share of the 1980–1983 arrival cohort in the same quintile increased by four percentage points. More to the point, the entire pattern for the 1980–1983 cohort is one of upward mobility, with substantial losses in lower quality jobs and strong gains in upper quality jobs. But even the most recent arrivals experienced some upward mobility between 1994 and 2000. This was also the case in California, as Figure 3.23 shows, although the large presence of the most recent arrivals in the top quintile is striking here (and differs from the U.S. pattern).

As Figure 3.24 shows, this is driven by the San Francisco Bay Area, where the cohort that arrived most recently has an especially strong presence in the highest quality jobs, gaining nearly fifteen percentage points over the 1994–2000 period. Asian immigrants, most likely the wave of highly skilled immigrant professionals recruited in the San Francisco–San Jose area during the high-tech boom, were undoubtedly responsible for this leap. Figure 3.25 shows evidence of job mobility during the economic expansion in Los Angeles as well. Indeed, the pattern for Los Angeles looks much like that for the state of California (Figure 3.22), and it mirrors the national pattern of stronger shifts into better quality jobs by the cohorts that had been in the country for longer periods of time. The 1990–1994–95 cohort, for example, moved from the lowest quality jobs into those of middle quality.

8. Some research finds very fast wage assimilation, especially among Europeans and high-skilled Asian immigrants. Otherwise, there is substantial agreement that Latino immigrants, Mexicans in particular, may experience slower assimilation patterns.
9. The results described in the text, for example, one of improving job mobility for the earlier arrival cohorts, also hold for those who came to the United States in the 1970s and the 1960s.
10. The percentage distribution in 1994 is subtracted from the percentage distribution in 2000 to get the percentage-point change across the time period. In 1994 there are five years' worth of immigrants (1990–1994), while in the 2000 data there are six years' worth of immigrants (1990–1996). A numerical change, as shown elsewhere in this study, would be biased because the span of years is uneven. Also, the sample design of the CPS makes a comparison of counts for immigrants in small year-of-arrival cohorts less reliable than a comparison of percentages.

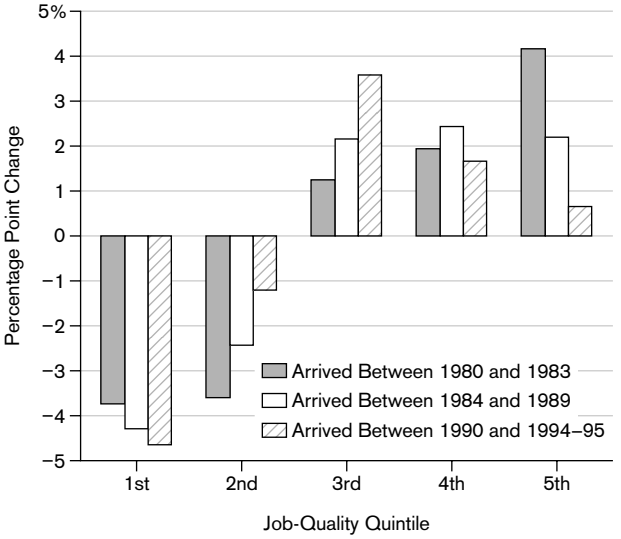

FIGURE 3.22. Job Mobility for Foreign-Born Workers, by Date of Arrival, U.S., 1994 to 2000
SOURCE: CPS (see footnote 6).

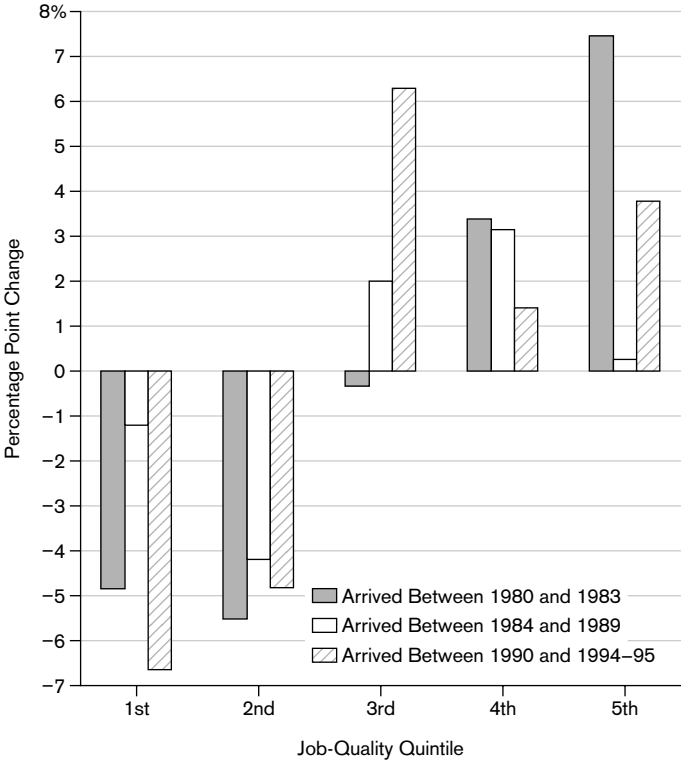

FIGURE 3.23. Job Mobility for Foreign-Born Workers, by Date of Arrival, California, 1994 to 2000
SOURCE: CPS (see footnote 6).

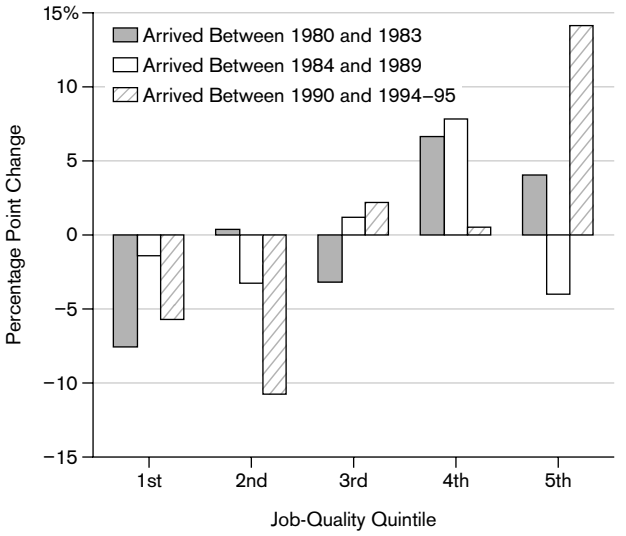

FIGURE 3.24. Job Mobility for Foreign-Born Workers, by Date of Arrival, San Francisco, 1994 to 2000
SOURCE: CPS (see footnote 6).

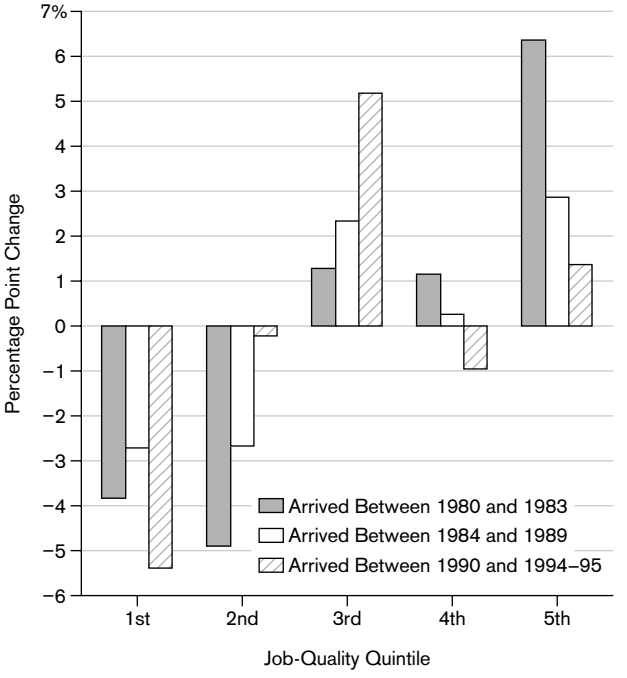

FIGURE 3.25. Job Mobility for Foreign-Born Workers, by Date of Arrival, Los Angeles, 1994 to 2000
SOURCE: CPS (see footnote 6).

These findings suggest that many immigrants do move into better quality jobs over time. These findings also suggest the importance of disaggregating immigrant labor market experiences. Failing to do so yields a more pessimistic portrait of the constraints facing recent immigrants than may be warranted.

CONCLUSION

The 1990s were a period of record immigration to California and the United States, with both legal and unauthorized immigrants arriving in the country and state, a trend that will likely continue in the twenty-first century. Immigrants make up a proportionately larger share of the workforce than of the population—and this is nowhere more true than in California. Although many highly skilled as well as less-skilled immigrants have been coming to the United States, most are among the less well educated, a fact that is consistent with the employment patterns described above. Many observers have been concerned that a bimodal pattern of immigrant education, with many immigrants either being poorly or very well educated, overlaps too closely with the increasingly polarized distribution of job growth in the country. Our analysis of changing employment patterns and the shifting distribution of bad and good jobs in the 1994–2000 economic boom suggests, however, that immigration is not fundamentally driving the emergence of a polarized job structure in either the United States or California. That structure derives largely from changes among the native born, suggesting that shifts in labor demand explain the pattern, rather than increases in the supply of less-skilled and highly skilled immigrant workers. Immigrants in California, however, do contribute to the polarization, to varying degrees depending on race/ethnicity, gender, and location.

Disaggregating results by race/ethnicity, nativity, gender, and metropolitan area reveals the importance of newcomer dynamics to labor market outcomes. In both Los Angeles and the Bay Area, immigrants do not in general appear to be stuck in low-end jobs. Our analyses of arrival cohort data suggest substantial immigrant upward mobility, mainly from lower to middle-range jobs in Los Angeles and from middle to higher range jobs in the Bay Area. This does not mean that predictions based on racial/ethnic stratification theories are wrong, but it does suggest that such perspectives should be modified by taking into account the effects of newcomer status and the likelihood that immigrants may experience more upward mobility than many commentators presume.

REFERENCES

Bean, Frank D., and Stephanie Bell-Rose, eds. 1999. *Immigration and Opportunity: Race, Ethnicity, and Employment in the United States.* New York: Russell Sage Foundation.

Bean, Frank D., Ruth R. Berg, and Jennifer Van Hook. 1996. "Socioeconomic and Cultural Incorporation and Marital Disruption among Mexican Americans." *Social Forces* 9 (2): 593.

Bean, Frank, Susan Gonzalez-Baker, and Randy Capps. 2001. "Immigration and Labor Markets in the United States." In *Sourcebook on Labor Markets: Evolving Structures and Processes*, edited by I. Berg and A. Kalleberg. New York: Plenum Press.

Bean, Frank D., and Gillian Stevens. 2003. *America's Newcomers and the Dynamics of Diversity.* New York: Russell Sage Foundation.

Bean, Frank D., and Marta Tienda. 1987. *The Hispanic Population of the United States.* New York: Russell Sage Foundation.

Bean, Frank D., Jennifer Van Hook, and Mark A. Fossett. 1999. "Immigration, Spatial and Economic Change, and African American Employment." In *Immigration and Opportunity: Race, Ethnicity, and Employment in the United States*, edited by Frank D. Bean and Stephanie Bell-Rose. New York: Russell Sage Foundation.

Bell, Daniel. 1973. *The Coming of Post-Industrial Society.* New York: Basic Books.

Clark, William A.V. 2003. *Immigrants and the American Dream: Remaking the Middle Class.* New York: Guilford.

Farber, Henry S. 1997. "Job Creation in the United States: Good Jobs or Bad?" Working Paper No. 385. Princeton: Industrial Relations Section, Princeton University.

Frey, William. 2002. "Census 2000 Reveals Native Born and Foreign Born Shifts Across the U.S." *Population Today.* Washington, D.C.: Population Reference Bureau. Unpaged electronic document. Retrieved 15 July 2003 from http://www.prb.org/Template.cfm?Section=PRB&template=/ContentManagement/ContentDisplay.cfm&ContentID=6486.

———. 2003. "Latest Population Change and Migration Data Charts for U.S. Geographic Areas." Unpaged electronic document. Retrieved 30 July 2003 from http://www.frey-demographer.org/usdata.html.

Friedberg, Rachel M., and Jennifer Hunt. 1999. "Immigration and the Receiving Economy." In *The Handbook of International Migration: The American Experience*, edited by C. Hirschman, P. Kasinitz, and J. DeWind. New York: Russell Sage Foundation.

Hernandez, Donald J., ed. 1999. *Children of Immigrants: Health, Adjustment, and Public Assistance.* Washington, D.C.: National Research Council.

IPUMS. 2003. *Integrated Public Use Microdata Series.* Minnesota Population Center, University of Minnesota. Unpaged electronic document. Retrieved 15 July 2003 from http://www.ipums.umn.edu.

Martin, Phil, ed. 2003. "Census, Licenses, Education." *Migration News* 10 (3). Unpaged electronic document. Retrieved 15 July 2003 from http://migration.ucdavis.edu/mn/index.html.

Massey, Douglas S., Rafael Alarion, Jorge Durand, and Humberto Gonzalez. 1987. *Return to Aztlan: The Social Process of International Migration from Western Mexico.* Berkeley: University of California Press.

Massey, Douglas S., Jorge Durand, and Nolan J. Malone. 2002. *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration*: Russell Sage Foundation.

Mexico-United States Binational Migration Study. 1997. *Migration between Mexico and the United States.* Mexico City and Washington, D.C.: Mexican Ministry of Foreign Affairs and U.S. Commission on Immigration Reform.

Mexico-U.S. Migration Panel. 2001. *Mexico-U.S. Migration: A Shared Responsibility.* Washington, D.C., and Mexico City: Carnegie Endowment for International Peace and the Instituto Technologico Autonomo de Mexico.

Milkman, Ruth, and Rachel E. Dwyer. 2002. "Growing Apart: The 'New Economy' and Job Polarization in California 1992–2000." *The State of California Labor* 2: 3–31.

Perlmann, Joel, and Roger Waldinger. 1999. "Immigrants, Past and Present: A Reconsideration." In *The Handbook of International Migration: The American Experience*, edited by Charles Hirschman, P. Kasinitz, and J. DeWind. New York: Russell Sage Foundation.

Piore, Michael, and Charles Sabel. 1984. *The Second Industrial Divide.* New York: Basic Books.

Porter, Eduardo. 2003. "Immigrants' Population Gains Maintain Speedy 1990s Pace." *Wall Street Journal*, 10 March: B2.

Smith, James, and Barry Edmonston. 1997. *The New Americans: Economic, Demographic and Fiscal Effects of Immigration.* Washington, D.C.: National Academy of Sciences Press.

Sorenson, Elaine, Frank D. Bean, Leighton Ku, and Wendy Zimmerman. 1992. *Immigrant Categories and the U.S. Job Market: Do They Make a Difference?* Washington, D.C.: The Urban Institute.

Suro, Roberto, and B. Lindsay Lowell. 2002. *New Lows from New Highs: Latino Economic Losses in the Current Recession.* A Pew Hispanic Center Report. Paged electronic document. Retrieved 15 July 2003 from http://www.pewhispanic.org/site/docs/pdf/phc_report_final_draft.pdf.

Trejo, Stephen J. 1996. *Obstacles to the Labor Market Progress of California's Mexican-Origin Workers.* Berkeley: Chicano/Latino Policy Project.

———. 1997. "Why Do Mexican Americans Earn Low Wages?" *Journal of Political Economy* 105: 1235–1268.

United Nations Population Division. 2003. *International Migration Report 2002.* New York: United Nations.

U.S. Bureau of the Census. 2000. "Foreign-Born Population of the United States Current Population Survey—March 2000, Revised Detailed Tables—Weighted to Census 2000 (PPL-160)." Unpaged electronic document. Retrieved 15 July 2003 from http://www.census.gov/population/www/socdemo/foreign/ppl-160.html.

U.S. Council of Economic Advisors. 1996. *Job Creation and Economic Opportunities: The U.S. Labor Market 1993–1996.* Washington, D.C.: U.S. Council of Economic Advisors.

U.S. Immigration and Naturalization Service. 2002. *Statistical Yearbook of the Immigration and Naturalization Service: 2000.* Washington, D.C.: Bureau of Citizenship and Immigration Services. Available online from http://www.bcis.gov/graphics/shared/aboutus/statistics/publist.htm.

———. 2003. *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000.* Washington, D.C.: Bureau of Citizenship and Immigration Services. Available online from http://www.bcis.gov/graphics/shared/aboutus/statistics/publist.htm.

Waldinger, Roger. 2001. "Up from Poverty? 'Race,' Immigration, and the Fate of Low-Skilled Workers." In *Strangers at the Gates: New Immigrants in Urban America*, edited by Roger Waldinger. Berkeley: University of California Press.

Waldinger, Roger, and Michael Lichter. 2003. *How the Other Half Lives: Immigration and the Social Organization of Labor.* Berkeley: University of California Press.

Wilson, William J. 1987. *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy.* Chicago: University of Chicago Press.

———. 1996. *When Work Disappears: The World of the New Urban Poor.* New York: Knopf.

Wright, Erik Olin, and Rachel Dwyer. 2000–01. "The American Jobs Machine: Is the New Economy Creating Good Jobs?" *Boston Review* 25: 21–26.

———. 2002. "The Patterns of Job Expansions in the United States: A Comparison of the 1960s and 1990s." Available online from http://www.ssc.wisc.edu/~wright/JobsAJS.pdf. Forthcoming in *Socio-Economic Review.*

The State of California Labor, 2003, Vol. 3, pp. 87–117, ISSN 1531-9037, electronic ISSN 1541-9045.

Unequal Opportunity

STUDENT ACCESS TO THE UNIVERSITY OF CALIFORNIA

ISAAC MARTIN, JEROME KARABEL, and SEAN W. JAQUEZ

The University of California (UC) has long been among the most important avenues of upward economic mobility for Californians. UC is arguably one of the most prestigious public universities in the United States, and it is a pathway to many of the most coveted jobs in the nation's largest state. The promise that all Californians have an equal opportunity to acquire a UC education is a core part of California's social contract as set forth in the state's *Master Plan for Higher Education in California* (California State Department of Education 1960). In this essay we explore the current status of this promise and document the extent of inequality among California high schools in the access they provide to UC. The reality we find is cause for concern. The students admitted to UC tend to come from an exclusive subset of the state's high schools. In particular, they are disproportionately from schools whose student bodies are disproportionately children of affluent professionals and disproportionately Anglo or Asian.

Why should we be concerned with these inequalities? Since the 1970s California has developed an increasingly bifurcated economy, with a top tier of highly paid, secure jobs and a growing bottom tier of poorly paid, insecure jobs (Greenwich and Niedt 2001; Milkman and Dwyer 2002; Ong and Zonta 2001). In the same period, wage inequality has grown more rapidly in California than in all but four other states (Bernstein et al. 2000). Possession of a university degree becomes more and more essential as workers compete for the jobs at the top of this employment structure. Researchers have established that there is a large and widening wage gap between college-educated and non-college-educated workers across the United States (McCall 2000; Morris and Western 1999; Paulsen 1998), and this trend appears to be magnified in California (Carroll and Ross 2003; Ong and Zonta 2001; Reed 1999; Reed et al. 1997). In fact, the growing wage gap between workers who have a college degree and those who do not is the largest single factor contributing to the increase in wage inequality in California—and to the growing gap between levels of wage inequality in California and levels of wage inequality in the rest of the United States (Reed 1999; Reed et al. 1997).

UC is only one segment of the state's tripartite system of public higher education, which also includes the California State University and the California Community

Colleges, but it is the elite tier. As such, it is a particularly important gatekeeper. The opportunity to make the transition directly from high school to an elite university has important consequences for an individual's career, as measured, for example, by educational attainment or earnings. Although most students who currently attend college in the United States did not enroll directly in a four-year university immediately after secondary school (Baker and Velez 1996), studies show that the students who make this transition promptly are those students who are most likely to attend or to graduate from a relatively prestigious four-year college (Kempner and Kinnick 1990; see also Dougherty 1987; Hilmer 2000; Velez 1985). Moreover, the labor market advantage conferred on students who graduate from the most prestigious and selective four-year institutions is quite well documented.[1]

Inequalities in access to UC are also troubling because of their implications for racial and ethnic equality. California is by any plausible measure one of the most diverse states in the union, and it is only becoming more so.[2] At the same time, ine-

1. It is difficult to get an exact dollar estimate for the financial benefit of attending a prestigious undergraduate institution. Many of the personal characteristics that allow students to gain admission to elite colleges are the same characteristics that would enable them to succeed in the labor market even if they had attended a less elite institution. Researchers have employed increasingly sophisticated statistical methods to discover what part of the earnings difference between graduates of highly selective and less selective colleges is due to the actual effect of attending the college, and what part is due to differences of personal characteristics. Most research suggests that there is a substantial career return to attending the most prestigious institutions, including institutions like UC Berkeley and UCLA (Behrman et al. 1996; Bowen and Bok 1998; Hilmer 2000; Hoxby 2000; Ishida et al. 1997; James et al. 1989; Karabel and McClelland 1987; Monks 2000). An exception is a recent study by Stacey Berg Dale and Alan Krueger (2002), who find that expensive colleges confer an earnings advantage but selective colleges do not, all else being equal.

   Whatever the magnitude of the benefit, it rarely accrues to students who begin their postsecondary education at a community college. Transfer from a community college to an elite four-year college is a rarity; for example, fewer than 1% of students who attended a California Community College in 2000–01 transferred to UC the following year (California Postsecondary Education Commission 2003a, 2003b). Researchers have found that enrolling in a two-year or community college actually diminishes the likelihood that a student will graduate from a four-year institution (Brint 2003, 19; Brint and Karabel 1989, 129–130; Dougherty 1987, 88).
2. The census indicates that California has become one of the first "majority-minority" states, along with Hawaii and New Mexico (see U.S. Bureau of the Census 2001). By comparison, Anglos are projected to become a minority in the United States as a whole only in the second half of the twenty-first century (U.S. Bureau of the Census 1999). The use of administrative data from multiple sources complicates any discussion of racial and ethnic groups, since the definitions of groups are not entirely consistent across sources. Here and throughout this paper we use the category "Anglo" to refer to persons classified by the census as "white non-hispanic," and by UC and the California Department of Education as "White." We use "African Americans" to refer to the individuals the census calls "black," and the UC and the California Department of Education call "African American." We use the category "Asian" to include persons classified by the census, the UC, and the California Department of Education variously as "Asian," "Asian American," East Indian-Pakistani," "Filipino American," and "Pacific Islander." We construe the category "Latino" to include persons classified by the census as "white Hispanic,"

quality in earnings among racial and ethnic groups is substantial and increasing in the state (Carroll and Ross 2003; Milkman and Dwyer 2002; Ong and Zonta 2001). Inequality in academic achievement among these groups has also been increasing. In 2002 the gap in scores on the Scholastic Aptitude Test (SAT) between African American and Anglo students in California was well above the national average (cf. College Board 2002a, 2002b), and a study from the mid-1990s found that this gap was growing faster in California than in the nation as a whole (Slater 1995–96; cf. Jencks and Phillips 1998).

The research we present here focuses on inequality among high schools, particularly in regard to race, ethnicity, and socioeconomic status (SES). We focus on inequality among schools—for instance, comparing Oakland Technical High School, which is primarily African American and low SES, with Piedmont High, which is primarily Anglo and affluent—rather than among groups of students *within* any particular school—for instance, comparing the poorest students with middle-income students at Oakland Technical High School. We also describe inequalities between public and private schools and among types of private schools, as defined by religious affiliation.

The structure of this essay is as follows: First we outline the context of California's higher education policy and UC admissions policy in particular. Next we briefly discuss some issues related to the geography of access to higher education. We then describe our data and methods and present findings from our statistical exploration of California secondary schools, both public and private. Finally we discuss the implications of our analysis in light of the rapidly changing legal environment surrounding higher education.

AN OVERVIEW OF ADMISSIONS POLICY

There is no single document that defines UC's current admissions policy. The policy consists of an accretion of multiple criteria and procedures that have been established over several decades. The state laid the foundation for this structure in 1960, when the legislature endorsed the *Master Plan for Higher Education.* The impetus for the Master Plan was the rapid growth of the state's population, which was increasing by 500,000 people a year. With more people came a greater demand for higher education. The state already operated several distinct institutions of higher education that dated from the late nineteenth and early twentieth centuries, including UC, a handful of state colleges, and a vast network of "junior," or community, colleges. Administrators anticipated expansion in all three of these branches. In 1959 UC President Clark Kerr convened a committee to draft a comprehensive plan for

by the UC as "Chicano" or "Latino," and by the California Department of Education as "Hispanic or Latino." We use "Native American" to refer to persons classified as "Native American" or "American Indian."

growth that would protect the interests of UC and prevent conflicts among the three branches as they expanded by codifying the mission and functions appropriate to each (Brint and Karabel 1989, 86–89; Lemann 1999, 129–134; Schrag 1999, 37–38).

The resulting Master Plan embodied a tension between the principle of democratic inclusion and the principle of meritocracy. On the one hand, the state was to serve all its people; on the other hand, UC was to operate as an exclusive institution that served the "best" students (Master Plan Survey Team 1960, 77). The plan reconciled these principles by establishing a three-tiered system of college admissions. Admission to the community colleges would be open to all high school graduates; admission to the state colleges would be open to the top one-third of high school graduates statewide; and admission to UC would be open to the top one-eighth. This division promised to control the costs of expansion by channeling most students into the less expensive community college system. It also protected the prestige of UC by ensuring that it would remain more selective than the state and community colleges were. Perhaps its most important result, however, was to institutionalize an unprecedented guarantee: every Californian would henceforth be entitled to a higher education, free of tuition, commensurate with his or her ability (Brint and Karabel 1989, 86–89; Douglass 2001, 122; Schrag 1999, 38).[3]

To admit the top one-eighth of the state's high school graduates, however, UC needed a set of criteria to identify them. The Master Plan established only loose guidelines for determining which graduates were "UC eligible." For example, it recommended the use of scores from standardized tests, and in particular the SAT, but it did not recommend a specific cutoff point. The Regents of the University of California, the university's governing board, gradually refined their criteria into three requirements: the Subject, Scholarship, and Examination Requirements. The Subject Requirement is a sequence of coursework that includes courses in history, English, math, science, and a language other than English. The Scholarship Requirement refers to a minimum grade point average (GPA) in these courses, with extra points awarded for honors courses. The Examination Requirement refers to a minimum score on a battery of standardized tests, which during the period we analyze included the SAT I "Reasoning Test" (or, alternatively, the ACT) and any three SAT II subject tests.[4] Meeting these minimum requirements was enough to make a student eligible for consideration, but it was not sufficient to guarantee that he or she would be admitted to the campus of his or her choice. All but two campuses

3. Nominally, UC still does not charge tuition, but increases in student fees since the 1970s have rendered this guarantee less meaningful (Schrag 1999, 88).

4. Individual campuses have discretionary power to waive these eligibility requirements in individual cases, but they may exercise this power only within guidelines established by the university and only for a small proportion of the entering class. The process of waiving the eligibility criteria is called "admission by exception." According to the master plan, no more than 2 percent of the entering freshman class at any campus may be admitted by exception; since then, university policy has revised this figure upwards to 6 percent (Laird 1997).

(UC Riverside and UC Santa Cruz) chose among eligible applicants based on their grades, test scores, and a variety of nonacademic criteria. Under a policy first proposed in 1971 by the University of California Council of Chancellors, these selective campuses combined academic and nonacademic criteria by dividing the freshman class roughly in half: the first half of the class was to be admitted based on its academic performance alone, and the second was to be admitted on the basis of nonacademic characteristics as well as academic records.

The next watershed in the development of UC's admissions policy was the adoption of affirmative action. In the mid-1960s several campuses began "soft" affirmative action programs that were designed to identify promising high school students from underrepresented racial and ethnic minorities and to encourage them to apply to UC. In 1968 selective UC campuses began to consider race and ethnicity explicitly in their admissions decisions, a practice that has come to be known as "hard" affirmative action. These campuses gave extra consideration to African American, Latino, and Native American applicants in particular. Students from these groups tended on average to have lower grades and standardized test scores than their Anglo and Asian peers did. If UC had relied only on grades and test scores to select its students, it would have excluded most African American and Latino applicants from its top campuses, and such exclusion would have conflicted visibly with the university's aspiration to serve all the state's people. In 1968 UC also began to require that students take the SAT (Joint Committee on Higher Education 1969, 78; Karabel 1999, 109–110; Lemann 1999, 173).

With this combination of standardized tests and affirmative action, the UC Regents struck a compromise between the principles of democratic inclusion and meritocracy that remained more or less stable for three decades. In July 1995, however, the UC Regents voted to eliminate all consideration of race and ethnicity from UC admissions. The resulting policy, SP-1, stated that "the University of California shall not use race, religion, sex, color, ethnicity, or national origin as criteria for admission to the University or to any program of study." California's voters subsequently wrote the ban on affirmative action into the state constitution when they approved the ballot initiative called Proposition 209 in November 1996. SP-1 took effect for graduate programs in 1997 and for undergraduate campuses in the fall of 1998 (Chávez 1998, 56–67; Lemann 1999, 307–336).

The ban on affirmative action ushered in a period of rapid change in UC's admissions policies that is still underway. Immediately after the new policy took effect, UC began revising its nonacademic admissions criteria. Some campuses replaced criteria that had explicitly favored African American, Latino, and Native American students with policies that explicitly favored students from low-SES backgrounds. Other campuses began offering explicit advantages to individuals who had participated in UC-sponsored high school outreach programs. UC also began to revise its eligibility guidelines. In 2001, under a new program called "Eligibility in the Local Context" (ELC), high school students could become UC-eligible without completing the

Scholarship Requirement, provided that they were in the top 4 percent of their school's graduating class.[5] In 2002 UC began a new admissions program called "comprehensive review," under which all applicants would be evaluated based on both academic and nonacademic criteria, with a particular emphasis on the context of the educational opportunities available to them. In practice, the emphasis on context means that students are compared to others within their high school. If two students from different schools have equal SAT scores, for example, the one whose score stands out more from those of his or her classmates will have an edge in the competition for UC admission.[6] UC administrators also began negotiating with the College Board to revise the standardized tests used in UC admissions so that they would more accurately reflect the curriculum to which students had been exposed. As a result of these negotiations, the content and design of the SAT I test was revised substantially (Atkinson 2001, 2002).

At the time of this writing, UC's undergraduate admissions policies include elements from each of these eras. From the Master Plan era comes the concept of "UC eligibility," which is still meant to distinguish the top one-eighth of California high school graduates who are deemed at least minimally qualified to receive a UC education. From the era of affirmative action comes the emphasis on targeted high school outreach programs that identify disadvantaged students and encourage them to apply. From the post-affirmative action era comes the ELC program and the policy of comprehensive review.

5. UC announced the ELC program after the University of Texas received a great deal of publicity for its "10% Plan," which guarantees admission to students who graduate in the top 10 percent of their high school classes. The ELC program is thus widely known as the "4% Plan." The plans share no more than a family resemblance, however. The ELC program is notably less ambitious than its Texas counterpart. Unlike the latter, it does not exempt students from meeting the Subject Requirement, nor does it guarantee students admission to the campus of their choice. The difference between 4 percent and 10 percent is also quite substantial, particularly given that most of the students in the top 4 percent of their high school class were UC eligible anyway (see Geiser 1998).

   Although policy makers discussed a "12.5% Plan" for California, no such plan was implemented. In 2001 the UC Regents approved a "Dual Admissions Program," under which UC campuses would provide provisional acceptance notices to all students between the top 4 percent and 12.5 percent of the graduating class in particular California high schools, conditional on their completion of the ordinary UC eligibility requirements and a supplemental course of study at a California community college. This program goes beyond UC eligibility as traditionally defined, mainly by providing these high school students with the name of a particular campus that they would be admitted to in the event that they completed the requirements. It would not make it any easier to get into UC or guarantee admission to one's campus of choice. It has not yet been implemented because of a funding shortage (see University of California, Office of the President 2002a).
6. This policy brings UC's admissions procedures more in line with the admissions algorithms used by Ivy League institutions. As Paul Attewell points out, the emphasis on class rank within the applicant's high school will tend to disadvantage students who test well if they attend "star high schools," in which other students also test well (Attewell 2001, 273). By the same token, of course, it will tend to advantage students who attend high schools where test scores are, on average, low.

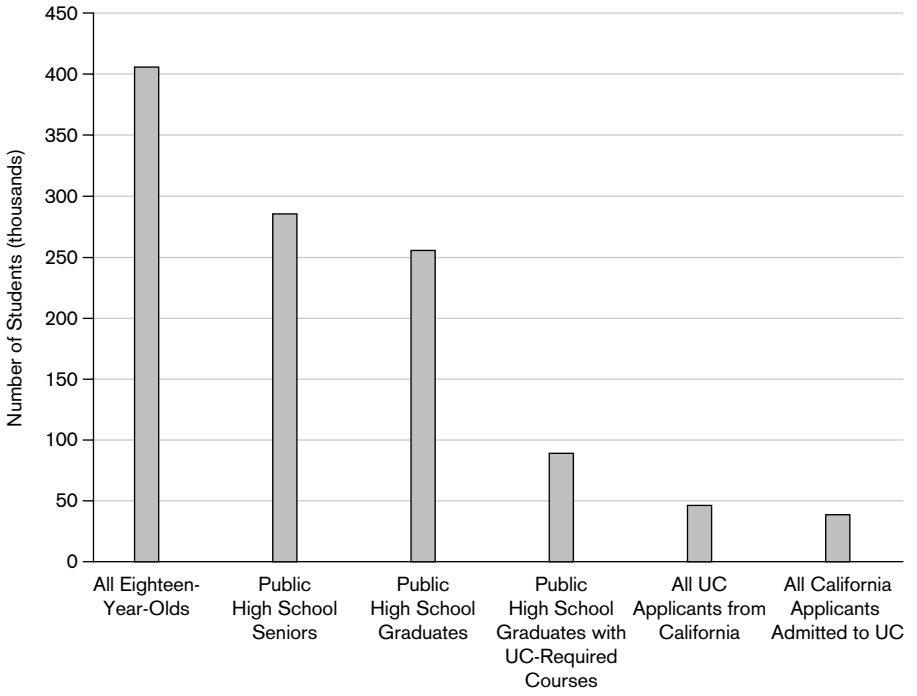

FIGURE 4.1. California High School Students and UC Admissions, 1995

SOURCES: California State Department of Education 2003a, 2003b; University of California, Office of the President 1995; U.S. Bureau of the Census 2000b.

THE GEOGRAPHY OF UNEQUAL OPPORTUNITY

UC's eligibility guidelines and admissions criteria generally establish a sequential process of selection. For most California high school students, the pathway to UC requires them to do all of the following: take specific UC-required courses; obtain certain minimum grades in those courses; take standardized tests; obtain test scores above a set minimum; graduate; apply to one or more UC campuses; and be selected for admission in competition with the many other applicants who also meet the minimum eligibility requirements. Each stage of this process weeds out tens of thousands of young people. As Figure 4.1 shows, in 1995 the process gradually whittled down a population of over 400,000 California eighteen-year-olds until there were fewer than 40,000 admitted students.

This selection process does not sort students at random. Instead, it tends to favor particular groups of students, especially those who are affluent and those who are Anglo or Asian. Researchers who study secondary education in the United States have documented the inequalities related to race, ethnicity, and SES at every stage in this process. These inequalities manifest themselves in patterns of course taking, in high school grades, in standardized test scores, in rates of high school graduation, in the

propensity to apply to college, and in rates of admission (see, e.g., Baker and Velez 1996; Bowen and Bok 1998; Cabrera and La Nasa 2001; Conley 1999; Davies and Guppy 1997; Hearn 1991; Hurtado et al. 1997; Kane 1998; Karen 1991, 2002; Lillard and Gerner 1999; Lucas 2001; Miller 1995; Perna 2000).

Such inequalities manifest themselves, in part, as inequalities of place (Jones and Kaffuman 1994). Housing, and by extension schools, tend to be segregated by race, ethnicity, and SES (Arum 2000, 403–406). Some counties, cities, school districts, and neighborhoods in the United States are rich, while some are poor. Some are primarily African American, while some are primarily Anglo.[7] Unsurprisingly, then, the practice of educating people in local high schools results in a geography of unequal opportunity. Many researchers have found inequalities in college access among high school students that are related to the socioeconomic composition of the high school student body (see, e.g., Alexander and Eckland 1977; Persell et al. 1992a, 1992b). Others have found inequalities related to the racial and ethnic composition of schools (see, e.g., Perna 2000).

It is difficult to determine how much of this inequality among schools has to do with processes internal to the schools themselves, and how much results from the fact that students are not distributed randomly among schools. Two high schools may send different proportions of their graduates to college simply because their students came into school with vastly different levels of academic skill and parental resources. Schools that are successful at placing large numbers of graduates in college will tend to attract students whose chances of college admission were already quite good. Some research suggests that talented students with advantaged backgrounds may actually do *less* well in such schools than they would otherwise, since their parents often attempt to preserve their children's advantage in elite college admissions by pressuring schools to ration advanced placement (AP) classes and similar college-relevant credentials (Attewell 2001, 288–289). The existence, direction, and magnitude of so-called school effects on the academic success of individual students is a contentious question in social science; since publication of the "Coleman Report" in 1966, researchers have debated whether the resources and the sociodemographic characteristics of schools have any independent effect on learning or chances for success (Coleman et al. 1966).[8]

7. Levels of racial segregation in California metropolitan areas vary by racial and ethnic group. In general, they are comparable to levels for U.S. metropolitan areas as a whole, although African Americans are somewhat less segregated from Anglos in California than in large metropolitan areas in other states (see Iceland et al. 2002).

8. The most recent rounds of the debate over "school effects" have been reviewed by Richard Arum (2000), Aage Sørensen and David Morgan (2000), and Thomas DiPrete and Jerry Forristal (1994). Most education researchers at this point would probably agree that such effects exist, although their measurement still poses a knotty technical problem because of selection bias: students are selected into particular high schools in part based on the same personal characteristics, such as parental education, that help determine their academic performance and chances for success later in life.

In the following sections we describe the inequalities among California high schools, both public and private, in the access that they provide to UC. The magnitude of the inequalities that we find is surprising, even in light of prior research. Our data will not permit us to join the debate over whether these inequalities result from school effects proper, and that is not our goal. We intend merely to raise the question of how students from different schools fare in the competition for admission to UC. The answer, we will show, is that they fare differently, and that these differences are closely associated with the racial, ethnic, and socioeconomic characteristics of the schools' student bodies. Regardless of why these inequalities arise, they are relevant for evaluating the state's success at serving all of its residents and for assessing the continued viability of the promise embodied in the State of California's Master Plan.

DATA AND METHODS

We explore high-school-level inequalities in access to UC using institutional data on California public and private high schools from the 1998–99 school year. These data come from the California Department of Education, and they describe high school populations rather than individual students. We also obtained data from the UC Office of the President (UCOP) on all students from California high schools who applied and were admitted to any UC campus for the fall semester of 1999. We aggregated these data at the level of the high school in order to merge them with the data from the Department of Education. Because the Department of Education collects only limited data on SES, particularly for private schools, we supplemented this information with 1990 census data that had been aggregated at the school district level by the National Center for Education Statistics (see Betts and Morell 1998).[9]

For the purposes of this paper we included data only for high schools reported by the California Department of Education that were successfully merged with UCOP data, meaning that they had at least one graduate who applied to UC for the fall of 1999. We excluded high schools that had fewer than ten students in grades 9 through 12. The final sample comprises 796 public schools and 273 private schools. Together, these schools represent 79.8% of all UC applicants and 86.4% of all students admitted as freshmen for the fall of 1999.

Our analyses rely mostly on simple descriptive statistics and bivariate correlation coefficients. Our main dependent variable is per capita admissions, or the percentage of graduates who were admitted to UC. We refer to this variable as the size of the "UC pipeline" from any given school. We also examine per capita applications to UC.

Because our data refer to the student bodies of entire high schools, rather than individual high school students, two methodological caveats are in order. First, the

9. For a detailed description of the data set, see the appendix to this essay.

data do not permit inferences about individual behavior. The fact that comparatively affluent high schools send a large percentage of their students to UC, for example, does not mean that it is the most affluent students *within* these schools who are likely to be admitted. Second, the data do not permit us to distinguish between the effect of attending a particular school on the one hand, and the effects of individual social background on the other. It may be that attending high school with affluent students increases one's probability of getting into UC, for example, by increasing one's access to educational resources such as AP classes and UC-required courses in high school. Nonetheless, it is surely true that schools that do well at placing students in elite colleges tend to attract students who would do well anyway. Thus, it might be that the association between affluence of the school population and per capita admissions arises only because affluent students are likely to win admission to UC, regardless of whether they attend high school with other affluent students. Our data are consistent with either hypothesis, and they will not allow us to determine which is true. This fact does not make our findings less important, but it does mean that readers should exercise caution in interpreting them.

PATTERNS OF INEQUALITY IN ACCESS TO UC

We begin by presenting simple descriptive statistics. As we noted above, we have included only schools that had at least one graduate apply to UC for the fall of 1999.

Public and Private High Schools

The overall level of per capita admissions appears to be higher in private schools, as may be seen in the summary statistics presented in Table 4.1. For the average public school, close to 13% of its graduates were admitted to UC; for the average private school, the figure was nearly 28%, or more than double. This finding echoes the research of other scholars, who have found that private school students possess a substantial advantage in university admissions (Falsey and Heyns 1984; Persell et al. 1992a, 1992b). Per capita applications are also more than double at private high schools than public high schools, suggesting that part of the inequality in per capita admissions arises because public school students are less likely to apply to UC.[10]

10. Data on per capita applications from UC-eligible graduates should be read with particular caution. These were derived by dividing *all* applications from a school by the total number of graduates who had met the Subject Requirement for eligibility. The numerator of this fraction includes some applicants who were not actually UC eligible. As a result, the raw figure of applications per capita can in principle exceed 100%, and it did so at eleven public schools where more graduates applied to UC than had actually satisfied the Subject Requirement. These may be schools where ineligible students were encouraged to apply on the theory that some would be granted admission by exception. For all of these schools we recoded the per

Some private schools have a larger admissions advantage over both public schools and other private schools. Table 4.2 sorts private schools by their religious affiliation. Catholic schools resemble all private schools in the mean percentage of their graduates that are admitted to UC (28%). Other Christian schools are much less effective channels to UC, although they are still slightly better than the public schools; on average, 16% of their graduates were admitted. A third group, nonsectarian college preparatory schools, sends a far greater percentage of their graduates to UC: an average of nearly 38%.

Although the nonsectarian schools are a minority (just over 30%) of the private schools in our database whose religious affiliation we could identify, they constitute a majority of the schools at the top end of the distribution. The top 50 private feeder schools to UC make up a small elite that outstrips the top public schools in the percentage of their graduates that are admitted to UC. A majority of them—30 of 50, or 60%—are nonsectarian. We present summary statistics for this top tier of schools in Table 4.3.

The first column of Table 4.3 presents summary statistics for the 50 private schools with the highest rate of per capita admissions, and the second column presents statistics for their 50 public school counterparts. Note that the average percentage of graduates admitted is nearly 63% for the top private schools and over 42% for the top public schools. This table may even underestimate the university access of students at the very top private schools, where some students may be so oriented toward elite private universities that they do not even bother applying to UC (see Cookson and Persell 1985). Note, however, that the students at the top private schools do apply to UC at a rate of 73%—almost five times the percentage of public-school graduates who apply.

The difference between sectors in per capita applications and admissions cannot be explained by average differences in SES—the district median housing value and

---

capita applications to equal 100%, on the assumption that all eligible graduates applied. We also experimented with omitting these schools from the analysis. Neither procedure changed the substantive findings.

For six private schools, the per capita applications figure—applications as a percentage of *all* graduates—also exceeded 100%. The fact that this figure exceeded 100% may indicate error in the reported number of graduates; the data on private schools available from the California Department of Education appear to be generally of poorer quality than are the data on public schools. It is also possible that some of these applicants were not graduates: they were either students who applied before they completed their senior year, or students who applied a year or more after graduation. For all six of these schools, we recoded per capita applications to equal 100%. This recoding did not alter any of our substantive conclusions. We also experimented with excluding these schools from the analysis. This procedure very slightly strengthened the correlations between application rates and SES reported in Table 4.6, but it too did not alter the substantive conclusions.

TABLE 4.1. Selected Characteristics of California High Schools[a]

Selected Characteristics[c]	PUBLIC HIGH SCHOOLS *Mean (S.D.)*	*Minimum*	*Maximum*	PRIVATE HIGH SCHOOLS[b] *Mean (S.D.)*	*Minimum*	*Maximum*	ALL SCHOOLS *Mean (S.D.)*
Application and Admission to UC, Fall 1999							
Percentage of graduates admitted	12.72% (10.30)	0.00%	82.46%	27.51% (20.87)	0.00%	100.00%	16.51% (15.23)
Percentage of graduates applying	15.50% (11.85)	0.00%	87.00%	36.98% (31.94)	0.77%	100.00%	20.99% (14.43)
Percentage of graduates UC-eligible[d]	38.54% (18.26)	0.00%	100.00%				
Percentage of UC-eligible graduates applying	39.98% (19.92)	1.15%	100.00%				
Race and Ethnicity of Students							
Percentage of students African American	7.17% (10.93)	0.00%	91.21%				
Percentage of students Latino	32.53% (24.65)	0.00%	99.22%				
Percentage of students Asian	12.60% (14.04)	0.00%	75.55%				
Socioeconomic Status							
Percentage of students receiving subsidized meals	30.92% (22.21)	0.00%	100.00%				
Median housing value in district (thousands of dollars)	181.99 (90.78)	7.50	475.99	220.75 (91.89)	37.17	475.99	191.72 (92.55)
Median income for families with children in district (thousands of dollars)	42.16 (13.39)	15.75	114.92	44.17 (16.22)	19.41	105.56	42.69 (14.21)
Percentage of parents[e] with graduate education	11.81% (10.59)	0.00%	65.00%				
Percentage of parents with four-year degree[f]	26.86% (10.42)	0.00%	54.00%	30.40% (13.23)	6.50%	72.60%	26.15% (12.94)
Percentage of parents with some college, no degree	23.24% (7.42)	0.00%	61.00%	30.26% (5.10)	16.10%	43.10%	31.29% (5.71)
Percentage of parents with high school diploma only	19.37% (7.34)	0.00%	64.00%	18.93% (4.79)	6.70%	34.40%	20.74% (5.31)
School Factors							
Suburban school district	0.60 (0.49)	0.00	1.00	0.52 (0.50)	0.00	1.00	0.58 (0.49)
Urban school district	0.28 (0.45)	0.00	1.00	0.44 (0.50)	0.00	1.00	0.33 (0.47)
Students enrolled in grades 9–12	1,777 (900)	37	5,149	381 (350)	10	2,101	1,419 (1,002)
Students enrolled in district	65,630 (170,260)	140	695,890	143,340 (256,330)	600	695,890	85,530 (198,720)

Percentage of teachers with full credential	89.99% (8.32)	34.38%	100.00%			
Average years of teaching experience	14.67 (2.86)	3.62	23.90			
Students per teacher	22.91 (3.64)	5.75	51.55			
Percentage of students with limited English proficiency	14.38% (12.59)	0.07%	100.00%			
Percentage of AP courses (of all courses offered)	2.81% (1.98)	0.18%	15.00%			
Percentage of UC-required courses (of all courses offered)	51.85% (11.95)	0.62%	90.02%			
Score on Academic Performance Index[g]	623.61 (106.76)	378.00	966.00			
Percentage National Merit finalists	0.44% (1.32)	0.00%	18.71%	1.58% (3.96)	0.00% 29.33%	0.74% (2.35)
UC outreach school[h]	.33 (0.47)	0	1			
N	796			273		1,070
Total number of graduates	263,546			23,470		287,016
Total number of graduates admitted to UC	35,643			7,350		42,993
Percentage of all UC admissions[i]	71.62%			14.77%		86.39%

SOURCES: California State Department of Education; National Merit Scholarship Corporation; University of California, Office of the President; University of California Outreach Advisory Board; U.S. Bureau of the Census (see the Appendix for details).

NOTE: = district level variable.

[a] Public high schools include four-year public high schools and K–12 schools, except for alternative and opportunity schools. Private high schools include all private schools with graded secondary students. Public and private schools with fewer than ten graded secondary students are excluded from the analysis, as are schools from which no graduates applied to UC for the fall of 1999.

[b] Some data were not available for private schools.

[c] Percentages for students are proportions of all students.

[d] "UC-eligible graduates" for the purposes of this table refers to all graduates who fulfilled the Subject Requirement for eligibility.

[e] Figures reported for public schools refer to parents of children enrolled in the school; figures reported for private schools and all schools combined refer to 1990 census data on the percentage of householders twenty-five years of age or older in the school district.

[f] Figures for public schools are for a four-year degree only; figures for private schools and all schools combined are for a four-year degree or higher.

[g] The Academic Performance Index (API) is computed annually by the state for all public schools. API scores for 1999 were based on student scores on the Scholastic Achievement Test (SAT).

[h] 1 = school participates in Early Academic Outreach Program; 0 = school does not participate.

[i] The total number of students admitted to UC as freshmen for the fall 1999 semester was 49,764. Table 1 accounts for 42,993, or 86.39%. Of the balance, 5,621 (about 11.3%) were from out-of-state schools; 164 (about 0.3%) were from California schools excluded from our database because of their size or institutional type; and 986 (about 2%) were from schools that are apparently in California but that we were unable to match to institutional data from the California Department of Education.

TABLE 4.2. Selected Characteristics of California Private High Schools,[a] by Religious Affiliation

Selected Characteristics	CATHOLIC HIGH SCHOOLS			OTHER CHRISTIAN HIGH SCHOOLS			NONSECTARIAN HIGH SCHOOLS		
	Mean (S.D.)	*Minimum*	*Maximum*	*Mean (S.D.)*	*Minimum*	*Maximum*	*Mean (S.D.)*	*Minimum*	*Maximum*
Application and Admission to UC, Fall 1999									
Percentage of graduates admitted	28.33% (14.34)	2.38%	68.60%	16.16% (15.65)	0.00%	60.47%	37.69% (25.87)	0.00%	100.00%
Socioeconomic Status									
Median housing value in district (thousands of dollars)	219.23 (85.75)	37.26	473.19	196.17 (86.87)	37.17	473.19	240.81 (101.03)	39.61	475.99
Median income for families with children in district (thousands of dollars)	42.03 (14.19)	19.41	102.23	41.78 (10.67)	22.38	64.09	49.73 (21.49)	29.60	105.56
Percentage of householders with four-year degree	28.95% (11.81)	6.50%	65.40%	24.61% (9.72)	7.20%	50.30%	37.34% (15.52)	9.90%	72.60%
Percentage of householders with some college, no degree	29.92% (4.89)	16.60%	43.10%	32.18% (4.22)	24.00%	40.00%	28.91% (5.22)	16.10%	39.20%
Percentage of householders with high school diploma	19.00% (3.91)	7.50%	28.40%	21.72% (4.90)	12.50%	34.40%	16.64% (5.04)	6.70%	28.30%

School Factors									
Suburban school district	0.45 (0.50)	0.00	1.00	0.63 (0.49)	0.00	1.00	0.59 (0.50)	0.00	1.00
Urban school district	0.52 (0.50)	0.00	1.00	0.30 (0.46)	0.00	1.00	0.41 (0.50)	0.00	1.00
Students enrolled in grades 9–12	648 (402)	72	2,101	233 (176)	25	705	215 (161)	17	802
Students enrolled in district	150,220 (259,000)	2,050	695,890	101,210 (218,880)	1,240	695,890	149,100 (265,560)	600	695,890
Percentage National Merit finalists	0.84% (1.38)	0.00%	8.18%	0.59% (2.15)	0.00%	13.95%	3.42% (6.36)	0.00%	29.33%
N	105			60			80		
Total number of graduates	15,167			3,022			4,071		
Total number of graduates admitted to UC	4,657			577			1,882		

SOURCES: California State Department of Education; National Merit Scholarship Corporation; University of California, Office of the President; U.S. Bureau of the Census (see the Appendix for details).

NOTE: ▒ = district level variable.

[a] Includes private high schools with ten or more graded secondary students and from which at least one graduate applied to UC for fall 1999. Thirteen of the private schools were Jewish, Muslim, or belonged to another religious denomination, and 15 private schools had no religious affiliation data available from the California Department of Education. These schools were not included in this table.

TABLE 4.3. Selected Characteristics of UC Feeder Schools

Selected Characteristics[a]	*Top 50 Private Schools*[b]	*Top 50 Public Schools*	*Midrange Public Schools*[c]	*Bottom 50 Public Schools*
Application and Admission to UC, Fall 1999				
Percentage of graduates admitted	62.60%	42.12%	11.39%	1.79%
Percentage of graduates applying	73.20%	49.80%	13.92%	3.28%
Percentage of graduates UC-eligible[d]		70.34%	37.29%	24.04%
Percentage of UC-eligible graduates applying		71.57%	39.21%	19.02%
Race and Ethnicity of Students				
Percentage of students African American		6.50%	7.06%	9.26%
Percentage of students Latino		9.96%	33.93%	35.69%
Percentage of students Asian		29.48%	11.83%	6.42%
Socioeconomic Status				
Percentage of students receiving subsidized meals		7.94%	31.51%	45.74%
Median housing value in district (thousands of dollars)	256.39	312.65	179.23%	107.11%
Median family income for families with children in district (thousands of dollars)	46.03	62.81	41.17	32.26
Percentage of parents[e] with graduate education		37.84%	10.38%	4.96%
Percentage of parents with four-year degree[f]	35.22%	36.80%	26.62%	20.14%
Percentage of parents with some college, no degree	27.69%	12.88%	23.92%	24.45%
Percentage of parents with high school diploma only	16.85%	7.38%	19.85%	25.02%
School Factors				
Suburban school district	0.45	0.82	0.58	0.56
Urban school district	0.55		0.30	0.24
Students enrolled in grades 9–12	364	1,641	1,834	1,117
Students enrolled in district	2,210	45,050	69,780	28,490
Percentage of teachers with full credential		91.72%	90.03%	87.71%

Average years of teaching experience		15.39	14.72	13.34
Students per teacher		22.21	23.02	22.02
Percentage of students with limited English proficiency		7.31%	14.72%	16.14%
Percentage AP courses (of all courses offered)		5.73%	2.62%	2.14%
Percentage of UC-required courses (of all courses offered)		65.87%	51.52%	42.11%
Score on Academic Performance Index[g]		806.56	613.03	551.90
Percentage National Merit finalists	6.19%	3.13%	0.28%	0.04%
N	50	50	696	50
Total number of graduates	4,284	18,096	235,863	9,587
Total number graduates admitted to UC	2,658	7,510	27,942	191
Percentage of all UC admissions	5.34%	15.09%	56.15%	0.38%

SOURCES: California State Department of Education; National Merit Scholarship Corporation; University of California, Office of the President; U.S. Bureau of the Census (see the Appendix for details).

NOTE: ▒ = district level variable.

[a] Percentages for students are proportions of all students.

[b] Some data were not available for private schools.

[c] Mid-range schools include all public schools that were not in the top 50 or the bottom 50. This category therefore includes the vast majority of public schools.

[d] "UC-eligible graduates" for the purposes of this table refers to all graduates who fulfilled the Subject Requirement for eligibility.

[e] Figures reported for public schools refer to parents of children enrolled in the school; figures reported for private schools refer to 1990 census data on the percentage of householders twenty-five years of age or older in the school district.

[f] Figures for public schools are for a four-year degree only; figures for private schools are for a four-year degree or higher.

[g] The Academic Performance Index (API) is computed annually by the state for all public schools. API scores for 1999 were based on student scores on the Stanford Achievement Test, Ninth Edition (SAT9).

district median income are both higher on average for the top public schools. Since we only have district-level averages for these variables, of course, we cannot exclude the possibility that individual private school graduates who are admitted to UC have more parental wealth and income than do private school graduates as a group or their public school counterparts.

Race, Ethnicity, and SES

What about inequalities among schools within the public sector? The last three columns of Table 4.3 show evidence of inequalities related to social background, including race, ethnicity, and SES, among public schools. Regardless of the measure, the SES of the school population varies with per capita admissions as we read across the table. The most striking association is between per capita admissions and the percentage of parents who have some graduate education. The latter variable is more than seven times greater for the top fifty feeder schools than for the fifty at the bottom. The percentage of Asians also correlates with per capita admissions, whereas the percentages of African Americans and Latinos vary inversely with per capita admissions.

The data in Table 4.3 also suggest that educational opportunities vary across schools. The availability of a college preparatory curriculum varies directly with per capita admissions. AP classes, for example, are more than twice as available in the top fifty public feeder schools, where they comprise almost 6% of all classes, than in the bottom fifty, where they make up just over 2% of all classes. AP classes are not necessary for UC eligibility, of course, but they do help in the competition for admission. The availability of UC-required classes also varies somewhat across schools. In the top public feeder schools, roughly two-thirds of all classes count toward UC's Subject Requirement for eligibility. In the schools at the bottom of the range, less than half of all classes count toward UC requirements. Such curricular inequalities may have serious consequences for students' educational advancement. In contrast, the mean levels of other school resources—such as the number of students per teacher, or the percentage of teachers with full credentials—do not differ substantially across groups of schools.

The relationship between the socioeconomic characteristics of schools and the schools' per capita admissions rates is not linear. Instead, the top feeder schools have a distinctively privileged profile, while those at the bottom are relatively similar to the majority of schools that are in the middle of the pack. Figures 4.2 through 4.4 show per capita admissions for selected independent variables, illustrating the degree to which access is concentrated in a few privileged schools.

Figure 4.2 shows the inequality in per capita admissions associated with the racial and ethnic composition of the high school student body for public schools. As the percentage of African American and Latino students increases, the percentage of graduates admitted to UC tends to decrease. The relationship appears more or less

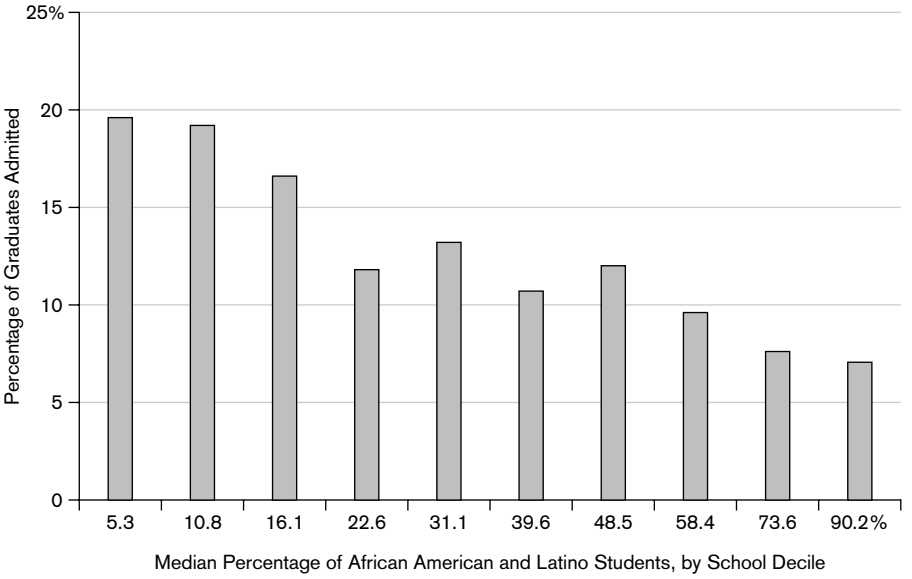

FIGURE 4.2. UC Admissions, by Racial or Ethnic Composition of School, 1999

SOURCES: California State Department of Education; University of California, Office of the President; U.S. Bureau of the Census (see the Appendix for details).

NOTE: For the purposes of this figure, schools are grouped into deciles by their racial composition, from the lowest percentage of underrepresented minority students to the highest. Each decile is represented by the value for the median school within that decile.

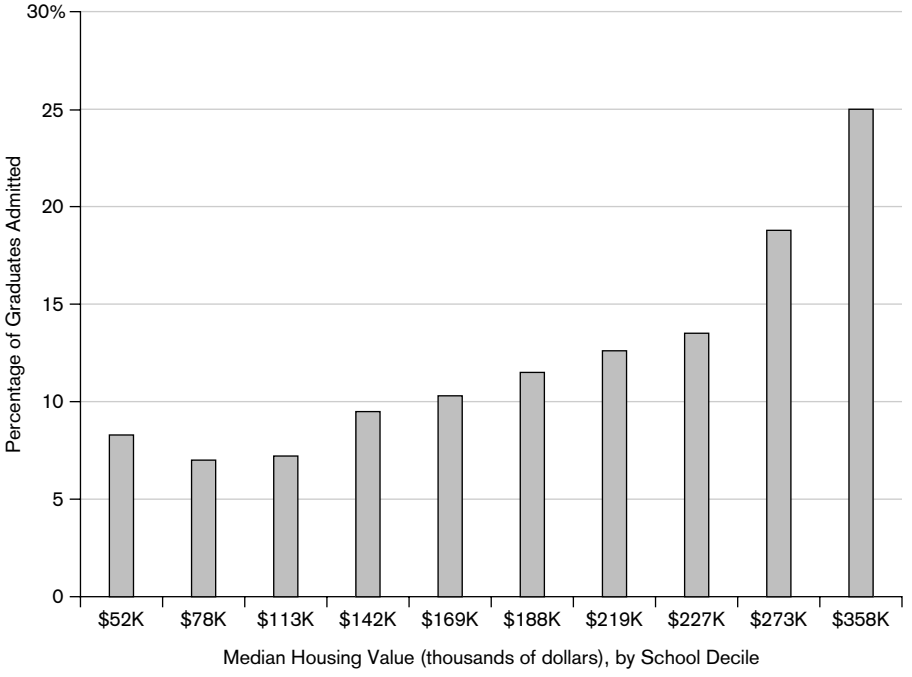

FIGURE 4.3. UC Admissions, by School District Housing Values, 1999

SOURCES: California State Department of Education; University of California, Office of the President; U.S. Bureau of the Census (see the Appendix for details).

NOTE: For the purposes of this figure, schools are grouped into deciles by the median 1990 housing value of the school district, from the lowest to the highest. Each decile is represented by the median housing value for the district of the median school within that decile.

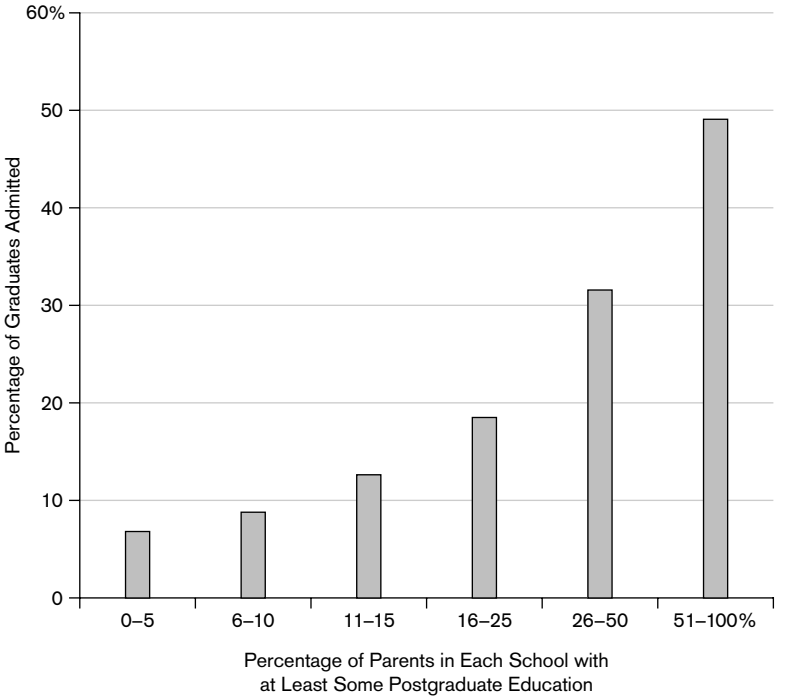

FIGURE 4.4. UC Admissions, by Parental Education, 1999

SOURCES: California State Department of Education; University of California, Office of the President; U.S. Bureau of the Census (see the Appendix for details).

linear, except for the schools in the middle of the distribution. The overall pattern of inequality reflects UC's ban on affirmative action, which decreased the admissions chances of African American and Latino students. Our data come from 1999, the second year after implementation of the ban in undergraduate admissions.

Although some readers may suppose that eliminating consideration of race and ethnicity from the admissions process would increase opportunities for low-SES students to attend UC, our data show the continued existence of dramatic socioeconomic inequalities in access. When schools are arranged by SES decile, the top 10% have a much higher per capita admissions rate than do the rest, regardless of the SES measure employed. Figure 4.3, which shows the relationship between admission rates and the median housing value of the district in which a school is located, illustrates the common pattern. The jump in per capita admissions for the schools at the top is quite dramatic, but, even so, the figure probably understates the true association between wealth and per capita admissions for two reasons. First, our measure of housing value captures affluence at the level of school districts; it therefore provides no information about inequalities among schools *within* any given district, and such inequalities may also be associated with different rates of admission to UC. Second, the figure is based on 1990 housing values, which do not reflect California's housing

TABLE 4.4. Parental Education of Students Admitted to UC, Fall 1999

	All 45- to 64-Year-Olds in California, March 1999	*Parents of Students Admitted to UC as Freshmen*	*Degree of Overrepresentation Among UC Parents*
Percentage with High-School Diploma	82.9%	89.4%	107.8%
Percentage with Four-Year College Degree	31.4	52.0	165.6

SOURCES: University of California, Office of the President (1999); U.S. Bureau of the Census (2000a).

market in 1999, the year our per capita admissions data were collected. Since 1990 housing prices have risen meteorically in California, especially in urban areas (see Greenwich and Niedt 2001, 37–39). Although housing prices rose across the board, the increase was especially dramatic in areas that were already expensive. For this reason our use of 1990 data probably provides a conservative estimate of the true level of socioeconomic inequality in 1999.

Socioeconomic inequalities appear most extreme in the case of parental education, as Figure 4.4 shows.[11] Indeed, for the few schools that reported that at least 50% of their students' parents had graduate degrees, the per capita admissions were close to 50%. Students from schools where the parents are well educated tend to do well in the competition for university admissions. This association suggests that individual students whose parents are highly educated are strongly advantaged, independent of the school context. Table 4.4 illustrates this point by comparing the parental education levels of all students admitted to UC for the fall of 1999 to the educational attainment of all Californians aged forty-five to sixty-four in March 1999. The freshman class admitted to UC appears more unrepresentative of the state at the higher level of educational attainment.

Which of these inequalities in access are greatest? One way to compare these different dimensions of unequal access is to summarize them with standardized correlation coefficients. We have done this separately for public and private schools. The results for public schools are presented in the first column of Table 4.5.

These bivariate correlations for public high schools show that the percentage of graduates admitted to UC is substantially negatively correlated with the percentage of African Americans (−.06) and Latinos (−.40) in the student body, and positively correlated with the percentage of Asians (.44) and Anglos (.16). This

11. The pattern is similar for other SES variables in our database, including the median income of families with children in the school district and the percentage of students receiving free or reduced-price lunches.

TABLE 4.5. Bivariate Correlations between Selected Characteristics of Public High Schools and Admissions to UC in Fall 1999[a]

Selected Characteristics	APPLICATION AND ADMISSIONS			
	Graduates Admitted[b]	*UC-Eligible Graduates*[c]	*Graduates Applying*	*Applicants Admitted*
Race and Ethnicity of Students				
African American students (as percentage of all students)	−0.06	−0.05	−0.02	−0.21
Latino students (as percentage of all students)	−0.40	−0.36	−0.39	−0.15
Asian students (as percentage of all students)	0.44	0.26	0.45	0.04
Anglo students (as percentage of all students)	0.16	0.22	0.14	0.20
Socioeconomic Status				
Students receiving subsidized meals (as percentage of all students)	−0.42	−0.37	−0.41	−0.19
District median housing value	0.55	0.40	0.57	0.02
Median income for families with children in district	0.59	0.43	0.58	0.11
Parents with graduate education (as percentage of all parents)	0.82	0.58	0.82	0.16
Parents with four-year degree only (as percentage of all parents)	0.50	0.45	0.49	0.18
Parents with some college, no degree (as percentage of all parents)	−0.38	−0.18	−0.39	0.06
Parents with high school diploma only (as percentage of all parents)	−0.65	−0.51	−0.65	−0.19
School Factor				
Suburban school district	0.14	0.06	0.13	0.05
Urban school district	−0.05	−0.04	−0.03	−0.05
Students enrolled in grades 9–12	0.02	−0.07	0.03	−0.04
Students enrolled in district	0.00	0.05	0.03	−0.12
Teachers with full credential (as percentage of all teachers)	0.17	0.09	0.14	0.14

pattern is broadly characteristic of average differences across groups in academic performance, although we were surprised to find that the negative correlation for African Americans is closer to zero than is the correlation for Latinos. As we discuss below, this finding probably reflects at least in part the countervailing influence of UC outreach programs. Many of these programs, which encourage students to take UC-required courses and apply for admission, target low-performing schools, in which African Americans happen to be concentrated (Le-Nguyen 1999).

The correlation coefficients of per capita admissions with various measures of SES for public schools are generally larger than are the correlations with race and ethnicity. They range from −.42 for the percentage of students receiving reduced-price

TABLE 4.5. (*Continued*)

Selected Characteristics	APPLICATION AND ADMISSIONS *Graduates Admitted*[b]	*UC-Eligible Graduates*[c]	*Graduates Applying*	*Applicants Admitted*
School Factor (*continued*)				
Average years of teaching experience	0.16	0.05	0.15	0.07
Students per teacher	0.00	−0.11	−0.01	0.03
Students with limited English proficiency (as percentage of all students)	−0.22	−0.27	−0.21	−0.10
AP courses (as percentage of all courses offered)	0.51	0.34	0.51	0.05
UC-required courses (as percentage of all courses offered)	0.43	0.36	0.43	0.12
Score on Academic Performance Index[d]	0.68	0.56	0.67	0.24
National Merit finalists	0.63	0.35	0.60	0.12
UC outreach school	−0.14	−0.16	−0.13	−0.08
Application and Admissions				
Applicants admitted	0.20	0.04	0.10	
Graduates applying	0.99	0.64		

SOURCES: California State Department of Education; National Merit Scholarship Corporation; University of California, Office of the President; University of California Outreach Advisory Board; U.S. Bureau of the Census (see the Appendix for details).

[a] Correlations calculated for all four-year public high schools and K–12 schools in our database, except for alternative and opportunity schools, with at least ten graded secondary students (N = 796).

[b] The figures in this column refer to the correlations between selected characteristics of public high schools and their percentage of all graduates admitted to UC. Not all graduates apply to UC. The proportion of graduates admitted equals the proportion of graduates who apply times the proportion of those applicants who are admitted: thus, these correlations are affected by inequalities in rates of application, as well as by inequalities in the rates at which applications are admitted. Columns three and four of this table correlate school characteristics with, respectively, the rates at which graduates apply and the rates at which applicants are admitted.

[c] For the purposes of this table, "UC-eligible graduates" refers to the percentage of all graduates who fulfilled the Subject Requirement for eligibility.

[d] The Academic Performance Index (API) is computed annually by the state for all public schools. API scores for 1999 were based on student scores on the Stanford Achievement Test, Ninth Edition (SAT9).

meals, to .55 for the school district's median housing value, to .59 for the median income of families with children in the district, and finally to .82 for the percentage of students in the school whose parents have some graduate education. The last of these coefficients is even greater than the correlation of per capita admissions with average academic performance (as measured by the state's Academic Performance Index or the number of National Merit finalists).[12] Indeed, a correlation of .82 implies that we can predict almost 70% of the variance in the percentage of graduates from

12. The Academic Index is computed annually by the state for all public schools based on student scores on a standardized test.

California public high schools who are admitted to UC using only the distribution of parents' educational attainment.

The correlation of per capita admissions with curricular variables is also relatively strong. The availability of AP courses correlates at .51 with per capita admissions. The availability of UC-required courses correlates at .43 with per capita admissions. Unsurprisingly, schools where the curriculum is tailored to college preparation tend to be among the best pathways to UC.

Finally, the correlations of per capita admissions with administrative variables—such as the percentage of teachers who are fully credentialed or the average number of students per teacher—are generally lower than the correlations with race, ethnicity, and SES characteristics of the school population. These low correlations are consistent with the findings of the Coleman Report—and a great deal of subsequent educational research—that students' family background is more important to their future success than are the resources provided by the schools they attend (Sørensen and Morgan 2000). This does not imply, of course, that school resources are unimportant.[13]

How do these inequalities arise? The data shown in the second, third, and fourth columns of Table 4.5 allow us to draw some conclusions about the processes that produce these correlations. These columns break the college selection process into stages: first, graduates must take the classes required for UC eligibility; then, they must apply; and finally, applicants must be selected by the university admissions officers. Thus, by examining the association between sociodemographic characteristics of the student body on the one hand, and rates of course taking and application on the other, we can discover which of these stages give rise to the greatest inequalities.

The correlation coefficients reported in these columns suggest important conclusions about the impact of race and ethnicity. For Latinos, Asians, and Anglos, this impact is greatest in the earlier stages of the admissions process. That is, the racial and ethnic composition of the student body is associated with the percentage of graduates who are eligible for UC and with the percentage of graduates who apply to UC, but once students have taken the required classes and have applied, the racial and ethnic composition of the school has relatively little impact on admissions. Thus, the crucial process producing the association between race and ethnicity and per capita admissions is not the decision of admissions officers. The processes involved are, at the institutional level, the articulation of UC's eligibility guidelines with the courses offered by particular schools and, at the individual level, decisions about patterns of course taking and application to UC.

Schools that are predominantly African American are the exception to this pattern. These schools tend to have rates of course taking and UC application that are similar to the average, but rates of admission that are substantially lower. A likely interpreta-

13. As Richard Arum notes, the general consensus among educational researchers has recently shifted to the view that school resources do matter for individual academic outcomes (2000, 404). A recent study of California's schools by Julian Betts and co-authors concludes that the unequal resources of schools affect individual academic achievement (Betts et al. 2000).

tion of this finding is that UC's public high school outreach programs are successfully changing the course taking and application behavior of students in these schools. Although UC's outreach programs are not explicitly designed for specific racial and ethnic groups, they do target underperforming schools in areas of concentrated socioeconomic disadvantage (Le-Nguyen 1999). These are precisely the schools in which African American students tend to be most concentrated (Betts et al. 2000, 86–87).

The association between SES and the size of the UC pipeline is also driven by patterns of course taking and application. Relatively little SES inequality is added by the selection of applicants. Nevertheless, it appears that SES inequalities are cumulative. Students from low SES schools are on average less likely to take required classes, less likely to apply, *and* less likely to be admitted once they apply. Our data do not show whether this is actually true of the low-SES students *within* these schools, but other research has demonstrated that it is true of low-SES students in general (see, e.g., Cabrera and La Nasa 2001).

We find a similar pattern of correlations for private schools, as may be seen in Table 4.6. Here the correlations are considerably weaker, probably because the data, taken from the 1990 census and aggregated to the district level, are of poorer quality. We still find that parental education is the measure of SES that has the strongest correlation with per capita admissions. These "parental education" data do not actually refer to parents, but to all adult householders in the district over twenty-five years of age, and they lump together adults who have some graduate education with all other college graduates. Still, the percentage of graduates admitted to UC has a correlation of .30 with the percentage of householders in the top education category. The correlations are weaker for other SES measures: .25 for the median housing value in the district and .17 for the median income of families with children.

In summary, we find that high schools with high SES rankings have higher rates of admission to UC. Our findings also show that schools with heavily African American and Latino student populations channel fewer students into UC. Moreover, these inequalities are cumulative: with a multiple regression analysis of the 674 public high schools that have no missing data, we can predict 80% of the variance in per capita admissions by including only variables that describe the racial and ethnic composition of the student body, dummy variables for urban and suburban location, total enrollment in the school and the district, and the SES measures we have described.[14]

What this means is that UC is disproportionately accessible to students from affluent schools in highly educated communities with largely Anglo and Asian student bodies. Tables 4.7 and 4.8 illustrate this point more intuitively for readers who have some familiarity with the social geography of Los Angeles or the San Francisco Bay Area. These tables list the top twenty-five public and private feeder schools in

14. We do not report the detailed results of this regression analysis here. Because the SES variables are so highly intercorrelated with one another and with race and ethnicity, and because the data are so highly aggregated, individual regression coefficients are uninformative about the relative magnitudes and causal dynamics of these inequalities.

TABLE 4.6. Bivariate Correlations between Selected Characteristics of Private High Schools and Admissions to UC in Fall 1999[a]

Selected Characteristics[b]	APPLICATION AND ADMISSIONS *Graduates Admitted*[c]	*Graduates Applying*	*Applicants Admitted*
Socioeconomic Status			
Median housing value in district	0.25	0.11	−0.02
Median income of families with children	0.17	0.00	0.11
Householders with 4-year college degree or higher	0.30	0.10	0.13
Householders with some college, no degree	−0.23	−0.08	0.03
Householders with high school diploma only	−0.30	−0.10	−0.10
School Factors			
Suburban school district	−0.06	−0.08	0.04
Urban school district	0.09	0.10	−0.04
Students enrolled in grades 9–12	0.15	−0.05	0.13
Students enrolled in district	0.07	0.03	−0.09
National Merit finalists	0.54	0.11	0.15
Application and Admissions			
Applicants admitted	0.33	0.05	
Graduates applying	0.15		

SOURCES: California State Department of Education; National Merit Scholarship Corporation; University of California, Office of the President; U.S. Bureau of the Census (see the Appendix for details).

[a] Correlations calculated for all private schools in our database with at least ten graded secondary students (N = 273).

[b] All school characteristics in this table except "Students enrolled in grades 9–12," "National Merit finalists," "Applicants admitted," and "Graduates applying," refer to district-level measures.

[c] The figures in this column represent the correlations of the selected school characteristics with the percentage of graduates admitted to UC. Not all graduates apply to UC. A negative correlation coefficient may therefore mean that the school characteristic in question is negatively associated with the percentage of graduates who apply, or with the percentage of such applicants who are admitted, or with both. Columns two and three correlate school characteristics with, respectively, the percentage of graduates applying and the percentage of applicants admitted.

California, as measured by the percentage of their graduates who were admitted to UC as undergraduates for the fall of 1999. We have excluded schools with fewer than thirty applicants. From Piedmont, to Palo Alto, to Palos Verdes Estates, the list reads like a roster of affluent and relatively Anglo communities.

Table 4.9 presents the other end of the distribution: the twenty-five lowest feeder schools among California's biggest public high schools. We have excluded schools with fewer than 100 seniors from this table in order to draw attention to the large schools that had no or almost no graduates admitted to UC for 1999. Washington High in Fresno and Centennial High in Compton top the list, with zero and one admission, respectively.

TABLE 4.7. Top Twenty-five Public UC Feeder Schools, Fall 1999[a]

All Graduates	*Number Graduates Admitted to UC*	*Percentage Graduates Admitted to UC*	*School*	*District*	*City*
171	141	82.5%	Whitney (Gretchen) High	ABC Unified	Cerritos
118	81	68.6	California Academy of Math & Science	Long Beach Unified	Carson
198	126	63.6	Piedmont High	Piedmont City Unified	Piedmont
295	171	58.0	San Marino High	San Marino Unified	San Marino
451	252	55.9	Davis Senior High	Davis Joint Unified	Davis
391	202	51.7	Lynbrook High	Fremont Union High	San Jose
627	322	51.4	Lowell High	San Francisco Unified	San Francisco
199	101	50.8	Campolindo High	Acalanes Union High	Moraga
303	152	50.2	Palo Alto High	Palo Alto Unified	Palo Alto
460	222	48.3	Monta Vista High	Fremont Union High	Cupertino
230	110	47.8	Saratoga High	Los Gatos-Saratoga Joint Union High	Saratoga
504	240	47.6	University High	Irvine Unified	Irvine
386	181	46.9	La Jolla Senior High	San Diego City Unified	La Jolla
799	370	46.3	Arcadia High	Arcadia Unified	Arcadia
341	157	46.0	Gunn (Henry M.) High	Palo Alto Unified	Palo Alto
280	127	45.4	Miramonte High	Acalanes Union High	Orinda
290	129	44.5	Acalanes High	Acalanes Union High	Lafayette
524	233	44.5	Mission San Jose High	Fremont Unified	Fremont
478	210	43.9	Sunny Hills High	Fullerton Joint Union High	Fullerton
513	225	43.9	Torrey Pines High	San Dieguito Union High	San Diego
684	292	42.7	Palos Verdes Peninsula High	Palos Verdes Peninsula Unified	Rolling Hills Estates
180	73	40.6	Albany High	Albany City Unified	Albany
306	123	40.2	La Canada High	La Canada Unified	La Canada
181	71	39.2	Tamalpais High	Tamalpais Union High	Mill Valley
166	65	39.2	Los Angeles Ctr. for Enriched Studies	Los Angeles Unified	Los Angeles

SOURCES: University of California, Office of the President (1995, 1999).
[a] Table excludes schools with fewer than thirty applicants to UC for the fall 1999 semester.

A FUTURE OF UNEQUAL ACCESS?

We have documented that there are substantial inequalities among high schools in the access they provide to UC, and that these inequalities are related to race, ethnicity, and SES. The existence of such inequalities is not surprising, but their magnitude—

TABLE 4.8. Top Twenty-five Private UC Feeder Schools, Fall 1999[a]

All Graduates	*Number Graduates Admitted to UC*	*Percentage Graduates Admitted to UC*	*School*	*District*	*City*
92	79	85.9%	Lick-Wilmerding High	San Francisco Unified	San Francisco
75	63	84.0	College Preparatory	Oakland Unified	Oakland
80	67	83.8	Head-Royce	Oakland Unified	Oakland
96	78	81.3	San Francisco University High	San Francisco Unified	San Francisco
57	42	73.7	Urban School Of San Francisco	San Francisco Unified	San Francisco
262	190	72.5	Harvard-Westlake	Los Angeles Unified	North Hollywood
50	36	72.0	Windward	Los Angeles Unified	Los Angeles
82	59	72.0	Marin Academy	San Rafael City High	San Rafael
54	38	70.4	Westridge	Pasadena Unified	Pasadena
86	59	68.6	Marymount High[b]	Los Angeles Unified	Los Angeles
76	52	68.4	Marlborough	Los Angeles Unified	Los Angeles
91	62	68.1	Flintridge Preparatory	La Canada Unified	La Canada
34	23	67.6	Viewpoint	Las Virgenes Unified	Calabasas
58	39	67.2	Chadwick	Palos Verdes Peninsula Unified	Palos Verdes Estates
78	52	66.7	The Branson School	Tamalpais Union High	Ross
369	240	65.0	St. Ignatius College Preparatory[b]	San Francisco Unified	San Francisco
127	82	64.6	Menlo	Sequoia Union High	Atherton
271	174	64.2	Loyola High School of L.A.[b]	Los Angeles Unified	Los Angeles
64	41	64.1	Crystal Springs Uplands	San Mateo Union High	Hillsborough
89	56	62.9	Polytechnic	Pasadena Unified	Pasadena
73	45	61.6	Oakwood Secondary	Los Angeles Unified	North Hollywood
77	47	61.0	La Jolla Country Day	San Diego City Unified	La Jolla
60	34	56.7	Cate	Carpinteria Unified	Carpinteria
53	30	56.6	Castilleja	Palo Alto Unified	Palo Alto
255	144	56.5	Bishop O'Dowd High[b]	Oakland Unified	Oakland

SOURCES: University of California, Office of the President (1995, 1999).
[a] Table excludes schools with fewer than 30 applicants to UC for the fall 1999 semester.
[b] Catholic school.

TABLE 4.9. Bottom Twenty-five Public UC Feeder Schools, Fall 1999[a]

All Graduates	*Number Graduates Admitted to UC*	*Percentage Graduates Admitted to UC*	*School*	*District*	*City*
255	0	0.0%	Washington High	Washington Union High	Fresno
227	1	0.4	Centennial High	Compton Unified	Compton
196	1	0.5	Mesa Verde High	San Juan Unified	Citrus Heights
186	1	0.5	Escondido Charter High	Escondido Union High	Escondido
140	1	0.7	Rosamond High	Southern Kern Unified	Rosamond
209	2	1.0	West Valley High	Anderson Union High	Cottonwood
201	2	1.0	Lindhurst High	Marysville Joint Unified	Olivehurst
311	4	1.3	Silverado High	Victor Valley Union High	Victorville
296	4	1.4	Alisal High	Salinas Union High	Salinas
388	6	1.5	Arvin High	Kern Union High	Arvin
249	4	1.6	Sierra High	Manteca Unified	Manteca
184	3	1.6	Duncan (Erma) Polytechnical High	Fresno Unified	Fresno
235	4	1.7	Compton High	Compton Unified	Compton
397	7	1.8	Ridgeview High	Kern Union High	Bakersfield
111	2	1.8	School of the Arts (High)	San Francisco Unified	San Francisco
109	2	1.8	Willows High	Willows Unified	Willows
327	6	1.8	Dominguez High	Compton Unified	Compton
103	2	1.9	Mojave Senior High	Mojave Unified	Mojave
100	2	2.0	Lower Lake High	Konocti Unified	Lower Lake
250	5	2.0	Anderson High	Anderson Union High	Anderson
139	3	2.2	Kern Valley High	Kern Union High	Lake Isabella
366	8	2.2	North High	Kern Union High	Bakersfield
133	3	2.3	Imperial High	Imperial Unified	Imperial
388	9	2.3	Foothill High	Kern Union High	Bakersfield
215	5	2.3	Azusa High	Azusa Unified	Azusa

SOURCES: University of California, Office of the President (1995, 1999).
[a] Table excludes schools with fewer than 100 seniors.

including rates of admission that are over five times greater in high-SES schools than in low-SES schools—is a cause for serious concern.

The administrators and the Regents of UC are aware that such inequalities exist. UC's admissions policies have changed since our data were collected, and some of these changes are probably best understood as attempts to counteract the very inequalities we describe. One such innovation is the ELC program, which grants UC eligibility to any California high school student in the top 4 percent of his or her

class. The program is designed specifically to reduce inequalities across high schools in the percentage of students who are UC eligible. It has received a great deal of attention since the Bush administration, in a brief before the U.S. Supreme Court, described a similar plan operated by the University of Texas as an alternative to affirmative action (Olson et al. 2003, 17). In practice, however, the new eligibility standard alone does little to reduce inequalities of race, ethnicity, or SES in rates of UC eligibility or admission, for two reasons. First, the vast majority of students who are eligible for UC under the ELC program would have been eligible in any case (Geiser 1998; University of California, Office of the President 2002b, 4). Second, although the ELC program may slightly increase the size of the UC pipeline for some schools that are at the low end of the distribution, it will do little to reduce the vast inequalities between schools at the middle and the top. Moreover, as we have shown, the greatest inequalities arise between a small group of elite schools and the rest. Thus, the ELC program will do little to remedy the total inequality among the state's secondary schools in the access that they provide to UC.[15]

Another recent innovation that may have some effect is UC's policy of comprehensive review. This policy was designed in part to allow UC's undergraduate campuses to evaluate applicants in comparison to their peers in the same high school, which helps equalize rates of admission across schools (Board of Admissions 2002, 4). Comprehensive review has apparently had some success in increasing rates of admission from poorly performing schools (Board of Admissions 2002, 17). The weight UC gives such contextual evaluation, however, is still too little to greatly reduce the effect of racial, ethnic, and socioeconomic inequalities on admission.

The future of both policies is uncertain. Prior to the U.S. Supreme Court's June 2003 rulings on affirmative action at the University of Michigan, it appeared that conservative groups were preparing to challenge both the ELC program and comprehensive review in court.[16] The Center for Individual Rights, the law firm that represented the plaintiffs in the Michigan case, has asserted that programs like the ELC are unconstitutional because they are designed to achieve racially diverse freshman classes (Levey 2002). Another law firm, the Pacific Legal Foundation, has suggested that comprehensive review may also be unconstitutional, and it has begun actively soliciting plaintiffs to sue UC (see Stirling 2002). At this writing, the implications of the Court's rulings for these potential legal challenges are still unclear.

15. One qualification to this conclusion is in order. We have pointed out that the new eligibility standard itself has had and will have little effect. By advertising the ELC program in high schools throughout California, however, the UC may have encouraged some students to apply who otherwise would not have done so. In particular, the results of a simulation conducted by UC staff suggest that applications from Latinos, and to a lesser degree African Americans, might have increased more slowly from 2000 to 2001 if the university had not undertaken this marketing effort (University of California, Office of the President 2002b, 14). This effort nevertheless had relatively little impact on the overall level of inequality among schools. Many of the new applications came from schools with historically high rates of admission to UC (2002b, 3).
16. *Gratz v. Bollinger* 123 S. Ct. 2411 (2003); and *Grutter v. Bollinger* 123 S. Ct. 2325 (2003).

The threat to even such modest egalitarian measures is troubling. At present, relatively few students from schools with a low SES and schools where underrepresented racial and ethnic groups predominate find their way into UC. For those students who are admitted, a UC education is among the most reliable pathways to a good job. Preserving and expanding this pathway is crucial to the public mission of the university. If even this limited pathway is closed, increasing numbers of Californians may find themselves trapped at the bottom of the state's two-tier economy.

REFERENCES

Alexander, Karl L., and Bruce K. Eckland. 1977. "High School Context and College Selectivity: Institutional Constraints in Educational Stratification." *Social Forces* 56 (1): 166–188.

Arum, Richard. 2000. "Schools and Communities: Ecological and Institutional Dimensions." *Annual Review of Sociology* 26: 395–418.

Atkinson, Richard. 2001. "Achievement versus Aptitude Tests in College Admissions." *Issues in Science and Technology* 18 (2): 31–36.

———. 2002. *Statement of UC President Richard C. Atkinson on Vote by College Board Trustees to Revise the SAT I.* Unpaged electronic document. Retrieved 22 April 2003 from http://www.ucop.edu/news/sat/Atkinson/june27.htm.

Attewell, Paul. 2001. "The Winner-Take-All High School: Organizational Adaptations to Educational Stratification." *Sociology of Education* 74 (4): 267–295.

Baker, Therese L., and William Velez. 1996. "Access to and Opportunity in Postsecondary Education in the United States: A Review." *Sociology of Education* 69 (supplemental issue): 82–101.

Behrman, Jere R., Mark R. Rosenzweig, and Paul Taubman. 1996. "College Choice and Wages: Estimates Using Data on Female Twins." *Review of Economics and Statistics* 78 (4): 672–685.

Bernstein, Jared, Elizabeth C. McNichol, Lawrence Mishel, and Robert Zahradnik. 2000. *Pulling Apart: A State-by-State Analysis of Income Trends.* Washington, D.C.: Center on Budget and Policy Priorities and the Economic Policy Institute.

Betts, Julian, and Darlene Morell. 1998. "The Determinants of Undergraduate Grade Point Average: The Relative Importance of Family Background, High School Resources, and Peer Group Effects." Unpublished paper, University of California at San Diego.

Betts, Julian, Kim S. Rueben, and Anne Dannenberg. 2000. *Equal Resources, Equal Outcomes? The Distribution of School Resources and Student Achievement in California.* San Francisco: Public Policy Institute of California.

Board of Admissions and Relations with Schools. 2002. *First-Year Implementation of Comprehensive Review in Freshman Admissions: A Progress Report from the Board of Admissions and Relations with Schools.* Oakland: University of California Office of the President.

Bowen, William G., and Derek Bok. 1998. *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions.* Princeton: Princeton University Press.

Brint, Steven. 2003. "Few Remaining Dreams: Community Colleges since 1985." *Annals of the American Academy of Political and Social Sciences* 586: 16–37.

Brint, Steven, and Jerome Karabel. 1989. *The Diverted Dream: Community Colleges and the Promise of Educational Opportunity in America, 1900–1985.* New York: Oxford University Press.

Cabrera, Alberto F., and Steven M. La Nasa. 2001. "On the Path to College: Three Critical Tasks Facing America's Disadvantaged." *Research in Higher Education* 42 (2): 119–149.

California Postsecondary Education Commission. 2003a. *Total Enrollment by Segment: California Community Colleges.* Unpaged electronic document. Retrieved 29 April 2003 from http://www.cpec.ca.gov/OnLineData/GenReport.ASP.

———. 2003b. *Transfer Pathways: Full-Year Transfers—1989/90 to 2001/02.* Unpaged electronic document. Retrieved 29 April 2003 from http://www.cpec.ca.gov/OnLineData/TransferTotals.asp?A.

California State Department of Education. 1960. *A Master Plan for Higher Education in California: 1960–1975.* Sacramento: California State Department of Education. Retrieved 29 April 2003 from www.ucop.edu/acadinit/mastplan/MasterPlan1960.pdf.

———. 2003a. *Numbers of 12th Grade Graduates in California Public Schools Completing All Courses Required for U.C. and/or C.S.U. Entrance by Gender and by Ethnic Group for the Year 1994–95.* Unpaged electronic document. Retrieved 23 June 2003 from http://data1.cde.ca.gov/dataquest/stgradnum.asp?cChoice=StGrdEth&cYear=1994–95&cLevel=State&ctopic=Graduates&myTimeFrame=S&submit1=Submit.

———. 2003b. *Statewide Enrollment in California Public Schools by Grade, 1994–95.* Unpaged electronic document. Retrieved 24 June 2003 from http://data1.cde.ca.gov/dataquest/StateEnr.asp?cChoice=StEnrGrd&cYear=1994–95&cLevel=State&ctopic=Enrollment&myTimeFrame=S&submit1=Submit.

Carroll, David, and Jean Ross. 2003. *Boom, Bust, and Beyond: The State of Working California.* Sacramento: California Budget Project.

Chávez, Lydia. 1998. *The Color Bind: California's Battle to End Affirmative Action.* Berkeley: University of California Press.

Coleman, James S., Ernest Q. Campbell, Carol J. Hobson, James McPartland, Alexander M. Mood, Frederic D. Weinfeld, and Robert L. York. 1966. *Equality of Educational Opportunity.* Washington, D.C.: U.S. Government Printing Office.

College Board. 2002a. *2002 College-Bound Seniors: A Profile of SAT Test Takers.* Paged electronic document. Retrieved 29 April 2003 from http://www.collegeboard.com/prod_downloads/about/news_info/cbsenior/yr2002/pdf/2002_TOTAL_GROUP_ REPORT.pdf.

———. 2002b. *2002 College Bound Seniors: California Report.* Paged electronic document. Retrieved 29 April 2003 from http://www.collegeboard.com/prod_downloads/about/news_info/cbsenior/yr2002/pdf/2002_CALIFORNIA.pdf.

Conley, Dalton. 1999. *Being Black, Living in the Red: Race, Wealth, and Social Policy in America.* Berkeley: University of California Press.

Cookson, Peter W., and Caroline H. Persell. 1985. *Preparing for Power: America's Elite Boarding Schools.* New York: Basic Books.

Dale, Stacey Berg, and Alan B. Krueger. 2000. "Estimating the Payoff to Attending a More Selective College: An Application of Selection on Observables and Unobservables." *Quarterly Journal of Economics* 117 (4): 1491–1528.

Davies, Scott, and Neil Guppy. 1997. "Fields of Study, College Selectivity, and Student Inequalities in Higher Education." *Social Forces* 75 (4): 1417–1438.

DiPrete, Thomas A., and Jerry D. Forristal. 1994. "Multilevel Models: Methods and Substance." *Annual Review of Sociology* 20: 331–357.

Dougherty, Kevin. 1987. "The Effects of Community Colleges: Aid or Hindrance to Socioeconomic Attainment?" *Sociology of Education* 60 (2): 86–103.

Douglass, John Aubrey. 2001. "Anatomy of Conflict: The Making and Unmaking of Affirmative Action at the University of California." In *Color Lines: Affirmative Action, Immigration, and Civil Rights Options for America*, edited by John David Skrentny. Chicago: University of Chicago Press.

Falsey, Barbara, and Barbara Heyns. 1984. "The College Channel: Private and Public Schools Reconsidered." *Sociology of Education* 57 (2): 111–122.

Geiser, Saul. 1998. *Redefining UC's Eligibility Pool to Include a Percentage of Students from Each High School: Summary of Simulation Results.* Oakland: University of California Office of the President.

Greenwich, Howard, and Christopher Niedt. 2001. *Decade of Divide: Working, Wages, and Inequality in the East Bay.* Oakland: East Bay Alliance for a Sustainable Economy.

Hearn, James C. 1991. "Academic and Nonacademic Influences on the College Destinations of 1980 High School Graduates." *Sociology of Education* 64 (3): 158–171.

Hilmer, Michael J. 2000. "Does the Return to University Quality Differ for Transfer Students and Direct Attendees?" *Economics of Education Review* 19: 47–61.

Hoxby, Caroline M. 2000. "The Return to Attending a More Selective College: 1960 to the Present." Unpublished paper. Department of Economics, Harvard University.

Hurtado, Sylvia, Karen Kurotsuchi Inkelas, Charlotte Briggs, and Byung-Shik Rhee. 1997. "Differences in College Access and Choice among Racial/Ethnic Groups: Identifying Continuing Barriers." *Research in Higher Education* 38 (1): 43–75.

Iceland, John, Daniel H. Weinberg, and Erika Steinmetz. 2002. *Racial and Ethnic Residential Segregation in the United States: 1980–2000.* Washington, D.C.: U.S. Bureau of the Census.

Ishida, Hiroshi, Seymour Spilerman, and Kuo-Hsien Su. 1997. "Educational Credentials and Promotion Chances in Japanese and American Organizations." *American Sociological Review* 62 (6): 866–882.

James, Estelle, Nabeel Alsalam, Joseph C. Conaty, and Duc-Le To. 1989. "College Quality and Future Earnings: Where Should You Send Your Child to College?" *American Economic Review* 79: 247–252

Jencks, Christopher, and Meredith Phillips. 1998. "The Black-White Test Score Gap: An Introduction." In *The Black-White Test Score Gap*, edited by Christopher Jencks and Meredith Phillips. Washington, D.C.: Brookings Institution Press.

Joint Committee on Higher Education. 1969. *The Challenge of Achievement: A Report on Public and Private Higher Education in California.* Sacramento: California State Legislature.

Jones, Richard C., and Albert Kauffman. 1994. "Accessibility to Comprehensive Higher Education in Texas." *Social Science Journal* 31 (3): 263–283.

Kane, Thomas J. 1998. "Racial and Ethnic Preferences in College Admissions." In *The Black-White Test Score Gap*, edited by Christopher Jencks and Meredith Phillipson. Washington, D.C.: Brookings Institution Press.

Karabel, Jerome. 1999. "The Rise and Fall of Affirmative Action at the University of California." *Journal of Blacks in Higher Education* 25: 109–112.

Karabel, Jerome, and Katherine McClelland. 1987. "Occupational Advantage and the Impact of College Rank on Labor Market Outcomes." *Sociological Inquiry* 57 (4): 323–347.

Karen, David. 1991. "The Politics of Class, Race and Gender: Access to Higher Education in the United States, 1960–1986." *American Journal of Education* 99: 208–237

———. 2002. "Changes in Access to Higher Education in the United States: 1980–1992." *Sociology of Education* 75 (3): 190–210.

Kempner, Ken, and Mary Kinnick. 1990. "Catching the Window of Opportunity: Being on Time for Higher Education." *Journal of Higher Education* 61 (5): 535–547.

Laird, Bob. 1997. Interview by Jerome Karabel. Berkeley, Calif., 4 November.

Lemann, Nicholas. 1999. *The Big Test: The Secret History of the American Meritocracy.* New York: Farrar, Straus and Giroux.

Le-Nguyen, Thi. 1999. "Excellence and Diversity at the University of California: Outreach and Recruitment in a Post-affirmative Action Era." Unpublished MA thesis. Goldman School of Public Policy, University of California, Berkeley.

Levey, Curt A. 2002. "Texas's 10 Percent Solution Isn't One." *The Washington Post*, 12 November, p. A24

Lillard, Dean, and Jennifer Gerner. 1999. "Getting to the Ivy League: How Family Composition Affects College Choice." *Journal of Higher Education* 70 (6): 706–730.

Lucas, Samuel R. 2001. "Effectively Maintained Inequality: Education Transitions, Track Mobility, and Social Background Effects." *American Journal of Sociology* 106 (6): 1642–1690.

McCall, Leslie. 2000. "Gender and the New Inequality: Explaining the College/Non-college Wage Gap." *American Sociological Review* 65 (2): 234–255.

Milkman, Ruth, and Rachel E. Dwyer. 2002. "Growing Apart: The 'New Economy' and Job Polarization in California, 1992–2000." *The State of California Labor* 1: 3–31.

Miller, L. Scott. 1995. *An American Imperative: Accelerating Minority Educational Advancement.* New Haven: Yale University Press.

Monks, James. 2000. "The Returns to Individual and College Characteristics: Evidence from the National Longitudinal Survey of Youth." *Economics of Education Review* 19: 279–289.

Morris, Martina, and Bruce Western. 1999. "Inequality in Earnings at the Close of the Twentieth Century." *Annual Review of Sociology* 25: 623–657.

National Merit Scholarship Corporation. 1999. *Annual Report.* Evanston, Ill.: National Merit Scholarship Corporation.

Olson, Theodore, Brian W. Jones, Ralph F. Boyd Jr., Paul D. Clement, and David B. Salmons. 2003. *Jennifer Gratz and Patrick Hamacher, Petitioners, v. Lee Bollinger, et al.: Brief for the United States as Amicus curiae Supporting Petitioner.* Washington, D.C.: Office of the Solicitor General.

Ong, Paul M., and Michela Zonta. 2001. "Trends in Earnings Inequality." *The State of California Labor* 1: 39–60.

Paulsen, Michael B. 1998. "Recent Research on the Economics of Attending College: Returns on Investment and Responsiveness to Price." *Research in Higher Education* 39 (4): 471–487

Perna, Laura. 2000. "Differences in the Decision to Attend College among African Americans, Hispanics, and Whites." *Journal of Higher Education* 71 (2): 117–141.

Persell, Caroline H., Sophia Catsambis, and Peter W. Cookson Jr. 1992a. "Differential Asset Conversion: Class and Gendered Pathways to Selective Colleges." *Sociology of Education* 65 (3): 208–225.

———. 1992b. "Family Background, School Type, and College Attendance: A Conjoint System of Cultural Capital Transmission." *Journal of Research on Adolescence* 2 (1): 1–23.

Reed, Deborah. 1999. *California's Rising Income Inequality: Causes and Concerns.* San Francisco: Public Policy Institute of California.

Reed, Deborah, Melissa Glenn Haber, and Laura Mameesh. 1997. *The Distribution of Income in California.* San Francisco: Public Policy Institute of California.

Schrag, Peter. 1999. *Paradise Lost: California's Experience, America's Future.* Berkeley: University of California Press.

Slater, Robert Bruce. 1995–96. "Ranking the States by Black-White SAT Scoring Gaps." *Journal of Blacks in Higher Education* 10: 71–74.

Sørensen, Aage, and David Morgan. 2000. "School Effects: Theoretical and Methodological Issues." In *Handbook of the Sociology of Education*, edited by Maureen T. Hallinan. New York: Kluwer Academic/Plenum Publishers.

Stirling, M. David. 2002. *UC Must Strip Veil of Mystery from Its New Admissions Process.* Unpaged electronic document. Retrieved 1 February 2003 from http:www.pacificlegal.org/view_OpEdDetail.asp?iID=35.

University of California, Office of the President. 1995. Applicant data file. Unpublished electronic data set provided to authors by special arrangement.

———. 1999. Applicant data file. Unpublished electronic data set provided to authors by special arrangement.

———. 2002a. *Community College Transfers Increase at UC for Fourth Straight Year.* Unpaged electronic document. Retrieved 29 April 2003 from http://www.universityofcalifornia.edu/admissions/transferpress.html.

———. 2002b. *Eligibility in the Local Context Program Evaluation Report: Prepared for May 2002 Regents Meeting.* Oakland: University of California Office of the President.

University of California, Outreach Advisory Board. 1999. *California High Schools Served by Systemwide Outreach Programs.* Unpaged electronic document. Retrieved 15 June 2000 from http://www.ucop.edu/outreach/OR_oab_m11fig3.html.

U.S. Bureau of the Census. 1999. *Projections of the Resident Population by Race, Hispanic Origin, and Nativity: Middle Series, 2050 to 2070.* Population Projections, Series NP-T5-G. Washington DC: U.S. Bureau of the Census.

———. 2001. "Table 5: Percent of Population by Race and Hispanic or Latino Origin, for States, Puerto Rico, and Places of 100,000 or More Population." In *Census 2000 PHC-T-6: Population by Race and Hispanic or Latino Origin for the United States, Regions, Divisions, States, Puerto Rico, and Places of 100,000 or More Population.* Unpaged electronic document. Retrieved 29 April 2003 from http://www.census.gov/population/cen2000/phc-t6/tab05.txt.

———. 2000a. *Educational Attainment in the United States: March 1999.* Series P20-528. Washington, D.C.: U.S. Bureau of the Census.

———. 2000b. *Population Estimates for States by Race and Hispanic Origin.* Series ST-99-28. Unpaged electronic document. Retrieved 23 June 2003 from http//eire.census.gov/popest/archives/state/srh/srh95.txt.

Velez, William. 1985. "Finishing College: The Effects of College Type." *Sociology of Education* 58: 191–200.

APPENDIX

Our data come primarily from UCOP and the California Department of Education; they are supplemented with 1990 census data from the National Center for Education Statistics (NCES) that are aggregated at the district level. UCOP provided data on all individuals who applied to UC for the fall 1999 semester. This information includes the five-digit Admissions Testing Program (ATP) code for the high school and another code indicating whether the applicant was from a California public or private high school, a community college, or an out-of-state institution. We aggregated these data by ATP code. The Department of Education provided aggregate data on four-year high schools and K–12 schools from the 1998–99 school year. These data are indexed by a fourteen-digit CDS code identifying the county, district, and school. Five digits of the CDS code identify the district. This portion of the code is also used to identify districts in the NCES data.

We matched CDS codes to ATP codes using a file provided by UCOP. Where UCOP data

provided insufficient information to make a match, CDS codes were assigned to records on the basis of a name and city-level location match for public schools, and a name and county-level location match for private schools. Following this operation, and after correcting some errors in the identification of schools as public or private in the UCOP data, we were able to match the state and federal government data to 96.0% of California public high schools and 79.0% of California private high schools listed in the UCOP data. Some proportion of the unmatched schools presumably reflects irregular reporting to the Department of Education by some private schools.

For the purposes of this paper, we excluded all schools with fewer than ten students enrolled in grades 9 through 12. We also excluded all schools listed by the California Department of Education that we were unable to match to UCOP data. This exclusion may bias the overall per capita admissions upward, since excluded schools are likely to be those from which no one has applied to UC recently enough to be included in UCOP's ATP-CDS code matching file. The excluded schools include 83 public schools and 628 private schools.

The excluded public schools are relatively small (the median enrollment in grades 9 through 12 is 247 for the excluded public schools, compared to 1,796 for the included public schools) and rural (63% were located in rural areas, compared to 12% of the included public schools). Their SES is comparatively low, and they have slightly fewer African American and Latino students on average. Thus, we suspect that their exclusion may bias our findings about the association between admissions and high-SES schools downward (toward zero) and may bias our findings about the association between admissions and race slightly upward.

Most of the private schools that were excluded are very small religious schools (the median enrollment in grades 9 through 12 is 25). We suspect that many of the excluded private schools are not currently operating. Of the others, some are cooperatives formed by home-schooling parents, and some are analogous to the "alternative" and "opportunity" schools in the public sector, which offer alternatives to standard academic curricula in traditional settings. We supplemented the combined database with data on high school participation in UC's Early Academic Outreach Program that we obtained from the University of California Outreach Advisory Board (1999) and data on the number of National Merit finalists obtained from the National Merit Scholarship Corporation (1999).

The State of California Labor, 2003, Vol. 3, pp. 119–154, ISSN 1531-9037, electronic ISSN 1541-9045.

Innovations in State and Local Labor Legislation

NEUTRALITY LAWS AND LABOR PEACE AGREEMENTS IN CALIFORNIA

JOHN LOGAN

The National Labor Relations Act (NLRA) has been widely criticized in recent decades for its failure to protect employees against the actions of increasingly aggressive anti-union employers. The counter-organizing campaigns conducted by employers are now more expensive and more sophisticated than at any time during the postwar period, and the professional anti-union industry is worth hundreds of millions of dollars annually.[1] Yet conservatives in Congress have blocked every effort to enact federal legislation that would limit employers' "union prevention" efforts.

The resolute and cohesive opposition of national employer organizations and trade associations has presented the principal obstacle to NLRA reform for three decades. Employer opposition was instrumental in two of the largest labor law reform campaigns in the past quarter-century: the defeat of the Labor Law Reform Bill in the late 1970s and labor's failed effort during the early 1990s to outlaw the employer practice of hiring "permanent replacements" for striking workers. In the late 1970s and early 1990s union density was significantly higher than it is today, and Democrats controlled both the White House and the Congress, yet businesses' congressional allies successfully blocked these pro-labor bills by filibustering in the Senate. In response, organized labor began to explore strategies to advance its interests at the state and local levels.

In the 1990s unions and their political allies have attempted to protect workers' rights through state and local legislation. These imaginative initiatives have opened a second front in labor's longstanding conflict with business over labor law reform. Business has continued to prevail at the federal level, but labor has enjoyed some successes, particularly in California, at the state and local levels. Paradoxically, these successes have provoked calls for strong federal intervention from business groups that are normally hostile to any employment regulation emanating from Washington. These fervent advocates of states' rights and economic liberalism have found

1. In 1990 one scholar estimated that employers were making over $200 million dollars per year in direct payments to consultants, but that the true cost of anti-union campaigns rose to over $1 billion when one took into account management and supervisor time off to fight unions and consultant-led opposition that continued after union election victories (Lawler 1990).

themselves in the unaccustomed role of championing aggressive federal regulation of labor-management relations.

Among the most important of these new state and local labor laws are neutrality laws, which prohibit employers that receive state funds from using that money to promote or deter unionization. The first such law with effective enforcement mechanisms was California's Assembly Bill (AB) 1889, passed in September 2000; it became effective in January 2001.[2] Although designed to protect the integrity of state funds, AB 1889 was expected also to benefit unions, as, in practice, employers regularly spend millions of dollars of state money opposing unionization, but rarely use state money to encourage it.

Prior to the passage of AB 1889, California also took the lead in establishing several other innovative labor laws. In October 2001 Governor Gray Davis signed a "card check recognition" law, AB 1281, which became effective in January 2002. This amendment to the Meyers-Milias-Brown Act (MMBA)—landmark legislation passed in 1968 that grants California's public employees the right to organize—requires employers to recognize unions for public employees when a majority sign authorization cards.[3] California has also passed legislation that expands collective bargaining coverage to include home health care workers and a "responsible contractor" law, which promotes better wages and working conditions by requiring all businesses seeking city contracts, leases, or financial assistance to provide information on past employment practices. In addition, the California legislature passed a number of other pro-worker bills in recent months, some of which were signed into law by the governor, while others were still waiting his approval at this writing. These bills include the "California Living Wage Act" (AB 1093), which requires employers providing goods and services with state contracts over $100,000 and 100 or more employees to pay a "living wage" of $10 per hour with health benefits or $12 per hour without benefits; AB 226 (signed into law), which prohibits employers from purchasing "dead peasant insurance"—that is, life insurance naming the employer as the beneficiary, often without workers' knowledge or consent—for their employees; AB 274, an "unlawful employment practices" bill, which creates a rebuttable presumption that an employee terminated within ninety days for exercising rights under state law is a victim of unlawful retaliation; SB 796, a labor code penalties bill,

2. AB 1889 was not an entirely novel law. It was modeled, in part, on more limited statutes in New York, Illinois, and Massachusetts. The New York law prohibits the use of state money to train supervisors in anti-union techniques; the Illinois law prohibits the use of state money to influence unionization by employers in the public or education sectors; the Massachusetts law prohibits government contractors from using state money to pay the salaries of individuals whose primary purpose is to persuade employees to support or oppose unionization. None of these laws, however, included effective enforcement mechanisms.
3. The law created a mandatory collective bargaining system for local and county employees and for those in special districts. Similar provisions for state employees were provided with the passage of the Dill Act. School district employees are covered by the Educational Employee Relations Act.

which allows employees to sue in a private action to recover penalties for labor code violations that would normally be paid to the state (employees would keep 25% of the penalty); and AB 311, which eliminates the existing one-week waiting period for unemployment insurance for locked-out workers. At the city and county level, similar efforts have yielded "labor peace" ordinances, an innovation pioneered by the city of San Francisco and imitated elsewhere. Such ordinances, which are intended to minimize labor disruptions, generally require that employers receiving assistance from the city or county sign a "labor peace" agreement with any union that requests it.

All these new initiatives have been met with vigorous opposition from business, which has done everything in its power to defeat the laws in the political arena or, failing that, to overturn them in the courts. The Washington-based Labor Policy Association (LPA), which has long played a major role in opposing labor law reform at the federal level, has now taken the lead in opposing state and local legislation that guarantees neutrality and labor peace.[4] The NLRA itself contains no explicit provision preempting state and local labor laws, but these laws are potentially vulnerable to the broad doctrine, created by the federal courts between the late 1950s and early 1970s, that upholds federal supremacy in questions of labor-management law. Although the consolidation of this "preemption" doctrine has presented a major obstacle to legislative innovation in labor relations at the state and local levels during the past few decades, the courts have ruled that state action is not preempted by the NLRA if the state is acting as a market participant rather than as a regulator. This so-called proprietary exemption acknowledges that a state has an exclusive legal interest in how its funds are spent.[5] Several of California's new laws are currently facing court challenges, and their outcomes will clarify the precise limits of federal preemption.

AB 1889: THE NATION'S FIRST EFFECTIVE STATE NEUTRALITY LAW

In September 2000 the California state legislature enacted AB 1889, whose purpose was to "prohibit the use of state funds and facilities to assist, promote, or deter union organizing."[6] In arguing for this bill, unions and their allies maintained that

4. The Labor Policy Association was recently renamed; it is now the HR Policy Association.
5. A detailed discussion of the preemption doctrine is beyond the scope of this paper and has, in any case, been covered in dozens of law review articles. For critiques of a broad preemption doctrine in labor relations, see Gottesman 1990; Silverstein 1991; and Estlund 2002. For defenses of a broad preemption doctrine, see Cox 1972; and Gregory 1986. For a recent discussion of preemption issues relating to state neutrality and labor peace, see Hartley 2003.
6. AB 1889 is often referred to as the Cedillo bill. It (and its predecessor) was sponsored by Gil Cedillo (D-Los Angeles), a former officer with SEIU Local 600 in Los Angeles. The bill was authored by Scott Kronland and Stephen Berzon of the labor law firm Altshuler, Berzon, Nussbaum, Rubin and Demain.

the suppression of organizing campaigns had "grown into a multi-million dollar business" in recent years and that employers had spent tens of millions of dollars of state funds on a wide variety of anti-union activities, such as hiring management consultants, training supervisors to oppose unionization, and writing and distributing anti-union literature. While recognizing that state neutrality would not solve entirely the problem of aggressive anti-union campaigns, advocates hoped that it would at least "put an end to taxpayer financing of these campaigns." The use of state funds for anti-union activities, unions argued, not only represented an indefensible waste of scarce public resources but also effectively used "workers' own tax dollars against them."[7] Thus, the law would ensure that the power and resources of the state would no longer be used to "deprive employees of their right to choose or not to choose a union."[8]

Unions anticipated that the neutrality bill would affect employers in a wide range of industries—including transportation, telecommunications, technology, and manufacturing—that received money from a variety of different state agencies. The California Employment Training Panel, for example, distributes grants to employers to provide employees with vocational training. The use of that money for anti-union purposes, unions argued, was "nothing less than the theft of state money."[9] Its principal target, however, was the health care industry, especially employers that received state funds in the form of Medi-Cal reimbursements.[10] Indeed, several employer groups attacked the bill as simply the "latest offensive" in the national campaign by the Service Employees International Union (SEIU) to organize an "already debilitated profession."[11] Advocates of the neutrality bill repeatedly cited the example of

7. Allen Davenport (director of government relations, SEIU Local 250), letter to Darrell Steinberg (chair, Assembly Labor and Employment Committee, California State Assembly), 7 April 2000, copy obtained from the California Labor Federation (hereafter abbreviated CLF).
8. Tom Rankin (president, California Labor Federation), letter to Senator John Burton (president pro tempore, California State Senate), 21 August 2000, CLF.
9. Jonathan Hiatt and Scott A. Kronland (AFL-CIO), letter to Arthur F. Rosenfeld (general counsel, NLRB), 10 January 2003, copy obtained from the National Labor Relations Board (hereafter abbreviated NLRB).
10. The nursing home sector, for example, is heavily dependent on Medi-Cal funds: most skilled nursing home facilities receive about two-thirds of their operating budgets from Medi-Cal reimbursements. Only about 10 percent of the home health care industry is organized statewide, and SEIU has identified it as one of its highest organizing priorities in recent years. The union is currently attempting to create an agreement with the major nursing home chains. It is asking the chains to remain neutral during organizing campaigns in return for union assistance in pursuing increased funding from the state legislature. Other health care facilities, such as intermediate care facilities for the mentally retarded, often receive close to 100 percent of their operating budgets from Medi-Cal.
11. Charles H Roadman (president and CEO, American Health Care Association), letter to Arthur F. Rosenfeld (general counsel, NLRB), 1 March 2002, NLRB; Jack M. Stewart (president, California Manufacturers and Technology Association), letter to Denise F. Meiners (Special Litigation Branch, NLRB), 3 July 2002, NLRB.

Catholic Healthcare West's two-year campaign against SEIU Locals 250 and 399 in the late 1990s. The hospital chain is a major recipient of state tax dollars, receiving over $400 million in Medi-Cal reimbursements in 1998 alone. While fighting unionization at Mercy Healthcare in Sacramento and the St. Francis Medical Center in Los Angeles, CHW spent millions of federal and state health care dollars on anti-union consultants.[12]

AB 1889 was not the first attempt to enact a state neutrality law in California: the California Labor Federation had promoted such legislation for over a decade. In 1999 the state legislature passed a neutrality bill (Assembly Bill 442), but the governor vetoed it.[13] In response, supporters made several changes to the bill: they removed its detailed record keeping requirements, limited its application to the lifetime of state contracts and to companies with contracts in excess of $50,000, introduced limits on the action by potential plaintiffs in civil lawsuits, and inserted wording that state funds could not be used either to promote or to deter unionization. Claiming that the new bill was "virtually identical" to its 1999 counterpart, employers dismissed these changes as insignificant. In particular, they disparaged the idea that the bill was now neutral because it stated that public money could not be used to encourage or to discourage unionization. As a "practical matter," one employer representative maintained, "the purported distinction is without a difference as employers normally do not encourage their employees to unionize" (Berman and McCoy 2002).[14] Other employer groups pointed out that the law did not prohibit companies that received state funds from agreeing to card check recognition or granting organizers access to the workplace, which were identified as the "most powerful actions" employers can take in support of organization. They concluded that the measure was "aimed more at curbing employer opposition to unionization than their support for it" (Associated Builders and Contractors and Labor Policy Association 2003).

The revised version of the bill, AB 1889, prohibited private and public employers from using state funds to "assist, promote, or deter" union organizing by their employees. The bill identified private employers as recipients of state grants, any employer receiving a state contract for more than $50,000, and any employer receiving more

12. The hospital system, which is headquartered in San Francisco, caters to large numbers of low-income patients who are covered by Medi-Cal. According to the CHW's own financial records, it paid the Malibu-based Burke Group over $2.6 million in 1998. The campaign against SEIU also involved the Missouri-based consultants Management Science Associates.
13. Gray Davis, "AB 442: Veto Message" (1999). The governor's veto message stated that the legislation's record keeping requirements had the potential to "impose an unreasonable burden" on businesses and significantly increase employers' litigation costs "by providing countless opportunities for disgruntled employees to file civil actions merely in an effort to harass employers."
14. The AFL-CIO claimed that the assumption that employers never pressure their employees to join unions was "an incorrect assumption," and it cited several cases in which this somewhat unusual event had occurred. Jonathan Hiatt and Craig Becker (AFL-CIO), letter to Arthur F. Rosenfeld (general counsel, NLRB), 28 June 2002, NLRB.

than $15,000 during any calendar year. Private contractors could not be reimbursed for such costs, and public employers who knowingly spend state funds in such a way were liable for the amount of those funds. AB 1889 contained two further prohibitions: employers conducting business on state property under state contracts could not use that property to hold meetings related to unionization; and contractors could not assist, promote, or deter union organizing by employees who were performing work on a state contract. AB 1889 required employers to maintain financial records sufficient to demonstrate that they have not used state funds for prohibited purposes and, upon request, to provide these records to the state attorney general. The law contained two enforcement mechanisms. First, the attorney general could file a lawsuit against an employer to obtain injunctive relief, damages, and penalties. Second, any taxpayer could file a lawsuit to enforce the statute, upon providing the attorney general with sixty days' notice (Kronland, 2000).

In support of AB 1889, unions pointed out that several federal statutes already prohibit federal funds from being used to influence employees' decisions on unionization. The Job Training Partnership Act, the Workforce Investment Act, the National Community Service Act, and the Head Start Programs Act all state that public funds cannot be used to "assist, promote, or deter union organizing."[15] Just as it is important to maintain the integrity of federal tax funds, they argued, it is essential to protect state tax dollars. Unions noted that the purpose of AB 1889 was to advance the state's legitimate interest in avoiding entanglements in labor conflicts: rather than unfairly limiting employers' ability to resist unionization, the bill "leveled the playing field" and ensured that the state would "stay out of labor-management disputes" (California Labor Federation 2000).

As its supporters pointed out, AB 1889 was not, strictly speaking, "neutrality" legislation. It did not require that employers remain entirely neutral during organizing campaigns. Employers were simply prohibited from using public money to oppose or promote unionization; they were not restricted from using their own funds to oppose organizing campaigns. If the state allowed employers to use public money to oppose union campaigns, supporters of AB 1889 argued, it was effectively taking sides in private labor disputes. The neutrality required by AB 1889 was *state* neutrality, not *employer* neutrality. Opponents of the bill were not convinced.

Employer Opposition to AB 1889

Opposition to labor law reform has been unusually determined and cohesive, and employers have fought even minor reforms affecting their ability to resist unioniza-

15. In particular, supporters of AB 1889 used Head Start as an example of a federal law with similar restrictions. In November 1997 the Administration for Children and Families issued an Information Memorandum stating, "Funds appropriated to carry out this subchapter shall not be used to assist, promote or deter union organizing" (U.S Department of Health and Human Services 1997).

tion. When the Clinton Department of Labor expanded the financial reporting requirements for management consultants, for example, several influential employer groups made reversal of that policy their top priority. Indeed, one of the first major actions of the Bush administration was to rescind these rules.[16] The shift in labor's focus to state and local legislation has not been lost on its opponents. According to the LPA, the explanation behind recent state and local policy innovations was "quite obvious" to any observer of labor-management relations.[17]

> It started with the doomed effort to enact President Carter's sweeping labor law reform proposal in the late 1970s, and culminated in the failure of a Democratic Congress to enact a ban on permanent striker replacements in the 1990s. . . . Labor's solution? Look to venues where labor's political strength can bring such victories. (Yager 2003)

California is among the states where organized labor enjoys considerable political influence.[18] Employer groups have vigorously resisted efforts to enact progressive labor legislation at the state and local levels in California and elsewhere. Employer opposition to AB 1889 involved extensive political lobbying prior to and legal challenges after its enactment. The political debate on the bill was highly polarized, as employer groups continually sought not to modify, but to kill the legislation entirely. This was a "no compromise" issue for the business community, and nothing short of the defeat of AB 1889, in either the state legislature, the governor's office, or the courts, would satisfy them.

Employers' arguments against AB 1889 are worth examining in some detail because employer opposition has been the major obstacle to labor law reform and because the same arguments have been used against every subsequent state neutrality bill. Employer objections to AB 1889 fell into several categories. Most employer organizations claimed that the bill infringed upon their constitutional right to free speech, a right that was also explicitly protected by Section 8(c) of the NLRA.[19] The real

16. On the Labor Reform Bill, see Townley 1986; on consultant financial reporting, see Logan 2002.
17. For more on striker replacement, see Logan, forthcoming.
18. After two years of anti-union initiatives from a Republican-controlled legislature, Democrats regained control of the California Assembly in 1996 with critical assistance from organized labor; see *Daily Labor Report* 1996. The political environment in at least four states—New Mexico, Maine, Illinois, and Maryland—became broadly favorable to the enactment of pro-union legislation following the November 2002 elections, but lawmakers have attempted to pass neutrality legislation only in Illinois, where Democrats control the house, senate and governor's mansion for the first time in more than two decades. The Illinois state neutrality bill passed the senate but died in the house on the last day of the legislative session in June 2003.
19. Contrary to employers' contention that it protects their "free speech rights," Section 8(c) of the NLRA simply states that the board cannot use noncoercive employer speech as evidence of an unfair labor practice. In response to employers' free speech arguments, supporters of the bill stated that it did not prevent employers from exercising their First Amendment rights; it merely said that the state would not pay them to do so and that the decision not to subsidize a fundamental right was not the same as an attempt to infringe upon that right.

intention of the bill, they argued, was to eliminate altogether employer opposition during union organizing campaigns. The California Chamber of Commerce argued that the bill involved "clear violation of federal labor policy and unconstitutional suppression" of employers' free speech rights.[20]

Several employer groups claimed that AB 1889 would have a deleterious impact on business performance, especially through the imposition of its onerous accounting provisions. For example, the Associated Builders and Contractors (ABC) warned of its "devastating impact" on the construction industry, "which is often reliant on state funding and is often the target of union organizing."[21] ABC argued that AB 1889 would impose a "mammoth accounting nightmare" on small businesses and complained that, when enforced by government officials sympathetic to "top-down" organizing, prohibited expenses could include "membership dues paid to business associations" such as ABC. Employers that could not afford to pay prevailing union wage rates, it concluded, would "either go out of business or move from the state's hostile environment."[22] The California School Bus Contractors Association attacked the bill for imposing an "accounting nightmare" on employers that "choose to remain free from collective bargaining." The true intent of the bill, it complained, was to enhance unionization where an employer had "chosen to work non union."[23] (Like several other employer groups, the School Bus Contractors appeared not to realize that the purpose of federal labor law is to protect employees' choice of bargaining representatives, not employers' "choice" to remain union free). Other employer groups claimed that the legislation would send investors the message that "California is a hostile environment" and would "severely damage" the state's business climate.[24]

Some employer groups opposed the very notion that the state had a right to control funds transferred to employers in the form of state contracts. The Roofing Contractors Association announced that it was "fundamentally opposed to the concept that the state has any say in what a contractor does with monies" received from state-funded contracts.[25] The American Electronics Association also used the "whose

20. Julianne Broyles (director, Insurance and Employee Relations, California Chamber of Commerce), letter to Gil Cedillo (California State Assembly), 5 April 2000, NLRB.
21. Maurice Baskin (Venable, LLP, counsel for amicus curiae ABC), letter to Margery Lieber (assistant general counsel for special litigation, NLRB), 28 June 2002, NLRB.
22. Employers' Group, "Sample Letter to Governor Davis," 16 November 2000, NLRB.
23. Robert C. Cline (legislative advocate, California School Bus Contractors Association), letter to Gil Cedillo (California State Assembly), 5 April 2000, NLRB.
24. Russell J. Hammer (president and CEO, Sacramento Metropolitan Chamber of Commerce), letter to Carole Migden (California State Assembly), 8 May 2000, NLRB; Parke D. Terry (California Landscape Contractors), letter to Gil Cedillo (California State Assembly), 27 March 2000, NLRB.
25. Doug Hoffner (director of public affairs, Roofing Contractors Association of California), letter to Gil Cedillo (California State Assembly), 17 April 2000, NLRB.

money is it, anyway" argument, claiming that the by same logic, the state could forbid its employees from using their paychecks to "gamble or purchase birth control."[26]

Employer groups also refuted the notion that AB 1889 would protect the integrity of state funds. Rather than serving the public interest, they contended, the true intent of the law was to increase the number of unionized employees in the state by mandating employer neutrality. With the declining employee interest in collective bargaining, one management representative argued, unions were resorting to enlisting the support of state governments to "do their work" through legislation (Atkinson et al. 2002). In response to the claim that AB 1889 would stop the misappropriation of public money, the National Right to Work Committee stated that, by undermining employers' ability to resist unionization, it would "rob" the taxpayers' "pocket books" by forcing state contractors to pay "monopoly union wages."[27]

Other employers worried that pro-union state officials would use the law to expose the extent of their private spending on union suppression. As the California-based Employers' Group cautioned, "Compliance [with AB 1889] does not guarantee that expenditures to avoid unionization will remain secret" (Pepe and North 2002).

A few employer groups were less vociferous in their criticism, reluctant to leave the impression that they supported the misappropriation of state funds or opposed the right to organize. The California Water Agencies called the bill a "well-intentioned effort to protect taxpayer dollars," but criticized its "guilty unless proven innocent" approach to the misappropriation of state money.[28] Likewise, the Motion Picture Association of America "appreciated the intentions" of AB 1889 but cautioned that the law could have the "unintended consequence of sending film projects outside of California."[29]

Finally, employer groups argued that the impact of the law would clearly extend beyond firms' use of state money in at least two respects. First, they claimed that the onerous record-keeping requirements of the law created "significant disincentives" for firms to use their own money to oppose unionization. If firms chose to use private money to oppose unionization, they would be required to keep two sets of accounts, and, as a result, might fall victim to union complaints and lawsuits. If, on the other hand, employers remained silent when confronted with an organizing campaign, they would be able to rest peacefully. Thus, employers argued, the bill

26. Chris Shultz (California government affairs manager, American Electronics Association), letter to Darrell Steinberg (chair, Assembly Labor and Employment Committee, California State Assembly), 4 April 2000, NLRB.
27. Reed Larson (president, National Right to Work Committee), letter to Gil Cedillo (California Assembly), 17 April 2000, NLRB.
28. Kimberly Dellinger (legislative advocate, California Water Agencies), letter to Hilda Solis (chair, Senate Industrial Relations Committee, California State Assembly), 22 June 2000, NLRB.
29. Melissa Patack (Motion Picture Association of America, California Group), letter to Gil Cedillo (California State Assembly), 4 April 2000, NLRB.

limited their speech both directly, by restricting their use of state money, and indirectly, by imposing burdensome accounting requirements on firms that use their own money to resist unionization. The U.S. Chamber of Commerce concluded that the law's allegedly complex accounting requirements were nothing more than a "devious burden designed to force employers into neutrality" (U.S. Chamber of Commerce 2003). Second, employers claimed that the law would allow unions to organize contractors while they were working on state projects, thus becoming the employees' exclusive bargaining agent for all future projects, which might not involve state money. The law would, therefore, profoundly alter the balance of power in labor-management relations "on an ongoing basis" (Associated Builders and Contractors and Labor Policy Association 2003).

Employers' efforts to defeat AB 1889 failed. In September 2000 AB 1889 passed the legislature on a strict party line vote. Influenced by the fact that the original bill had been revised, Governor Davis signed AB 1889 into law. Employer groups were not especially discouraged by this political defeat, for they recognized that the real struggle over AB 1889 would take place in the courts. After the bill was signed, a coalition of employer groups announced their attention to challenge it. In late December 2000 they mounted an eleventh-hour effort to stop its enforcement, but the U.S. District Court for the Central District of California ruled that there was "insufficient evidence" to sustain their contention that the law was unconstitutional and preempted by federal law. The court found the employers' lawsuit "premature" because it failed to provide evidence that a single employer had suffered actual harm as a result of the statute.

After the district court declined their petition, management representatives conceded that they might "have to wait until an employer gets sued under the law" before filing another legal challenge.[30] They tried again sixteen months after the law took effect. In April 2002 the National Chamber Litigation Center—the public policy legal arm of the U.S. Chamber of Commerce—filed suit, seeking to enjoin enforcement of AB 1889 on behalf of the U.S. and California Chambers of Commerce, five other employer associations, and seven individual businesses. The lawsuit sought injunctive and declaratory relief, arguing that AB 1889 was unconstitutional and preempted by the NLRA, the Labor Management Reporting Disclosure Act, and the Medicare Act. The AFL-CIO and California Labor Federation intervened as defendants.[31]

The plaintiffs attempted to enlist the support of the National Labor Relations Board (NLRB), the government agency charged with enforcing the NLRA; the NLRB

30. Brent North, quoted in Robertson 2001. North, a Newport Beach attorney, filed the suit on behalf of the California Chamber of Commerce, the California Manufacturers and Technology Group, the Employers Group, and the California Healthcare Association.

31. Several other employer groups and management law firms filed amicus briefs in support of this challenge.

has the authority to challenge state laws on grounds of federal preemption. The plaintiffs charged that AB 1889 was preempted by federal law, calling it a "pervasive regulatory scheme" that had been "written by unions [and] agreed to by a pro-union Legislature and Governor." They stated that the law "clearly favors union organizing efforts by trying to mandate employer neutrality via state law."[32] In early 2002 several employer organizations wrote to Arthur Rosenfeld, the general counsel of the NLRB, requesting that he "treat this matter as the crisis that it has become" and seek a Nash-Finch injunction, which would halt enforcement of the law, or file an amicus curiae (friend of the court) brief supporting the employers' court challenge.[33] Noting that pro-union lawmakers had introduced broadly similar bills in several other state legislatures, the ABC appealed to the NLRB to discourage other states from "enacting such unlawful legislation."[34] Verizon Wireless argued that if the board were to intervene against California's "blatant usurpation of federal authority," it would prevent the need for it to intervene against dozens of similar laws in subsequent months and years.[35]

In May 2002 Rosenfeld requested that California Attorney General Bill Lockyer explain why federal labor law did not preempt AB 1889 and asked business and labor organizations for comments on employers' request for NLRB intervention (Labor Policy Association 2002). Lockyer and the AFL-CIO responded, stating that it would be inappropriate for the board to intervene in support of the employers' legal challenge. The NLRB does not generally become involved in litigation between third parties, the AFL-CIO pointed out, and the court challenge involved several issues other than that of NLRA preemption.[36] After accepting submissions from

32. Peggy Goldstein (acting president and CEO, California Association of Health Facilities), letter to Arthur F. Rosenfeld (general counsel, NLRB), 2 July 2002, NLRB; Harold P. Coxson (Ogletree, Deakins, Nash, Smoak, and Stewart, P.C.), letter to Arthur F. Rosenfeld, 28 June 2002, NLRB.
33. Jack M. Steward (president, California Manufacturers and Technology Association), letter to Denise F. Meiners (Special Litigation Branch, NLRB), 3 July 2002, NLRB. Nash-Finch injunctions spring from *NLRB v. Nash-Finch Co.*, 404 U.S. 138 (1971), the Supreme Court decision that first recognized the NLRB's ability to halt state action that infringes on its jurisdiction. Calling the NLRB the "sole protector of the 'national interest'" in labor-management relations, the court stated that the labor board possesses an "implied authority" to "enjoin state action where its federal power preempts the field." The Court reasserted the labor board's power to prevent enforcement of state laws in *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731, 738 (1983). The NLRB rarely exercises this power. however. Since 1971 the labor board has sought Nash-Finch injunctions on only seven occasions; all were extreme cases where, the board argued, there existed no alternative means of vindicating federal interests.
34. Baskin to Lieber, 28 June 2002.
35. William J. Emanuel (Jones, Day, Reavis, and Pogue, LLP, counsel for Verizon Wireless), letter to Margery E. Lieber, assistant general counsel for special litigation, NLRB), 27 June 2002, NLRB.
36. Suzanne M. Ambrose (deputy attorney general, State of California), letter to Denise F. Meiners (special litigation branch, NLRB), 27 June 2002, NLRB; Hiatt and Becker to Rosenfeld, 28 June 2002.

business groups, labor organizations, and the state, the NLRB took no immediate action against AB 1889.[37]

In September 2002 the U.S. District Court for the Central District of California struck down large parts of the statute, ruling that federal labor law preempted it. The court invalidated those sections that prohibited money obtained from state grants or (more significantly) through participation in state programs from being used to promote or deter unionization. It did not rule on the law's applicability to public employers or state contractors. The court dismissed the attorney general's argument that AB 1889 represented a valid exercise in the use of state money, ruling that the law was a "traditional legislative enactment, not a proprietary act." And while the court recognized that several federal statutes contained provisions similar to those found in AB 1889, it stated that these federal restrictions on the use of money for anti-union activities supported the view that Congress had intended that such matters be regulated at the federal level. Judge Gary Taylor also noted that AB 1889 would "prevent the free debate" of issues related to unionization that Congress had intended to protect: "AB 1889 is preempted because it regulates employer speech about union organizing under specified circumstances, even though Congress intended free debate."[38] The court declared the law invalid on the grounds of NLRA preemption; the ruling did not address the question of AB 1889's relationship to the First Amendment, which had constituted part of the case against the law. The ruling also did not address the bill's relationship to federal laws other than the NLRA—particularly the Medicare and Medicaid Acts—which were also cited in the plaintiff's brief.

Predictably, employer groups welcomed the court's *Lockyer* decision, while the AFL-CIO criticized its "plainly erroneous" ruling.[39] The U.S. Chamber of Commerce celebrated the outcome as a "major victory for employer's rights" and announced that it would continue to fight against AB 1889 if the state took the ruling to the U.S. Court of Appeals. Stephan Bokat, general counsel of the U.S. Chamber of Commerce, stated that the decision had ensured the continuation of a "free and open debate on the relative merits of unionization" (U.S. Chamber of Com-

37. Employer groups also sought to enlist the support of the U.S. Department of Labor, on the grounds that the 1959 Labor-Management Relations and Disclosure Act, which the Labor Department enforces, preempts 1889. Under AB 1889's "evisceration" of the LMRDA, they claimed, employers are "deprived of their federally protected rights to engage in non-coercive persuader activities." The Labor Department declined to take action against the law. See Stephen P. Pepe (O'Melveny & Myers, LLP), letter to Elaine L. Chao (U.S. secretary of labor) and Arthur F. Rosenfeld (general counsel, NLRB), 7 December 2001, NLRB; and Eugene Scalia, letter to Stephen P. Pepe, 25 January 2002, NLRB.

38. *The Chamber of Commerce of the U.S., et al. vs. Bill Lockyer, et al.*, United States District Court, Central District of California, Southern Division, 16 September 2002. Employer groups chose the location of the ruling, Orange County, and most observers consider Judge Taylor a conservative judge. Taylor later denied a state motion to stay the judgment pending its appeal to the Ninth Circuit Court.

39. Hiatt and Kronland to Rosenfeld, 10 January 2003.

merce 2002). One management law firm believed that the decision had established beyond any doubt that employer free speech rights "trump" state neutrality laws and that, as a result, employers facing legal proceedings under AB 1889 or those fearful of such action could "take comfort" from the outcome (Atkinson et al. 2002). Noting that the ruling had struck down the provision on employers that participate in state programs, one health care representative called the ruling a "clear victory" for hundreds of long-term care facilities that receive Medi-Cal reimbursements (Hooper et al. 2002). Employer groups also thought it likely that the ruling would halt the rush in other states to enact neutrality bills. The U.S. Chamber of Commerce hoped that the decision would discourage pro-union lawmakers and warned that other states that were considering legislation designed to "prevent employers from engaging their workers in an open debate" could expect the business community to "remain united against that effort" (*Daily Labor Report* 2002a).

Following the district court's decision, the attorney general temporarily suspended enforcement of the entire law, pending an appeal to the Ninth Circuit Court.[40] Employer representatives recognized that the district court's decision was not the end of the matter. One employer law firm doubted that the ruling would "mark the last work" on the state's efforts to "muzzle" California employers (Brown 2002). Another warned that, regardless of how "overreaching and blatantly unjust" AB 1889 might appear to employers, the threat of enforcement might not yet be over, for in the past the Ninth Circuit Court had proved "less than sympathetic to employer interests" (Atkinson et al. 2002).[41]

In late May 2003, shortly before the circuit court's deadline for amicus briefs, the NLRB voted 3–2 (along strict party-appointed lines) to support the challenge to AB 1889. The board rarely files amicus briefs in cases that do not directly involve one of its own decisions. A few days after meeting with labor and business representatives, the NLRB, which has a pro-management majority and general counsel for the first time since 1993, authorized General Counsel Rosenfeld to file a brief arguing that the NLRA preempts AB 1889.

The general counsel's brief argues that, unlike the state of California, "Congress generally favors robust debate of union representation issues as a means of enhancing the opportunity for employees to make a free and informed choice" (National Labor Relations Board 2003). The majority on the board apparently accepts the con-

40. The attorney general could have continued to enforce those sections of AB 1889 not overturned by the district court. The law contains a "severability clause," which limits the scope of a ruling: if the court holds invalid any portion of the law, "that invalidity shall not affect any other section." When the district court struck down the law's applicability to recipients of Medi-Care reimbursements, however, continued enforcement of the law was rendered pointless.

41. The ninth circuit is one of the few remaining circuit courts with a Democratic majority, historically a significant factor in circuit court decisions relating to labor policy. One study of NLRB success rates in the federal courts between the mid-1980s and the mid-1990s found wide variations between the different circuit courts (Brudney 2002).

tention, expressed by employer groups, that laws such as AB 1889 represent a devious effort to "de facto rewrite" the NLRA by undermining employers' free speech rights on a state-by-state basis. The brief characterizes the California law—which, it says, is presented in the "guise" of protecting state funds—as "one state's legislative response" to the growing perception among pro-union circles that the NLRA no longer adequately protects employees' right to organize. Insisting that "partisan employer speech" during organizing campaigns fosters "informed employee choice," the brief argues that the real intent of AB 1889 was to use the state's considerable spending power to stifle such speech, thereby imposing its views of how employers ought to conduct themselves when confronted with union organizing campaigns.

AFL-CIO President John Sweeney attacked the NLRB's intervention, calling it an "outrageous" decision and stating that it represents a "sharp departure from the Board's primary mission of protecting workers' rights." The California Labor Federation expressed "surprise."[42] Labor representatives stated that the board's brief conflicts with two recent labor rulings on preemption and employer speech issued by the D.C. circuit court, arguing that the "only consistency" between the court decisions and the board's brief was the "anti-union position" (*Daily Labor Report* 2003c).

In contrast, Jackson-Lewis (the law firm representing the U.S. Chamber of Commerce and the California Association of Health Facilities) announced that its clients were "extremely pleased" that the board had decided to intervene against organized labor's attempt to "jump start" its "struggling organizing efforts" (Jackson-Lewis 2002). The LPA welcomed the brief, which "extolled the virtues" of robust debate and delivered a "stinging repudiation" to organized labor's contention that any employer speech inherently interferes with employee free choice (Labor Policy Association 2003a). Even if the circuit court rejects the board's arguments, its decision to intervene against the California law will undoubtedly make it more difficult for state officials and organized labor to argue that the NLRA does not preempt AB 1889.[43]

The circuit court is considering the state's appeal on an expedited schedule, but as of June 2003 it had not yet scheduled oral arguments or assigned a panel of three judges—a crucial consideration in such cases. If the circuit court overrules the district court's decision, the statute may enjoy an additional few months or years of

42. The AFL-CIO had argued that, if the board were to intervene, it should do so only to urge the ninth circuit to reverse the "erroneous decision" of the district court. "Statement by AFL-CIO President John Sweeney on NLRB Supporting Chamber of Commerce's Lawsuit Against California Law Prohibiting Public Money to Influence Employees on Union Issue," 4 June 2003; Jonathan Hiatt (general counsel, AFL-CIO), letter to Arthur F. Rosenfeld (general counsel, NLRB), 8 May 2003, NLRB.

43. Not only was the board split on whether to intervene against AB 1889 but it also left the general counsel to "formulate and express the arguments to be made against the California law." Thus, the NLRB's brief to the circuit court arguably represents the opinion of none of the five board members.

enforcement. Employer groups would appeal the decision to the U.S. Supreme Court, however, hoping that the upper court would settle the issue, once and for all, in their favor and "on a national scale" (Atkinson et al. 2002).[44]

AB 1889 in Operation

California's state neutrality law took effect on 1 January 2001; the district court overturned it on 16 September 2002. What was the impact of this controversial piece of legislation during the twenty months of its operation? Prior to the law's enactment, employer groups had claimed that AB 1889 would have a potentially devastating impact on California businesses. This prediction failed to materialize. Unions filed only twenty-four requests for investigation with the state attorney general's office between January 2001 and December 2002—about one complaint per month (five of the complaints were received after the district court invalidated the law) (see Table 5.1). Three unions—SEIU, the California Nurses Association (CNA), and the Teamsters—submitted twenty-one of the twenty-four requests. The SEIU was by far the most active union, filing thirteen. As expected, the majority of complaints involved private nursing homes and long-term care facilities or public and private hospitals (most of which receive state money in the form of Medi-Cal reimbursements), indicating that the law has the potential for significant impact in the health care sector.

The twenty-four complaints accused employers of misappropriating state funds for a variety of prohibited activities: hiring consultants and law firms to direct anti-union campaigns; running anti-union orientation and training sessions for supervisors; paying supervisors and managers to conduct group and individual captive meetings; paying employees to attend these anti-union meetings; creating and distributing anti-union literature; and, in a few cases, mounting elaborate public campaigns against unionization. Unions believed in particular that many employers were using state funds to pay supervisors and employees for running and attending "captive audience" meetings (i.e., mandatory anti-union meetings at the workplace during working time).

Most of the complaints alleged that the employer was a recipient of state money, had engaged in prohibited activities, and had failed to maintain accounts sufficient to demonstrate compliance. In several cases unions claimed that state funds represented the employer's predominant or exclusive source of income, thus making it likely that the employer had misappropriated public money. Prominent management consultants

44. If the ninth circuit overturns the district court's decision, the Supreme Court will almost certainly hear employers' appeal. If, on the other hand, the ninth circuit rules in employers' favor, it is extremely doubtful that the Supreme Court would agree to review its decision.

TABLE 5.1. Union Requests for Investigations of AB 1889 Violations, 2001–2002

Union	*Employer*	*Location*	*Date of Complaint*	*ULP Allegation*
SEIU Local 399	Fountain View (nursing homes)	Los Angeles	03-22-01	No
SEIU Local 399	A.B. Crispino and Company, Inc.	Santa Monica	03-22-01	No
SEIU Local 399	Summit Care California (nursing homes)	Torrance	03-22-01	No
SEIU Local 399	MEK Long Beach LLC (nursing homes)	Long Beach	06-08-01	No
IBT Local 85	M.V. Transportation, Inc. (paratransit services)	San Francisco	12-03-01	Yes
IBT Local 78	M.V. Transportation, Inc. (paratransit services)	San Leandro	02-06-02	No
CNA	Palomar Pomerado Health System (public hospital)	Escondido and Poway	03-28-02	Yes MMB Violation[a]
IUOE Stationary Engineers Local 39	Golden Sierra Job Training Agency (public employees)	Loomis	04-12-02	No MMB Violation[a]
SEIU Locals 399 and 434B	Mid-Wilshire Health Care Center (nursing home)	Los Angeles	04-22-02	Yes
CNA	St. Mary's Medical System (private hospital)	Apple Valley	04-24-02	Yes
IBT Local 952	Laidlaw Transit Services, Inc.	Irvine	04-25-02	Yes
SEIU Local 1292	Siskiyou Training and Employment Program, Inc.	Various	05-01-02	Yes
SEIU Local 250	Ensign Group, Inc. (nursing homes)	Sonoma	05-16-02	No
IUOE Local 3	Rancho Murieta Community Services District	Alameda	05-17-02	No MMB Violation[a]
SEIU Locals 399 and 121RN	Valley Health System (acute care hospitals)	Moreno Valley	05-23-02	No
SEIU Local 790	Laidlaw Transit Services	San Joaquin	06-16-02	Yes
SEIU Local 399 and the Nurse Alliance	Tenet Queen of Angels Hollywood Presbyterian Medical Center (acute care hospital)	Los Angeles	06-17-02	Yes
CNA	Antelope Valley Health Care District (public hospital)	Antelope Valley	07-12-02	Yes MMB Violation[a]
SEIU Nurse Alliance	Providence St. Joseph Medical Center (acute care hospital)	Burbank	09-10-02	Yes

TABLE 5.1. (*continued*)

Union	*Employer*	*Location*	*Date of Complaint*	*ULP Allegation*
SEIU Local 1997	Oasis Rehabilitation, Inc. (mental health center)	Indio	10-09-02	No
SEIU Nurse Alliance	Pomona Valley Hospital Medical Center (public hospital)	Pomona	10-24-02	No
IBEW Local 11	GTECH Corporation (contractor with state lottery)	Woodland Hills and Santa Fe Springs	10-28-02	No
CNA	Cedars Sinai Medical Center (private hospital)	Los Angeles	11-06-02	Yes
CNA/USWA	Long Beach Memorial Medical Center (private hospital)	Long Beach	11-13-02	Yes

[a] These complaints involving public employees also included allegations that the employer had violated AB 1281, an amendment to the Meyers-Milias-Brown Act, by refusing to recognize the union on the basis of a majority of signed authorization cards.

and law firms with long-established reputations for no-holds-barred anti-unionism orchestrated several of the campaigns that generated complaints. The Burke Group ran anti-union campaigns at Antelope Valley Health Care District and St. Mary's Medical Center; the American Consulting Group ran the campaigns at the St. Joseph Medical Center and Pomona Valley Hospital Medical Center; Cruz and Associates ran the MEK Long Beach campaign; and Jackson-Lewis ran the Oasis Rehabilitation, Inc., campaign.

SEIU Local 250, for example, filed a complaint against Sonoma Health Care Center (Ensign Group), a nursing home that receives a majority of its total annual income through Medi-Cal reimbursements. The anti-union consultant firm, Labor Relations Services, Inc., of Newport Beach, orchestrated the nursing home's anti-union campaign, providing Spanish- and Tagolog-speaking consultants to talk with employees, who were largely Latino and Filipino. Local 250 provided the attorney general with the names of employees who attended mandatory anti-union meetings; the names of the consultants, managers, and supervisors who conducted group and individual captive meetings; the date, time, and location of these meetings; information on whether employees were paid for attending these meetings and, if so, out of which funds; information on the anti-union consultants who orchestrated the anti-union campaign; and copies of anti-union literature distributed to employees. Responding to the union's "reckless accusations," Sonoma Healthcare denied

that it had used any state funds to discourage its employees from supporting unionization.[45]

Not all of the complaints indicated clear violations of AB 1889. At least one union, Teamster Local 78, apparently believed that AB 1889 required strict neutrality from employers that received state money; it did not accuse the employer of misappropriating public funds, but merely stated that it had distributed anti-union literature to employees. The union believed that the company's distribution was "in violation of its obligation as a state contractor to remain neutral in a union organizing drive."[46] One or two other unions appeared uncertain as to whether the employer had received sufficient state funds to trigger the requirements of the law. One complaint issued against Long Beach Memorial Medical Center involved both the employer's efforts to defeat an organizing campaign and its attempt to prevent the union from securing a first contract for previously unionized employees. Another complaint, against Tenet Queen of Angeles Medical Center, alleged that the employer had used state funds to persuade its employees to revoke their union membership.[47]

The workplaces named in the complaints ranged from bargaining units of fewer than 40 employees that received tens of thousands of dollars in state grants or contracts, to bargaining units of over 400 employees, mostly hospitals, that received hundreds of millions of dollars in state funds. Between 1995 and 1999, for example, Palomar Pomerado Medical Center received almost $270 million, Long Beach Memorial Medical Center received over $600 million, and Cedars Sinai Medical Center received over $1,100 million in Medi-Cal payments. Another hospital accused of misappropriating state funds, Tenet Queen of Angels Hollywood Presbyterian Medical Center, received over $74 million in Medi-Cal funds between 2000 and 2001, which accounted for over half of the hospital's income.

Unions alleged that several hospitals had financed anti-union campaigns with tax dollars by co-mingling Medi-Cal reimbursements with other sources of funds. The CNA, for example, believed that the Antelope Valley Health Care District (north of Los Angeles) had spent over $1 million in state money on its intensive anti-union campaign (California Nurses Association 2002). The campaign lasted several months. The Burke Group invoiced Antelope Valley for almost $55,000 for the period 3–25 June 2002, during which time its two consultants reportedly worked eleven to sixteen hours per day. The hospital's anti-union literature, posters, and

45. Regina J. Brown (deputy attorney general), letter to Stephen P. Berzon (Altshuler, Berzon, Nussbaum, Rubin, and Demain), 19 July 2002, copy obtained from the State of California, Department of Justice (hereafter abbreviated SCDJ); Gregory K. Stapley (vice president and general counsel, Ensign Group), letter to Bill Lockyer (attorney general, California Department of Justice), 16 May 2002, SCDJ.

46. Shelia K. Sexton (Beeson, Tayer & Bodine, for Teamsters Local 78), letter to California Department of Justice, 19 February 2002, SCDJ.

47. David M. Johnson (Southern California director, CNA), letter to William Lockyer (attorney general, State of California), 13 November 2002, SCDJ; David M. Johnson, letter to William Lockyer, 6 November 2002, SCDJ.

floor mats all contained the message that they were produced "in accordance with the requirements of AB 1889," but the CNA stated that the hospital's consultants and managers had engaged in many other anti-union activities for which they made no claim of compliance with AB 1889.[48]

Health care unions contended that the anti-union campaigns repeatedly threatened patient care, since hospital management frequently ordered employees away from patient-care duties to attend lengthy captive meetings and screenings of anti-union videos. At St. Mary's Medical Center in Apple Valley (northeast of Los Angeles), nurses reported "numerous incidents" in which they were "pulled away from the bedside to attend one-on-one anti-union meetings with their managers" (California Nurses Association 2002a, 2002b).[49]

Half of the complaints also alleged unfair labor practices, several of which had been referred to the NLRB or California's Public Employment Relations Board (PERB). In addition, the four complaints involving public employees accused employers of violating the state's card check recognition law, AB 1281.[50]

Responses to these complaints by employers varied considerably. None admitted to financial wrongdoing. Some responded that they would be happy to cooperate with the attorney general's office to demonstrate that they had not misappropriated state money. Others, however, stated that they did not recognize the legitimacy of AB 1889 and would not cooperate with any investigation into how they had spent state funds. One employer named in two separate complaints, Laidlaw Transit Services, refused to comply with the "unconstitutional" and "unenforceable" law. The firm's lawyers stated that Laidlaw would not be cowed by the Teamsters' "baseless accusations" and would continue its efforts to dissuade employees from supporting unionization.[51]

In addition to the twenty-four union complaints, at least one employer attempted unsuccessfully to use AB 1889 to justify denying a union access to a workplace notice board, thereby violating a negotiated agreement that provided the union with such access. Ruling against the employer's illegal action, the NLRB dismissed its arguments concerning the requirements imposed by AB 1889 as "specious from the outset" and "empty of logic."[52]

48. The Burke Group, invoice to Antelope Valley Hospital, 30 June 2002, SCDJ; Beth Kean (organizing director, CNA), letter to William Lockyer (attorney general, State of California), 12 July 2002, SCDJ.

49. See also Luisa Blue (president, SEIU Nurse Alliance) and Dave Bullock president, SEIU Local 399), letter to Bill Lockyer (attorney general, State of California), 24 October 2002, SCDJ.

50. AB 1281 is one of several laws around the country that provide card check recognition for certain groups of employees. In January 2002 the New York legislature, for example, enacted a broadly similar law (A 9202) that affects private-sector employees who are not covered by the NLRA.

51. Theodore R. Scott (Luce, Forward, Hamilton, and Scripps, LLP, for Laidlaw Transit Services, Inc.), letter to Florice Hoffman (for Teamsters Local 952), 25 March 2002, SCDJ.

52. 338 NLRB 180, *ATC/Vancom of California* (May 2003). Opponents of the law have cited its exemptions allowing pro-union activities such as union access to the workplace and the negotiation of voluntary recognition agreements as clear evidence of the law's "one-sidedness."

If the number of union complaints was surprisingly small—especially when one considers the many thousands of employers that receive state funds—the number of cases pursued by the attorney general was even smaller.[53] Prior to the district court's decision, Lockyer stated repeatedly that he was "strongly committed" to the enforcement of AB 1889. As a result of employers' challenges, however, most of the attorney general's energies went into defending AB 1889 in the courts, rather than investigating and prosecuting cases of noncompliance. Indeed, prior to the district court's overturning of AB 1889, the attorney general had filed suit against only one employer, Fountain View, Inc.[54]

Fountain View owns approximately twenty skilled nursing homes in California. In 2001 SEIU Local 399 asked the attorney general to investigate three Fountain View homes—Brier Oak Terrace Care Center in Los Angeles and Baycrest and Royalwood Care Centers in Torrance—for misappropriation of state funds. The union argued that the company had used state money to hire management consultants Russ Brown and Associates to deter its employees from supporting unionization. Brier Oak, Baycrest, and Royalwood receive a majority of their total annual income from participation in the Medi-Cal program. SEIU alleged that expenses associated with Fountain View's anti-union activities were paid from accounts in which Medi-Cal funds were "co-mingled with other funds" and that the firm had failed to maintain records sufficient to demonstrate compliance with AB 1889.[55]

Fountain View refused to cooperate with the investigation. The company questioned the veracity of the evidence offered against it as well as the authority of the attorney general to investigate its financial records. It claimed that it had "numerous sources of funding" and that the amount of its non-state sources of income far exceeded the sum it had allegedly spent on resisting unionization.[56] Fountain View

53. In April 2002 Governor Davis announced that the number of certified small businesses participating in state contracting had reached 10,000, which marked a 30 percent increase over the previous twelve months. One prominent opponent of the neutrality legislation, Verizon Corporation, estimated that between 10,000 and 20,000 employers were affected by the various provisions of AB 1889. According to the California Works Foundation, the number of employees covered by state contracts exceeds 175,000 and that the total value of these contracts exceeds $15 billion. Fifteen separate government departments account for over 90 percent of these state contracts with private companies. Office of the Governor, "Governor Davis Gives Keynote Address Announcing Small Business Partnerships with State Reaches 10,000," *Press Release*, 24 April 2002; Emanuel to Lieber, 27 June 2002. For a complete list of state contractors, see State of California, Department of General Services 2002.
54. *Attorney General of California vs. Fountain View, Inc.*, Superior Court of the State of California for the County of Los Angeles, Central District, 19 November 2001. Fountain View subsequently filed a cross-complaint against the state.
55. John J. Sullivan (associate general counsel, SEIU), letter to William Lockyer (attorney general, State of California), 22 March 2001, SCDJ.
56. According to U.S. Department of Labor records, Fountain View paid Russ Brown and Associates $45,978.

refused to provide the financial documentation required by the law, which it called "fatally vague."[57]

After three separate requests for records proving that Fountain View had not misappropriated state funds, the attorney general filed suit against the company in Los Angeles Superior Court in November 2001. The lawsuit attempted to compel the release of accounting records sufficient to demonstrate compliance with AB 1889, underscoring the vital importance of the law's record-keeping requirement: it provided the only practical way to prove that an employer that receives both state and non-state funds had used state funds for prohibited activities. The attorney general failed to gain an enforcement order against Fountain View before to the district court overturned the law.

Enforcement of AB 1899 was not limited to actions undertaken by California's attorney general. Under the provisions of the law, private individuals could pursue legal claims against employers for noncompliance sixty days after filing a complaint. Employer groups had singled out this aspect of the law, calling it a "bounty hunter" provision and predicting that unions and disgruntled employees would use it to harass innocent employers. One employer group predicted that this private right of action would provide an "open invitation to endless litigation about how individual employees perceived an employer's feelings about unionization."[58] Despite these pronouncements, only one union pursued enforcement on its own. SEIU Local 399 brought suit against A.B. Crispino, owner of Santa Monica Convalescent Homes, in May 2001, after waiting sixty days for the attorney general to initiate legal proceedings. The attorney general's office then closed its investigation. SEIU subsequently settled the case after the nursing home agreed to pay it $13,000 in legal fees.[59] The union also filed suit against Fountain View, but that case is currently on hold, pending the outcome of the state's appeal.

Opponents have used the twenty-four complaints filed by unions as evidence of the law's alleged "chilling impact" on employers' free speech rights. Employer groups have charged that unions coerced employers into neutrality agreements by accusing them of AB 1889 violations and by threatening enforcement proceedings after the

---

The reported figure excludes costs that Fountain View incurred for management and giving supervisors time off to meet with consultants and conduct captive group and one-on-one meetings with employees. It also does not include the costs of giving employees time off to attend captive meetings. See Russ Brown and Associates, LM 21 (Receipts and Disbursements Report) File No. C-0435, 2 April 2002, copy obtained from the U.S. Department of Labor.

57. John A. Lawrence (Radcliff, Frandsen, and Dongell, LLP), letter to Thomas P. Reilly (deputy attorney general, State of California), 5 June 2001, SCDJ. See also Office of the Attorney General 2001.

58. Parke D. Terry (California Landscape Contractors), letter to Gil Cedillo (California Assembly), 27 March 2000, SCDJ.

59. *SEIU Local 399 v. AB Crispino & Company, Inc.*, Superior Court of the State of California, County of Los Angeles, West District, May 23, 2001; Louis Verdugo, Jr. (senior assistant attorney general, State of California), letter to Jamie Rudman (Knee and Ross, LLP), 26 November 2001, SCDJ.

complaints were filed. Such a charge resulted when Teamsters Local 952 offered to withdraw its complaint against Laidlaw if the company consented to a neutrality agreement.[60] One of the bill's opponents claimed that management's voice was often being "silenced by the threat of prosecution" (North 2002). Calling the attorney general's enforcement actions "significant," the LPA warned in June 2002 that "many more" complaints and "numerous" enforcement actions "could be filed shortly."[61] These failed to materialize.

Employer groups have also charged unions with using the attorney general's office as a "clearinghouse" for unfair labor practice (ULP) complaints that should, more appropriately, be filed with the NLRB. The U.S. Chamber of Commerce stated that AB 1889 had "armed unions by allowing them to bring unfair labor practice claims to the attorney general and the courts" (U.S. Chamber of Commerce 2003). Several other employer groups—including the California Association of Health Facilities, the LPA, and the ABC—have repeated this charge. Unions have provided this information to indicate the range of prohibited activities on which employers have spent state money, not as evidence of any ULP against which they expected the attorney general to take action. Indeed, in addition to their AB 1889 complaints, several unions filed separate ULP complaints with the NLRB.

Undaunted by the small number of complaints, some employer groups have pointed to one complaint filed by the CNA to illustrate the "crystal clear" impact of AB 1889 in undermining employers' ability to resist unionization and to provide evidence that unions had used the law as a "bargaining tool" (Associated Builders and Contractors and Labor Policy Association 2003). In late 2001 the CNA began what employer groups called a "heated organizing drive." The union had accused management of committing numerous unfair practices during its campaign to unionize almost 600 nurses at the facility. In March 2002 the CNA filed a complaint with the attorney general, stating that Palomar Pomerado Health System had made a "serious and substantial misappropriation of state funds" to finance its "aggressive, heavily funded" anti-union campaign. Three months later, according to employer groups, the union revealed its "true motivation for threatening enforcement": the CNA withdrew its AB 1889 complaint and urged the attorney general to take no action against Palomar, reporting that the hospital had now agreed to card check recognition.[62] Thus, for employer groups, the Palomar campaign provided concrete

60. Patrick D. Kelly (secretary treasurer, Teamsters Local Union No. 952), letter to Jim Byrne (general manager, Laidlaw Transit Service), 21 March 2002, SCDJ; Theodore R. Scott (Luce, Forward, Hamilton, and Scripps, LLP, for Laidlaw Transit Services, Inc.), letter to Florice Hoffman (for Teamsters Local 952), 25 March 2002, SCDJ.

61. Daniel V. Yager (senior vice president and general counsel, LPA), letter to Margery E. Lieber (assistant general counsel for special litigation, NLRB), 28 June 2002, SCDJ.

62. David M. Johnson (Southern California director, CNA), letter to William Lockyer (attorney general, State of California), 28 March 2002, SCDJ; David M. Johnson, letter to William Lockyer, 24 June 2002; Yager to Lieber, 28 June 2002, SCDJ.

evidence that unions were using the threat of enforcement proceedings "as an organizing tactic to achieve employer neutrality" (U.S. Chamber of Commerce 2003).

The LPA stated that the hospital's dramatic change of heart—from vigorous resistance to voluntary recognition within a ninety-day period—provided a stark demonstration of the "dramatic degree to which the California law alters bargaining power" between unions and employers. However, the CNA's threat to initiate AB 1889 proceedings played little role in the card check decision. The critical factors were changes in the hospital's CEO and board of directors and the hospital's subsequent decision to comply with AB 1281 (which guarantees card check recognition for public employees).[63] Nevertheless, employer groups have repeatedly cited the Palomar case—mostly recently in their briefs to the Ninth Circuit Court—as evidence that state neutrality laws such as AB 1889 are, in reality, thinly veiled "pro-union organizing tools" (U.S. Chamber of Commerce 2003).

The number of union requests for investigations and prosecutions by the attorney general and the number of private lawsuits are not the only measures of the impact of the legislation, and they perhaps are not the most important. Starting in March 2002 the Department of Health Services and other state agencies distributed to employers that receive state funds forms that asked the recipients to agree to abide by the provisions of AB 1889. Those who refused to sign and return the forms within forty-five days faced termination from Medi-Cal and other state programs. Although no employer lost state funding for that reason, employer groups claimed that, as a result of the distribution of these notices, firms that depend on state funding had been faced with the "Hobson's choice" of either losing their businesses or signing away their protected rights.[64] Not surprisingly, they argued, most had chosen financial survival over bankruptcy. Employer groups asserted, however, that certain companies with alternative sources of funding had decided not to conduct business with the state. Employers also claimed, without providing any direct evidence, that unions officials had attempted to "apply pressure" to state agencies such as

63. In its account of the Palomar case to the NLRB, the LPA failed to mention that the PERB was investigating the hospital for violation of state law by refusing to recognize the union based on a card check and for unlawfully interfering with the rights of the nurses. In addition, a majority of the health care system's nurses had voted for union representation in October 1995, but at that time state law allowed the hospital to deny recognition because the union failed to win the support of a majority of those *eligible* to vote. That law was overturned in 2001, thus giving public employees the same right as their private counterparts.

64. The number of firms that receive all, or practically all, of their operating budgets from state sources is a matter of considerable controversy. Employer groups have repeatedly claimed that over 500 members of the California Association of Health Facilities receive their entire operating budgets from state grants or state programs and that AB 1889 would "obliterate" the free speech rights of these employers. Supporters of AB 1889 contest this figure and argue that, in any case, nothing in the law precludes these employers from seeking other sources of revenue to finance their anti-union campaigns.

the Department of Health Services in order to get them to "coerce" employers to remain neutral during organizing campaigns.[65]

AB 1889 might have had a greater impact had the attorney general focused on enforcement rather than lawsuits. Several unions reported limited successes in using the law against employers that had a reputation for aggressively resisting unionization. Some of these employers decided to mount low-key and inexpensive anti-union campaigns and, in most cases, the overwhelming majority of employees voted for unionization.

The first reported organizing victory in which the law was a factor involved the Amalgamated Transit Union (ATU). Eighty-six days after AB 1889's enactment, the ATU used the law in an organizing campaign in Yolo County at Laidlaw Transit Services. The ATU reported that it had encountered "fierce" employer resistance in previous organizing campaigns with the company (*California AFL-CIO News* 2001). This time, however, the union wrote to the Yolo County Transportation District, a recipient of public money in the form of State Transit Assistance, requesting that it remind its contractor, Laidlaw, of its obligation not to use state funds for the purpose of promoting or discouraging unionization. As a result, the union reported, Laidlaw brought in a human resource expert, but "meetings were voluntary." The union won the NLRB election with a 41 to 6 vote.[66]

Most other organizing campaigns involving AB 1889 were not as straightforward, suggesting that even if the law survives legal challenges, unions will face an uphill struggle in dealing with anti-union employers that receive state funds. CNA, for example, has attempted to use the law in several of its organizing campaigns. As most of the employers CNA faces are major recipients of state funds, the union had potentially much to gain from AB 1889. Its experiences in recent campaigns suggest that the law was most useful when used as part of a public campaign designed to persuade the employer not to engage in aggressive anti-union behavior.

The CNA's campaigns, along with those of several other unions, indicate that

65. Charles H. Roadman (president and CEO, American Health Care Association), letter to Arthur F. Rosenfeld (general counsel, NLRB), 1 March 2002, SCDJ; Frank G. Vanacore (chief, Audit Review and Analysis Section, Financial Audits Branch, Audits and Investigations), letter to participants in state programs, 15 March 2002, SCDJ; Theodore R. Scott (Luce, Forward, Hamilton, and Scripps, LLP), letter to Denise Meiners (special litigation branch, NLRB), 25 June 2002, SCDJ.

66. Donald Delis (president and business agent, Amalgamated Transit Union, Local 256), letter to Terry Bassett (executive director, Yolo County Transportation District), 25 January 2001, SCDJ. Other organizing victories in which AB 1889 played a significant role were those by UNITE Local 75 against Mission Linen and GCIU Local 202M at Ivy Hill Printing in Glendale. At Mission Linen, the union convinced the company to agree to expedited union representation elections in five Western cities and negotiated a three-year agreements including higher wages and improved health and safety protections for unionized workers. As with the Laidlaw campaign, both Mission Linen and Ivy Hill involved relatively small bargaining units.

even if AB 1889 survives, state officials will face considerable employer opposition when enforcing the law. The fact that several employers that receive state funds continued to mount anti-union campaigns (most of which were *not* the subject of AB 1889 complaints) after the bill's passage suggests that, contrary to the assertion of employer groups, firms could comply with the neutrality law, yet still exercise their right to oppose unionization.

Neutrality Legislation in Other States

California has not been alone in enacting legislation designed to prevent the use of state tax dollars for anti-union activities.

In June 2002 the New York State Assembly passed a bill prohibiting employers from using state money for certain purposes related to unionization.[67] A coalition of employer organizations opposed the bill, but to their dismay the bill passed both houses with broad bipartisan support. The Business Council of New York (2002) lambasted the state legislature's "dizzying tilt" toward labor and asked despondently, "Where does it stop?"[68]

On 30 September 2002, just two weeks after the California district court ruled against AB 1889, Governor George Pataki signed New York's neutrality bill into law.[69] In contrast with AB 1889's blanket prohibition on the use of public money for activities designed to promote or deter unionization, the New York bill proscribes using state money for three specific anti-union actions: training managers, supervisors, or other administrative personnel on methods to encourage or discourage unionization; hiring or paying attorneys, consultants, or other contractors to encourage or discourage unionization; and hiring employees or paying the salary and other compensation of employees whose principal job duties are to encourage or discourage unionization. New York employers can still use state money to finance other nonspecified anti-union activities, such as captive-audience meetings, providing they are not conducted by someone whose principal job is to discourage unionization.

Not surprisingly, employer representatives in New York welcomed the California court's "instructive" decision and argued that, because their law was a virtual replica of AB 1889, the legal outcome ought to be the same. On 30 December 2002, the day

67. The New York Legislature had enacted a law limiting the use of state funds in 1996 and revised it in 1998. It did not include effective enforcement provisions or penalties for violations, and New York unions complained that it was ineffectual: employers had evaded the law simply by claiming that they were spending tax money to train supervisors on how to conform to federal labor law. See *Daily Labor Report* 1998a, 1998b, 2002b.

68. Daniel B. Walsh (president and CEO, Business Council of New York State, Inc.), letter to Honorable Members of the New York Senate, 1 July 2002, NLRB.

69. Governor Pataki has strong links to certain segments of the New York labor movement and had earlier signed legislation providing card certification for the private sector workers who are not covered by the NLRA. See *Daily Labor Report* 2001b.

after the New York law went into effect, a coalition of health care and social service associations urged the NLRB to intervene against the statute, arguing that the "sole purpose" and "fatal flaw" of the law was to attempt to restrict employer speech.[70] In April 2003 a coalition of organizations representing over 550 non-profit and public hospitals, nursing homes, and home care agencies filed suit in a New York district court, seeking to overturn the law and halt its enforcement.[71]

As was the case in California, the employers' legal challenge has slowed the regulatory process. The resources of the attorney general have gone primarily into defending the law against employers' challenge and the threat of NLRB opposition, rather than investigating cases of noncompliance.[72] At this writing, the NLRB has yet to announce whether it intends to seek a Nash-Finch injunction or (more probably) file an amicus brief in support of the court challenge. It seems likely that the NLRB will not intervene unless the case reaches the appellate court, as was the case in California.

The California and New York laws are part of a nationwide movement to enact legislation prohibiting the misappropriation of state funds (see the Appendix for a list of these laws). Pro-union legislators in certain states have adopted a cautionary approach until the outcomes of the litigation in California and New York are clearer. Unions and their political allies have a long-term interest in avoiding the enactment of legislation that would ultimately be blocked by federal preemption. Of particular concern are court rulings based on employers' "super free speech rights"—rights over and above those provided by the First Amendment—that are allegedly provided under Section 8(c) of the NLRA.[73] Nevertheless, neutrality legislation has been introduced in a number of states. To date, however, these neutrality bills have suffered defeat in the legislature, been vetoed by the governor, or have yet to be voted on.

70. Jeffrey J. Sherrin (O'Connell and Aronowitz, for the Healthcare Association of New York State, the New York State Health Facilities Association, the Cerebral Palsy Association of New York State, the New York Association of Homes and Services for the Aging, and the New York State Association for Retarded Citizens), letter to Arthur F. Rosenfeld (general counsel, NLRB), 30 December 2002, NLRB.

71. Jeffrey J. Sherrin (O'Connell and Aronowitz, for Plaintiffs), complaint filed with United States District Court, Northern District of New York, 3 April 2003. Claiming that the employer challenge is without merit, New York State has asked the District Court to summarily dismiss the case.

72. A ruling by the Ninth Circuit Court of Appeals against AB 1889 could, according to the Labor Policy Association, "lead to similar rulings by other circuits regarding laws in New York, New Jersey, and elsewhere" (Labor Policy Association 2003b). Since the NLRB intervened against 1889, moreover, employer groups appear more confident that the Ninth Circuit will rule in their favor.

73. Unions point out that Section 8(c) does not protect employers' free speech rights, but merely states that noncoercive speech cannot be used as evidence of an unfair labor practice. Employers have a First Amendment free speech right, not an NLRA free speech right. Thus, unions argue, if laws prohibiting state-subsidy of anti-union activities do not violate the First Amendment, they do not violate the NLRA's provisions on employer communications.

In 2001, in a parallel effort, the SEIU, the largest health care union in the nation, selected six states as venues for "Healthcare Funds for Healthcare Only" bills—limited neutrality legislation that would apply only to the health care industry. Pro-union lawmakers introduced the bills in Florida, Maryland, Massachusetts, Maine, Connecticut, and West Virginia, states in which SEIU has a strong organizing program and political influence in the state legislature. The union excluded California and New York because they were already in the process of passing their neutrality bills. Although the California and New York laws were broader, the "Healthcare Only" bills were more ambitious in one respect: they sought not only to prevent the misappropriation of health care funds but also to limit employer conduct. Under these bills, managers and supervisors would be prohibited from carrying out anti-union activities during work hours among employees who care for Medicare beneficiaries.

Florida is the only state that has thus far passed "Healthcare Only" legislation. Signed by Governor Jeb Bush in May 2002, the bill restricts the use of state funds to promote or deter unionization *only* in nursing homes. Pro-union legislators won passage by limiting the bill to nursing homes and agreeing to delete a private right of action provision from the original bill. This omission may render the law ineffectual, as state officials often lack the resources, expertise, and will to enforce such laws. Still, the State Labor Federation has welcomed it as a "major win" for nursing home workers and residents.[74] Elsewhere, however, the SEIU has suspended its "Healthcare Only" legislative strategy until the litigation in California and New York is resolved.[75]

LABOR PEACE AGREEMENTS

In addition to neutrality bills at the state level, in recent years several cities and counties have adopted so-called labor peace agreements, which can be either "across-the-board" ordinances or project-specific measures.[76] Over the past decade at least a dozen cities and counties around the nation have enacted labor peace agreements, including San Francisco, Pittsburgh, Milwaukee County, and, most recently, Washington, D.C.[77] Labor peace agreements are increasingly common in

74. FL ST 400.334; Florida AFL-CIO 2002, 21.

75. Employer groups in California used a letter from the Maryland attorney general that stated that federal law preempted the "Healthcare Only" bill as additional evidence against the law's legality. The AFL-CIO argued that the letter was "poorly reasoned and should be disregarded." Jonathan Hiatt, Craig Becker, and Stephen P. Berzon (for AFL-CIO and California Labor Federation), letter to Arthur F. Rosenfeld (general counsel, NLRB), 28 June 2002, NLRB.

76. In general, the courts have looked more favorably upon labor peace agreements actions that are project-specific, rather than across the board.

77. In addition, at least six of the eighty-plus living wage ordinances around the country have incorporated some type of labor peace provision.

certain sectors of private industry, and several city and county agreements now incorporate practices pioneered by unions and employers in the private sector during the past decade.

Under these measures, in return for financial assistance in the form of grants, loans, contracts, or rent, or as part of a procurement policy, the governmental entity requires that employers sign a labor peace agreement with any union that requests it, thereby protecting the government's proprietary interest by minimizing the probability of labor disruptions. Although labor peace agreements vary considerably, in most cases employers must grant workplace access, provide employee information (names, job titles, contact information, etc.) early in the organizing campaign, and refrain from making disparaging statements about the union. Some, but not all, of these agreements also require that employers assent to card check recognition and neutrality. The union, in return, often must agree to forego strikes, boycotts, or other disruptive organizing tactics and (more controversially) must consent to the arbitration of disputes during the lifetime of the agreement.

The hotel industry has been the principal target for several recent agreements. Cities and counties often invest in hotel projects, which are particularly vulnerable to labor disruptions in the early stages of development. Although the explicit rationale for these agreements is the desire to protect the financial investment of public agencies, employer groups have claimed that this justification is simply a subterfuge for policies that are basically political payoffs to unions. Hotel industry groups have been the most vocal opponents, but these agreements have faced opposition from a broad coalition of employer groups.

California has played a leading role in the development of labor peace agreements. San Francisco was the site of the first agreement in the country that involved a public contract. In 1980 the San Francisco Redevelopment Agency sought a private sector partner for a luxury hotel development on city land. It favored the Marriott Corporation, but the Hotel and Restaurant Employees International Union (HERE) Local 2 opposed granting the contract to the company, citing a history of hostility to unionization. In return for HERE withdrawing its opposition, Marriott agreed to card check recognition and neutrality during organizing campaigns. After the union and company had reached agreement, the Redevelopment Agency awarded the development contract to the Marriott Corporation. Marriott later broke the neutrality agreement and Local 2 sued for enforcement. Although the city did not formally require the hotel to sign a labor peace agreement, the hotel subsequently contended that the agency had effectively (and illegally) forced it to do so. In 1993 the U.S. District Court for the Northern District of California rejected Marriott's argument. The court ruled that, even if the Redevelopment Agency had forced Marriott to agree to card check and neutrality, the agency held a significant proprietary interest in the hotel development project and thus could require an

agreement intended to minimize the probability of labor disruption that might threaten its investment.[78]

In 1998 San Francisco adopted a formal labor peace ordinance that requires the hotels and restaurants in which the city has a proprietary interest to agree to recognize unions on the basis of a majority of signed authorization cards; the ordinance applies to hotels and restaurants with fifty or more employees.[79] An employer lawsuit challenging the legality of the ordinance was withdrawn prior to any court ruling, and the San Francisco Hotel Ordinance has become a widely emulated model for city and county labor peace legislation.

The development of the ordinance took over a year and involved twenty-seven drafts. Before its enactment, city officials met with representatives of both labor and industry organizations, accepted testimony from expert witnesses and industry representatives, and incorporated several exemptions covering situations where the city did not claim a strong proprietary interest. The criteria for establishing proprietary interest incorporate a case-by-case determination of whether the ordinance applies to any individual project. The San Francisco Hotel Ordinance has the greatest record of success of any labor peace agreement in the nation. To date, at least a half-dozen new recognitions have taken place under the terms of the law, and its effects have probably extended beyond projects in which the city has a direct proprietary interest. Since the enactment of the ordinance, the union has increased its market share in the San Francisco hotel industry from 65 to 80 percent.

In February 2000 San Francisco adopted a third labor peace agreement. Under this "labor peace/card check rule," the San Francisco Airport Commission required all its contractors and subcontractors to sign a document recognizing unions' right to organize employees through a card check. The rule stipulated that parties had thirty days to reach a private agreement after a union requested the check. If the parties failed to reach an agreement, the airport commission would impose a model labor peace agreement, in which employers were required to provide full employee information, allow reasonable workplace access during non-working time, agree to card check recognition, and submit disputes to binding arbitration. The airport agreement affected between 6,000 and 8,000 concessionaire, airline services, and rental car employees in approximately seventy firms. One employer, Aeroground, challenged the airport ordinance in federal court. In 2001, stating that the plaintiff had demonstrated a probability that the courts would find the agreement to be preempted by the NLRA, the U.S. District Court for the Northern District of California granted a preliminary injunction against enforcement in cases not involving a direct contractual relationship between the airport and airline service firms.[80] The court ruled that the airport

78. *Hotel Employees Local 2 v. Marriott Corp.*, 1993 WL 341286 (N.D. Cal. 1993). For a full account of the case, see Kronland 2003.

79. City of San Francisco Ordinance 97-97-62 (16 January 1998).

80. *Areoground, Inc. v. City and County of San Francisco*, 170 F. Supp. 2d 950 (N.D. Cal. 2001). The labor peace rule covered a broad range of contracts, including leases, subleases, and permits of

commission was not acting as a market participant because the agreement operated "essentially as a licensing scheme" and was not project specific. Unions enjoyed significant political support on the airport commission when the agreement was enacted, and many observers thought that it was drafted too hurriedly and included too few exemptions for situations in which the city did not possess a strong proprietary interest.

Labor Peace Agreements in Other States

All three San Francisco labor peace agreements are related to city redevelopment projects. A second, less common, form of labor peace agreement is related to city or county procurement policy. In September 2000 Milwaukee County passed an ordinance that covers contractors that conduct more than $250,000 in business in the areas of social and mental health services and transportation services for the elderly and disabled. The ordinance does not mandate employer neutrality during organizing campaigns, but it requires employers to provide unions with complete and accurate information on bargaining unit employees, refrain from distributing to employees "false or misleading information" on unionization, and grant union organizers "timely and reasonable" workplace access, providing that they do not interfere with the employer's business. The ordinance also forbids unions from "misrepresenting to employees the facts and circumstances surrounding their employment," and from striking or picketing during organizing campaigns. In June 2001 SEIU won the first organizing campaign conducted under terms of the Milwaukee labor peace ordinance.

The Metropolitan Milwaukee Association of Commerce (MMAC) challenged the ordinance on grounds that it violated employers' free speech rights and was preempted by federal law. The case was dismissed in district court. The MMAC appealed, and the appellate court sent back the case to the lower court, saying that it was "ripe for review."[81] The district court's forthcoming decision will likely become the leading decision on the status of labor peace agreements.

As a result of the growing popularity of labor peace agreements, employer groups have promoted bills preventing local legislators from linking city or county contracts or financial assistance to employers' willingness to sign labor peace agreements. In 2001, for example, the Louisiana legislature passed a bill that prohibits city or council lawmakers from requiring employers to sign labor peace agreements

airport property and contacts to provide services at the airport. The court later determined that Areoground fell under the jurisdiction of the Railway Labor Act, not the NLRA (and thus was not affected by the labor peace/card check rule), and the *Areoground* case became moot. The airport has continued to apply the labor peace rule in cases in which it has a direct contractual relationship with airline service firms.

81. *Metropolitan Milwaukee Association of Commerce v. Milwaukee County*, 7th Circuit, No. 02-2292, 8 April 2003. For more, see *Daily Labor Report* 2000b, 2000c, 2003a.

in return for contracts, grants, or other forms of financial assistance.[82] In several other southern states, employer groups are promoting legislation that will restrict the ability of city and country lawmakers to enact labor peace agreements or living wage ordinances. Although these laws will likely face the same kind of legal challenges faced by the bills they are intended to prohibit, they are likely to increase in popularity with anti-union legislators.[83]

CONCLUSION

Neutrality laws and labor peace agreements have raised passions in part because they continue the familiar debates that have dominated labor law reform campaigns since the 1970s. Organized labor views these laws as a way to curb the problem of public subsidy of anti-union campaigns, while businesses see them as an attempt to restrict employer prerogatives.

Employer groups have grown increasingly strident in their opposition to these laws. Paradoxically, the growing popularity of state neutrality bills and labor peace agreements has produced calls for more assertive federal regulation of labor-management relations from business sources that are normally hostile to any such intervention. The pro-management *Employee Relations Law Journal* (2002, 2) recently questioned whether it is "time for a 'New Deal' for employers"—that is, time for the federal government to reassert its supremacy in the field of employment relations, as it did in the 1930s.

> Traditionally, employers have resisted further federal legislation on the basis that regulation of the employment relationship should be left to the states, in part because the states were perceived as more understanding of the interests of employers. Recently, however, some employers have begun to rethink this assumption.

Faced with a slew of pro-worker state and local labor laws and confident of the pro-employer stance of the administration in Washington, many business representatives are starting to ask "whether the time has come for employers to advocate an exclusive role for the federal government" in labor-management relations (*Employee Relations Law Journal* 2002, 2).

The LPA—an organization not known for its love of either federal regulation or

82. House Bill 1740; see Louisiana Legislative Update, 19 June 2001. Arizona and Tennessee have enacted similar legislation prohibiting cities and counties from enacting living wage ordinances. See McCracken 2003.

83. Most observers believe that unions would benefit from local and state control of labor peace and neutrality legislation, even if this decentralization of labor policy produced hostile legislation in conservative regions of the country, as unions are already very weak in most such areas.

the NLRB[84]—has pleaded with the board to reassert strong federal control over labor policy. Announcing that it was "time to stop the balkanization of American labor law," LPA Vice President Daniel Yager insisted that the NLRB seize the initiative during this "critical period in history." The board's response (or lack thereof) to state neutrality and labor peace legislation, Yager (2003) argued, would determine

> whether we continue to have the centralized scheme envisioned by Congress . . . or a patchwork quilt of individual requirements and prohibitions. The resulting balkanization of labor laws is neither what was intended nor would it best serve the interests of the affected parties. . . . It is up to General Counsel Arthur Rosenfeld . . . to halt this trend.

Prior to the NLRB's decision to file an amicus brief against AB 1889 in May 2003, the LPA appeared impatient with the board's apparent reluctance to act decisively to "protect the national interest" by invoking a Nash-Finch injunction or by filing an amicus brief. Asserting that the NLRB's general counsel has power of "awesome dimensions," Yager accused the board of dereliction of its duty to intervene against AB 1889. As a result of the board's disinclination to "assert itself," Yager feared that the country was already sliding inexorably towards a "*de facto* Canadian system" of industrial relations, in which state legislatures, rather than the federal government, would assume primary responsibility for establishing and enforcing labor policy.[85] If the board failed to intervene, he argued, its inaction would create the appearance that business groups seeking to overturn the legislation were simply pursuing their "own selfish interests" (Yager 2003). Firm action from the NLRB would "remind" state and local lawmakers that they do not possess the authority to regulate such matters and would "prevent perversion of the centralized administration" of labor policy that Congress had intended.[86] The present period, Yager concluded, is one of those "rare occasions" when the NLRB must act to "protect the integrity" of federal labor law.

The LPA is not alone in calling for stronger federal intervention against "anti-business" legislation at the state and local levels. The National Chamber Litigation Center lamented that the NLRB had failed to "move quickly" against AB 1889, despite several requests for intervention, and bemoaned the fact that California employers had sustained "continued liability" as a result of its inaction (Business Advocate 2002). The Business Council of New York State warned the NLRB that state neutrality laws would severely undermine the "laboratory conditions" in representation campaigns that it had "arduously created and steadfastly defended" over

84. In 1997, for example, the LPA argued that Congress should consider abolishing the NLRB and transfer its functions to the federal courts. See Yager 1997.

85. Labor policy in Canada is largely a provincial, rather than a federal, matter. Federal law covers only about 10 percent of Canadian employees.

86. Yager to Lieber, 28 June 2002.

the previous half century.[87] Likewise, the coalition of health care and social service employers that challenged New York's neutrality law insisted that it "impermissibly infringes upon and conflicts" with the NLRA and added that, in the interests of "national uniformity," the NLRB must intervene to ensure that employers were not subjected to "varied restrictions from state to state."[88]

The success of lawmakers in California and New York has also spurred pro-union lawmakers in other states to attempt to replicate their achievements. Pro-union legislators in Oregon, Washington, and several other states have recently introduced state neutrality bills on the assumption that the current financial crisis provides the ideal political environment for legislation designed to protect the integrity of public funds. They believe that bills prohibiting the misappropriation of state tax dollars will get a friendly reception even from some lawmakers who would normally oppose labor-supported legislation. The haste to introduce neutrality bills, even in states where they have little chance of political success, suggests that, for some lawmakers, they may simply be the "flavor of the month."

The rush in state and local legislatures to enact neutrality laws and labor peace agreements raises the critical question of whether this legislation represents the best use of labor's political capital, which is limited even in states such as California and cities such as San Francisco. Even if the California and New York bills withstand legal challenge, their ability to counteract intensive anti-unionism remains largely unproven. Without the benefit of a reasonable period of enforcement, it is difficult to gauge their impact. Of all the labor peace ordinances on the statute books, only the San Francisco hotel ordinance has been enforced long enough to claim any real success in practice. This would not be the first time that organized labor has gone to considerable lengths to promote legislation that may not assist greatly with its principal goal of organizing the unorganized, and it is probably not the first time that the business community has vigorously resisted legislation that may not fundamentally lessen its ability to fight unionization. State and local policy innovations that raise no preemption or constitutional issues (such as responsible contractor legislation or legislation expanding collective bargaining coverage) attract less intense opposition, stand more chance of surviving legal challenges, and may prove more effective at circumventing aggressive anti-union campaigns.

Nevertheless, the appeal of neutrality laws is easy to understand. First and foremost, labor law reform is currently off the agenda in Washington. For the foreseeable future, the bills most likely to find their way to the floor of the Congress are those supported by labor's opponents, such as the recent Norwood bill outlawing card check recognition.[89] Legislation limiting the public subsidy of aggressive anti-

87. Daniel B. Walsh (president and CEO, Business Council of New York State, Inc.), letter to Arthur F. Rosenfeld (general counsel, NLRB), 31 December 2002, NLRB.

88. Sherrin to Rosenfeld, 30 December 2002.

89. In May 2002 House member Charles Norwood (R-Georgia) introduced the so-called Workers' Bill of Rights (H.R. 4636), which is designed to ensure that secret ballot elections are the exclusive route to union certification.

unionism will need to come from state and local lawmakers. The attraction of state neutrality is not limited to practical political considerations, however; it is also linked to the longer-term case for NLRA reform. Part of the failure of organized labor's campaign to reform the NLRA has been its inability to articulate a simple, popular message to the general public. Issues such as card check recognition and outlawing permanent replacements are of obvious importance to most within the labor community, but, thus far, organized labor has largely failed to explain to non-unionists why these measures are essential for workplace democracy.

Some evidence does suggest that the principle behind state neutrality legislation is popular with the public. Most non-union workers believe that employers have the right to hold anti-union views and to convey their views to employees, but they generally oppose the state's subsidy of anti-union campaigns. Few think that state funds for patient care should be used to pay management consultants $200 to $300 per hour to oppose unionization among low-paid immigrant employees in nursing homes, or that state grant money disbursed for biomedical research should be used to pay employees to attend mandatory anti-union meetings, or that funds intended for vocational training for employees should be spent on anti-union literature, videos, and web pages. A fuller understanding of state neutrality laws and labor peace ordinances might persuade the wider public that they have a direct stake in restricting aggressive anti-unionism. Organized labor has an issue—preventing the misuse of state funds—that enjoys widespread support, yet thus far it has not mounted high-profile public campaigns on the issue.

As a result of the precarious legal status of neutrality bills, unions have studiously avoided public campaigns to support them, working instead through their allies in state and local legislatures. Neutrality and labor peace laws have been passed with little fanfare. And, for good reasons, state and local politicians have steered clear of basing their defense of these bills on the need to restrict aggressive anti-union campaigns.[90] The purpose of the legislation is to safeguard public money, they insist, not to lower the considerable barriers to organization. Employer groups, who undoubtedly understand the widespread appeal of the principle underlying these laws, have been much more vociferous in opposition to these bills than unions have been in their support. Employers, moreover, have a clear message: they have repeatedly argued that neutrality laws impose crippling accounting procedures and "muzzle" employers while allowing free rein to organizers, thereby effectively imposing unionization on reluctant employees. If the courts strike the laws down, labor's political capital will have been largely depleted without advancing the case for labor law reform with the public.

Although the legal status of the California and New York bills remains tenuous, two recent rulings in federal court may give their cases a boost. The D.C. Circuit

90. Business opponents of the California and New York neutrality laws have repeatedly cited speeches by labor officials and their political allies legislation as evidence that its true purpose is to enhance unionization, not to protect the integrity of public money.

Court ruled against unions twice in the past year, but in doing so it delineated the limits of employers' free speech under the NLRA and limited the doctrine of federal preemption in cases where government has a proprietary interest.[91] These rulings, together with the Ninth Circuit Court's decision to consider the legality of AB 1889, may provide the basis for a robust defense of neutrality laws.[92]

Alternatively, the federal courts may well decide that employers have a legal right to spend state tax money allocated to health care or job training on union suppression. If the challenges to neutrality laws reach the Supreme Court, pro-union legislators will at least receive additional guidance on the best areas for future policy innovation. A final ruling against state neutrality laws and labor peace agreements might consign them to a footnote in the history of federal labor law. Or perhaps defeat in the courts will galvanize the supporters of workers' right to organize, impelling them to invent new and even more imaginative ways to secure governmental neutrality in labor disputes. In any event, organized labor will doubtless continue to face robust opposition from business to any legislation that limits employers' ability to finance and implement aggressive anti-union campaigns.

91. *Building and Construction Trades Department, AFL-CIO, et al., v. Joe Allbaugh, et al.*, 295 F. 3d 28 (D.C. Cir. July 12, 2002); *UAW-Labor Employment and Training Corp. v. Chao*, 2003 WL 1906339 (D.C. Cir. Apr. 22, 2003. The *Chao* decision upholds a Presidential Executive Order that requires employers that receive federal contracts to post notices informing employees of their so-called Beck rights. The court stated that employers' "free speech rights" under Section 8(c) of the NLRA are strictly limited and are essentially no greater than those provided by the First Amendment; thus, the requirement that federal contractors post Beck notices in no way interferes with these rights. In *Allbaugh* the district court rejected a challenge by the Building Trades to overturn a Presidential Executive Order that prohibits the use of project labor agreements on federally funded construction projects. The court ruled that the preemption provision of NLRA can be implemented only when the government acts as a regulator; the provision does not come into play when the government acts as a proprietor, interacting with private participants in the marketplace. Paradoxically, unions won the *Garmon* and *Machinist* cases; these rulings were responsible for creating the doctrine of broad federal preemption that has generally prevented the enactment of pro-union laws at the state and local levels.

92. At the present time, only one Supreme Court decision, the 1993 "Boston Harbor" ruling, explains in any detail the nature and extent of the so-called proprietary exemption to the doctrine of federal preemption in labor relations. *Building & Construction Trades Council v. Associated Builders & Contractors* ("Boston Harbor"), 507 U.S. 218 (1993).

REFERENCES

Associated Builders and Contractors and Labor Policy Association. 2003. "Brief of Amici Curiae LPA, Inc. in Support of Plaintiff-Appellees and in Support of Affirmation." Appeals Nos. 03-55166 and 03-55169. U.S. Court of Appeals for the Ninth Circuit.

Atkinson, Andelson, Loya, Ruud, and Romo, LLP. 2002. *Employer Speech Rights Under Federal Law Trump State Law on Union Campaigns.* Unpaged electronic document. Retrieved 17 July 2003 from www.aalrr.com/labor-011703.htm.

Berman, Jeffrey A., and Kerry McCoy. 2002. *New Law Prohibits Use of State Money to Discourage Unions.* Copy obtained from the NLRB.

Brown, W. Ronald. 2002. "Federal Court Invalidates California Statute Barring Employers From Expressing View in Union Organizing Campaigns." *Cook Brown, LLP Newsletter.* Unpaged electronic document dated October. Retrieved 17 July 2003 from www.cookbrown.com/newsletter/winter2003/union-campaign.htm.

Brudney, James J., and Deborah J. Merritt. 2002. "The Influence of Appellate Judges' Social Backgrounds When Reviewing NLRB Decisions." *Employee Rights Quarterly* 13(2).

Business Council of New York State, Inc. 2002a. *Echoing Council, NLRB Voices 'Serious Concerns' About Law that Helps Unions.* Unpaged electronic document dated 2 December. Retrieved 17 July 2003 from www.bcnys.org/whatsnew2002/1127olia.htm.

———. 2002b. "NLRB Echoes Council's Concern About 'Neutrality' Law." *The Wire: A Newsletter from the Business Council of New York State, Inc.* 9 December: 17–25.

California Labor Federation. 2000. *AB 1889 (Cedillo) Stops the Misuse of Taxpayer Funds: Questions and Answers.* Oakland: California Labor Federation.

———. 2001. "Right to Organize Bill Scores First Win." *California AFL-CIO News* (newsletter), April.

———. 2002. *Sacramento Scorecard* (newsletter), 26 April.

California Nurses Association. 2002. *Attorney General to Investigate Antelope Valley Hospital District Board Accused of Improper Use of Funds for Anti-Union Campaign.* Press release dated 29 July.

Chaffe, McCall, Phillips, Toler & Sarpy, LLP. 2002. *Labor Intensive.* Unpaged electronic document dated October. Retrieved 17 July 2003 from www.chaffe.com/news.

Cox, Archibald. 1972. "Labor Law Preemption Revisited." *Harvard Law Review* 85(7): 1337–1377.

Daily Labor Report. 1996. "Labor's Efforts Pay Off in California with Democrat-Controlled Assembly." 18 December.

———. 1998a. "Bill Would Ban Anti-Union Use of State Funds." 8 April.

———. 1998b. "Organizing Bill Would Ban Anti-Union Use of State Funds." 17 September: A-7.

———. 2000a. "Milwaukee County Board Adopts Measure That Would Require Labor-Peace Accords." 3 October: A-6.

———. 2000b. "Milwaukee County Measure Limits Tactics Unions, Contractors Use Against Each Other." 2 November: A-6.

———. 2000c. "Registered Nurses at Maine Center Reject Service Employees Union in NLRB Election." 18 September: A-11.

———. 2001a. "Maine Governor Vetoes Curbs on Funds For Health Employers that Fight Unions." 19 June: A-7.

———. 2001b. "New York Governor Signs Bill Facilitating Union Organizing Efforts." 5 December: C-2.
———. 2001c. "SEIU Wins Election at Home Health Agency." 13 June: A-9.
———. 2001d. "Union's State Claim on Medicare Funds Preempted," 8 March: A-8.
———. 2002a. "Federal Judge Rules Certain Provisions of California Labor Neutrality Law Preempted," 4 October: A-8.
———. 2002b. "New York Enacts Law Barring Use of State Funds in Union Organizing Drives." 1 October: A-7.
———. 2002c. "NLRB Asks New York, New Jersey Officials to Explain Their New Labor Neutrality Laws." 9 December: A-1.
———. 2002d. "N.Y. Assembly Passes Bill Barring Use of State Funds to Discourage Organizing." 28 June 2002: A-8.
———. 2003a. "Milwaukee Labor Neutrality Law is Ripe for Judicial Review, Seventh Circuit Says." 10 April: A-1.
———. 2003b. "NLRA Preempts California Neutrality Law, Board Argues in Amicus Brief to Ninth Circuit." 6 June: A-1.
———. 2003c. "NLRB 3–2 Authorizes General Counsel to Oppose California Labor Neutrality Law." 2 June.
Employee Relations Law Journal. 2002. "Rethinking Federalism: Is It Time for a 'New Deal' for Employers?" 28 (2): 2.
Estlund, Cynthia L. 2002. "The Ossification of American Labor Law." *Columbia Law Review* 120(6): 1527–1612.
Florida AFL-CIO. 2002. *Final Legislative Report and Legislator Rankings.* Paged electronic document. Retrieved 17 July 2003 from www.flaflcio.org.
Gottesman, Michael. 1990. "Rethinking Labor Law Preemption: State Laws Facilitating Organizing." *Yale Journal on Regulation* 7(5): 355–426.
Greater New Orleans AFL-CIO. 2001. *Louisiana Legislative Update* 2001. Unpaged electronic document dated 19 June. Retrieved 17 July 2003 from www.gnoaflcio.org/LALegUpdate.html.
Gregory, David L. 1986. "The Labor Law Preemption Doctrine: Hamiltonian Renaissance or Last Hurrah?" *William & Mary Law Journal* 27(3): 507–582.
Hartley, Roger. 2003. "Preemption's Market Participant Immunity—A Constitutional Interpretation: Implications for Living Wage and Labor Peace Policies." *University of Pennsylvania Journal of Labor and Employment Law* 5(2): 229–258.
Hooper, Lundy, and Bookman, Inc. 2002. "AB 1889 Preempted by NLRA." *Health Law Perspectives.* Unpaged electronic document dated November. Retrieved 17 July 2003 from www.health-law.com/publications/articles/20030530.
Jackson Lewis. 2003. *National Labor Relations Board Will Oppose Enforcement of California's Labor Neutrality Law.* Unpaged electronic document. Retrieved 17 July 2003 from www.jacksonlewis.com/publications/articles/20030530/default.cfm.
Kronland, Scott A. 2000. *A.B. 1889: A Summary. Prepared for the California Labor Federation.* Copy obtained from the California Labor Federation.
———. 2003. "An Update on NLRA Preemption of State and Local Laws and on the Regulator/Proprietor Distinction." Paper presented at AFL-CIO LCC Conference, New Orleans.
Labor Policy Association. 2002. *NLRB General Counsel Considering Enjoining California Neutrality Law.* Unpaged electronic document dated 30 May. Retrieved 15 May 2003 from www.nlrbwatch.com.

———. 2003a. *In Brief Opposing California Neutrality Law, NLRB Extols the Virtues of "Robust Debate of Union Representation Issues."* Unpaged electronic document dated 6 June. Retrieved 17 July 2003 from www.hrpolicyy.org/news/news_detail.asp?ID=1188.

———. 2003b. *NLRB Decides to Weigh In against California Neutrality Law.* Unpaged electronic document dated 31 May. Retrieved 15 May 2003 from www.nlrbwatch.com.

Lawler, John. 1990. *Unionization and Deunionization.* Columbia: University of South Carolina Press.

Logan, John. 2002. "Consultants, Lawyers and the 'Union Free' Movement Since the 1970s." *Industrial Relations Journal* 33(3): 197–214.

———. Forthcoming. "'Labor's Last Stand in National Politics'? The Striker Replacement Campaign and the Failure of Labor Law Reform." In *Advances in Industrial and Labor Relations*, edited by Bruce Kaufman and David Lewin.

McCracken, Richard. 2003. "Making State and Local Laws II." Paper Presented at the AFL-CIO LCC Conference, New Orleans.

North, Brent. 2002. "The Impact of AB 1889 on Union Activities." *Employers Group Newsletter—Capitol Review.* Unpaged electronic document dated 26 September. Retrieved 17 July 2003 from www.employersgroup.com/Data/newsletter/2002/06/Capitol_Review.asp.

Pepe, Steve and Brent North. 2002. "An Overview for Employers Group Members on AB 1889: Compliance Issues Employers Group." *Employers Group—News for HR.* 26 September. Unpaged electronic document. Retrieved 17 July 2003 from www.employersgroup.com/News/LatestNews/AB1889artl.asp.

Robertson, Kathy. 2001. "New Unionization Law Survives Court Challenge From Business." *Sacremento Business Journal*, January 2001. Retrieved 17 July 2003 from www.bizjournals.com/sacramento/stories/2001/01/01/daily13.html.

Silverstein, Eileen. 1991. "Against Preemption in Labor Law." *Connecticut Law Review* 24(1): 1–53.

State of California, Department of General Services, Procurement Division, Master Agreements and Contracts Section. 2002. *Statewide Checklist of Statewide Contracts, Statewide Food Contracts, State Price Schedules, Master Agreements.* Sacramento: Department of General Services.

State of California, Department of Justice, Office of the Attorney General. 2001. *Attorney General Bill Lockyer Files Lawsuit Against Nursing Home Company for Failing to Comply with State Labor Law.* Press release dated 19 November.

State of California, Office of the Governor. 2002. *Governor Davis Gives Keynote Address Announcing Small Business Partnerships with State Reaches* 10,000. Press release dated 24 April.

Townley, Barbara. 1986. *Labor Law Reform in U.S. Industrial Relations.* Aldershot: Gower.

U.S. Chamber of Commerce, National Chamber Litigation Center. 2002a. *California AB 1889 Overturned: Employers Given OK to Discuss Unionization with Workers.* Unpaged electronic document dated 20 September. Retrieved 15 July 2003 from www.uschamber.com/nclc/news/alerts/alert020920.htm.

———. 2002b. "Employer Rights Under the NLRA." *The Business Advocate: A Periodic Update of the Activities of the National Chamber Litigation Center* 24(1): 3–5.

Yager, Daniel V. 1997. *NLRB–Agency In Crisis.* Washington D.C.: Labor Policy Association.

———. 2003. "Time to Stop the Balkanization of American Labor Law: General Counsel Arthur Rosenfeld Should Move Against State/Local Regulation of Labor Relations." *NLRB Watch.* Unpaged electronic document dated 4 April. Retrieved 15 May 2003 from www.nlrbwatch.com/news/2003/Balkanization_of_Labor_Law.htm.

Zachem, Susan. 2002. *GCIU California Coalition Lays Claim to First Victory.* Unpaged electronic document. Retrieved 17 July 2003 from www.gciu.org/archives/02j-f/404morg.shtml.

APPENDIX. Summary of State Neutrality Bills

State	*Bill*	*Purpose*	*Fate*
Arizona	HB 2503	To restrict the use of state funds by state contractors	Died in committee, January 2001
Arizona	HB 2548	To restrict the use of state funds by state contractors	Died in committee, 2002
California	AB 442	To restrict the use of state funds by private and public employers for anti-union activities	Passed by legislature, 1999 Vetoed
California	AB 1889	To restrict the use of state funds by private and public employers for pro- or anti-union activities	Passed by legislature, August 2000 Signed into law, September 2000
Colorado	SB 130	To restrict the use of state funds by state contractors	Passed by senate, April 2002 Died in house committee
Connecticut	HB 6936	To restrict the use of state funds by health care facility providers	Passed by house, June 2001 Died in senate committee
Connecticut	SB 763	To restrict the use of state funds by state contractors	Died in committee, 2001
Florida	HB 957 SB 1042	To restrict the use of state funds by health care facility providers	Passed by house Died in senate committee, May 2001
Florida	HB 767 SB 1378	To restrict the use of state funds by nursing home facilities	Passed by legislature Signed into law, May 2002
Georgia	SB 271	To restrict the use of state funds by employers (specifies prohibited activities)	Died in senate, March 1999
Hawaii		"Bill to Provide for State Neutrality in Union Organizing"	Died in committee, March 2003
Illinois	HB 726	To prohibit the recipients of state funds from using those funds to promote, assist, or deter unionization	Died in committee, March 2001
Illinois	HB 3395	To prohibit the use of state funds by employers that had reimbursement agreement with state; to require that unions be given equal access to employees and prohibit captive meetings during working hours	Died in committee, April 2001
Illinois	HB 3011	To restrict the use of state funds by health care facility providers	Died in committee, April 2001
Illinois	HB 3395	To prohibit the use of state funds by employers that had reimbursement agreement with state; to require that unions be given equal access to employees and prohibit captive meetings during working hours	Passed by senate, April 2003 Died in house committee, June 2003

APPENDIX. (*Continued*)

State	*Bill*	*Purpose*	*Fate*
Indiana	Bill 1980	To prohibit any employer with a reimbursement agreement with state from using state funds to support or oppose unionization	Passed by house Died in senate committee, March 2001
Iowa	HJ 215/256 HF 126	To prohibit the use of state funds by employer that was reimbursed by the state, received grants from the state, had contracts with state, or participated in state programs	Died in committee, February 2001
Louisiana	SB 1078	To prohibit employers from using state funds to assist, promote, or deter unionization	Died in committee, July 2001
Maine	LD 1394 HP 1037	To restrict the use of state funds by health care facility providers	Passed by legislature Vetoed, June 2001
Maryland	HB 1246	To restrict the use of state funds by health care facility providers	Died in committee, March 2001
Massachusetts		To restrict the use of state funds by health care facility providers	
Massachusetts	HB 630	"An Act to Ensure Proper Expenditure of and Accounting for State Funds"	Pending
Missouri	HB 1816	To prohibit employers from using state funds to assist, promote, or deter unionization	Died in house, February 2000
Missouri	HB 2209	To prohibit employers from using state funds to assist, promote, or deter unionization	Died in committee, 2002
Missouri	HB 308	"An Act Relating to Union Organizations Limitations on Private Employer Use of State Funds"	Pending
New Hampshire	SB 162	To limit the use of state funds by private contractors (specifies prohibited activities, including using state funds to "defend against unfair labor practice charges")	Died in committee, 2002
New Jersey	Executive Order 20	To require card check and neutrality from state contractors that provide uniforms for state employees (may be modified in near future)	Signed into law, June 2002
New Jersey	AB 2958	To prohibit the use of state funds to pay consultants, train supervisors, or pay salaries of other employees whose primary responsibility is union avoidance (similar to New York neutrality law)	Pending

APPENDIX. (*Continued*)

State	*Bill*	*Purpose*	*Fate*
New York	SB 6328	To prohibit the use of state funds to "train managers, supervisors, or other administrative personnel regarding methods to discourage union organization"	Passed by legislature, April 1998 Signed into law
New York	AB 8568 SB 4385	To prohibit the use of state funds to pay consultants, train supervisors, or pay salaries of other employees whose primary responsibility is union avoidance	Passed by legislature, July 2002 Signed into law, September 2002
North Dakota	SB 2434	To provide limits on the use of state funds for union organizing	Died in committee, February 2001
Oregon	HB 3645 S 778/776	To prohibit the use of state funds to encourage or discourage unionization (similar to AB 1889)	Died in committee, 2001
Oregon	SB 494-A	To prohibit the use of state funds to oppose or support union organizing efforts by workers employed by public agencies, organizations that receive state grants, and contractors for services who receive 50 percent or more of their funds from the state	Passed by senate, June 2003 Pending in house
Pennsylvania	HB 1531/ 1659	To restrict the use of state funds by state contractors	Died in committee, May 2001
Tennessee	HB 20 SB 413	To provide for state neutrality in labor organizing	Pending
Washington	HB 2016	To prohibit the use of state funds to encourage or discourage unionization (similar to AB 1889)	Died in house committee, March 2003
West Virginia	HB 2920 SB 534	To prohibit nursing home facilities and home health care providers from using state funds to deter unionization; prohibit anti-union meetings during work shifts in which employees care for Medicaid patients	Died in committee, 2001

The State of California Labor, 2003, Vol. 3, pp. 157–198, ISSN 1531-9037, electronic ISSN 1541-9045.

Living Wage Ordinances in California

MICHAEL REICH

Since 1994 living wage ordinances have been passed and, in varying degrees, implemented in over ninety-five local governmental entities in the United States; among them (as of July 2003) are twenty-one California cities.[1] Of the six largest cities in California, four have adopted living wage ordinances: Oakland, Los Angeles, San Francisco, and San Jose.[2] Outside of California, the major cities in the United States that have passed living wage laws include: Baltimore, Boston, Buffalo, Chicago, Cleveland, Detroit, Miami, Milwaukee, Minneapolis, New York, and St. Louis. Brenner (2003) estimates that close to 40% of the population of large U.S. cities live in cities with living wage ordinances.[3] By this measure, living wage policies have spread rapidly and widely. Yet our understanding of their dimensions and impacts is only beginning to emerge.

What is a livable wage? Why have cities passed living wage ordinances? What do we know about their impacts on workers, employers, and taxpayers? Given the state and local fiscal crises now affecting California, as well as many other states, what does the future hold for living wage policies?

As their name suggests, living wage ordinances set a mandated wage floor—an hourly rate that is identified as a livable wage for the locality—and defines the employees who are covered. Most often, the ordinance applies only to employees working on municipal service contracts over a given threshold, such as $25,000. Table 6.1 lists all the known California cities with living wage ordinances, the dates they were passed, the mandated wage and benefit levels, the types of employers and

I am grateful for research support from the Institute for Labor and Employment. I would also like to thank Mark Brenner, Gabriel Chodorow-Reich, David Fairris, Peter Hall, Ken Jacobs, and the anonymous referees for their helpful comments on an earlier draft, and Carolina Briones, David Runsten, and Sarah Zimmerman for sharing their preliminary data on living wage impacts.

1. Campaigns to pass similar laws are underway in a large number of localities.
2. The other two cities are San Diego and Sacramento. Advocates in San Diego have discussed introducing a living wage ordinance, and in September 2003 the Sacramento City Council voted preliminary approval for a living wage ordinance.
3. As in the rest of the United States, most of the California ordinances are in medium and smaller cities as diverse as Hayward and Pasadena.

TABLE 6.1. Living Wage Ordinances in California, as of September 2003

City	*Date Passed*	*Wage/Benefit Level*	*Coverage/Threshold*	*Labor Relations Provisions*
Berkeley and Berkeley Marina	June 2000 Amended October 2000	$10.76 with benefits $12.55 without May be adjusted by city council	City employees Service contracts: $25,000 Non-profits: $100,000 Subsidy recipients: $100,000 Property contracts.[a] All businesses in Marina Zone with $350,000 in annual gross receipts	Anti-retaliation[b]
Fairfax	August 2002	$13.00 with benefits $14.75 without	Service contracts: $10,000 Subsidies: $15,000 Municipal employees	
Hayward	March 1999	$9.26 with benefits $10.71 without	Service contracts: $25,000 Municipal employees	Anti-retaliation Collective bargaining supersession[c]
Los Angeles	March 1997 Amended 1998	$8.53 with benefits $9.78 without Indexed to city employee retirement benefits 12 paid days off	Service contracts: $25,000 Subsidies: $1 million Property contacts	Anti-retaliation language Collective bargaining supersession Worker retention (separate ordinance)
Los Angeles County	June 1999	$8.32 with benefits $9.46 without	Service contracts: $25,000	Collective bargaining supersession Worker retention No public funds for anti-union activities Restricts use of part-time workers
Marin	January 2002	$9.00 with benefits $10.25 without	Service contracts	
Oakland Extended to Port of Oakland	March 1998 November 2002	$9.13 with benefits $10.50 without Indexed to CPI: 9.45/10.87 in 2002 12 paid days off	Service contracts: $25,000 Subsidies: $100,000 Property contacts	

Oxnard	July 2002	$9.00 with benefits $11.25 without	Service contracts Subsidies	
Pasadena	September 1998	$8.20 with benefits $9.61 without $9.00 for temp agencies	Municipal employees Service contracts: $25,000	Non-retaliation Collective bargaining supersession
Richmond	October 2001	$12.47 with benefits $13.44 without	Service contracts: $25,000 Non-profit contracts: $100,000 Municipal employees Property contracts	
San Fernando	April 2000	$7.25 with benefits $8.50 without 6 paid days off	Service contracts: $25,000 Subsidies: $25,000	
San Francisco Living Wage	August 2000	$10.25 with annual increase of 2.5% through 2005 $9.00 for non-profits 12 paid days off	For-profit service contracts: $25,000 Non-profit contracts: $50,000 Airport property contracts In Home Support Services Public Authority	Anti-retaliation language Collective bargaining supersession
San Francisco Health Care Accountability	June 2001	Employer must provide health benefits that meet standards or pay $1.50 an hour into a fund for the uninsured	For-profit service contracts: $25,000 Non-profit contracts: $50,000 Property contracts	Anti-retaliation language
San Francisco Redevelopment Agency	October 2001	$10.25 Annual increase of 2.5% through 2005 Employer must provide health benefits or pay into a city fund 12 paid days off	For-profit service contracts: $425,000 Non-profit contracts: $50,000 Property contracts	Anti-retaliation language Collective bargaining supersession
San Francisco Airport-Quality Standards Program	January 2000	$10.45 with benefits $11.70 without benefits	Workers whose performance affects safety or security	Labor Peace/Card Check (separate regulation)

TABLE 6.1. (*continued*)

City	*Date Passed*	*Wage/Benefit Level*	*Coverage/Threshold*	*Labor Relations Provisions*
San Jose	November 1998	$10.10 with benefits $11.35 without Indexed	Service contracts: $20,000 Direct grants: $100,000	Labor peace Worker retention Collective bargaining supersession
Santa Clara County	September 1995	$10.00 with benefits	Subsidies	
Santa Cruz	October 2000 Amended 2002	$11.65 with benefits $12.071 without benefits Indexed annually	Service contracts: $10,000	Anti-retaliation Cannot use city funds for anti-union activity Labor peace for city temporary workers
Santa Monica	May 2000 Repealed in 2003, prior to implementation	$10.50 with benefits $13.00 without 10 paid days off	Service contracts Employers within the Coastal Zone with more than $5 million in annual gross receipts and 50 employees	Anti-retaliation
Ventura County	May 2001	$8.00 with benefits $10.00 without	Service contracts: $25,000	Collective bargaining supersession
Watsonville	September 2002	$11.65 with benefits $12.71 without Indexed annually 10 paid days off	Contracts in 14 categories	
West Hollywood	October 1997	$8.00 with benefits $9.30 without $9.00 for temp agencies	Service contracts: $25,000	

SOURCES: ACORN Living Wage Resource Center; Employment Policies Institute; Reynolds 2003.

[a] Property contracts place wage conditions on leases of public property.

[b] Anti-retaliation prohibits retaliating against workers for reporting violations or in other ways exercising rights under the ordinances.

[c] Collective bargaining supersession states that provisions may be set aside in a collective bargaining agreement.

contracts that are covered as well as coverage thresholds, and labor relations provisions that are part of the ordinance.[4]

The wage column in Table 6.1 shows how high the mandated wage levels are in these ordinances and how much they vary across jurisdictions. The lowest wage mandate without health care coverage is $8.50 per hour and the highest without health care coverage is $14.75. Among large cities, the mandated wage, without benefits, ranges from $9.78 in Los Angeles to $11.70 in San Francisco. These rates compare favorably to the California minimum wage—$6.75 since January 2002—and the federal minimum wage—$5.15 since September 1997.

The living wage concept derives from a social norm, namely that an employer in the United States pay wages that permit one full-time worker to support a family of four at a "livable" standard of living. The underlying moral principle is that workers obtain dignity when they can support their families without government assistance. The underlying economic principle is that U.S. business and government employers were able to meet such a norm until the mid-1970s and that subsequent improvements in education levels and labor productivity make this norm even more affordable for employers today. Living wage ordinances specifically mandate that taxpayer dollars be used according to such moral and economic principles.

What wage rate, then, constitutes a livable wage? The term "livable" is best understood as an attempt to improve upon two related but highly flawed concepts: that a feasible family budget can be based on the state or federal minimum wage and that the federal household poverty level reflects an accurate assessment of the income needs of the poor. California statute requires that the state minimum wage be benchmarked at a level that permits a worker to meet a minimal standard of living, as calculated by household budget studies that used to be defined and published by the U.S. Bureau of Labor Statistics. The budget studies disappeared long ago, and so did the benchmarking of California's minimum wage policy.

The household poverty level is set by the federal government using a methodology that simply multiplies by three the cost of food from a basic nutrition diet, using the proportion of income that once went to food expenditures. In 2003 the official federal poverty level for a four-person household was about $18,000, equivalent approximately to $9.00 per hour for one year-round full-time worker. The federal approach, which dates to the 1960s, does allow for differences in household size, but it does not provide any allowance for differential housing costs across cities, nor does it include a very big item—child care expenses—that was exceptional in the 1960s and is now the norm. Today's living wage advocates frequently seek to meet the federal poverty standard while emphasizing its limitations.

4. Typically, the ordinances contain a health benefit incentive and some type of wage indexing. A number of ordinances also contain conditions on worker retention, and they can be superseded by collective bargaining agreements. In these respects California ordinances are similar to those in the rest of the United States.

A "self-sufficiency" standard that allows a family to "make ends meet," has also been widely used in living wage campaigns. Unlike the poverty standard, this more expansive approach takes into account the importance of local differences in the costs of housing, transportation, and child care. The website of the Economic Policy Institute provides self-sufficiency budgets that have been calculated for 400 communities in the United States, with separate calculations for different numbers of adults and children in the household.[5]

Budgets that meet the self-sufficiency standard for California are generally twice as high as those based on the federal poverty standard. In the Los Angeles–Long Beach area, for example, such a budget ranges from $29,258 for a family with one adult and one child to $49,683 for a family with two adults and three children; the comparable figures for San Francisco are $38,431 and $62,161. Since child care costs tend to be substantial, the wage rates required for self-sufficiency are higher for households with several pre-school age children, and they are much lower, close to the poverty standard, when households contain two working adults and no dependents.

In 1999, according to the recent decennial census, the median income of all Los Angeles households stood at $42,189, while median income in San Francisco stood at $55,221. The Economic Policy Institute reports that 33.1% of all California households do not meet the self-sufficiency standard. It thus appears likely that perhaps two-fifths of the households in Los Angles and San Francisco do not meet the standard.

Every local living wage policy must choose a single wage level as the floor. Variation among different household structures therefore creates an ambiguity in how one should define the living wage for a locality. One solution is first to estimate the median size of households and the median number of earners, expressed in full-time equivalents, per household, in a locality.[6] This approach usually involves a household with between one and two full-time earners who support a family of four. The next step is to calculate a self-sufficiency income for that household and the hourly wage needed to meet it.

The high wage levels generated by the self-sufficiency standard sometimes create anxiety among local policy makers. Although the self-sufficiency level is often cited to justify a living wage mandate, no existing living wage ordinance has set a floor at the self-sufficiency level. In practice, the actual wage level (and coverage levels) chosen represents some compromise involving the local self-sufficiency level, the costs as estimated by prospective studies, and the contending political forces in the city.

The issues involved are illustrated by San Francisco's living wage ordinance, which was passed and implemented in 2000: its $10.00 per hour mandate was 74% higher than the statewide minimum wage level of $5.75 then in effect and was still 48%

5. See the Economic Policy Institute website (http://www.epinet.org). The institute uses the term "basic" rather than "self-sufficiency." The concept of a basic consumption good in economics has a fascinating history; see the excellent discussion in Brown 2002.
6. The term "full-time equivalents" takes into account that many earners work part-time or part of the year.

TABLE 6.2. Cost of Living Indices for California Metropolitan Areas, 2002

Metropolitan Area	*Indexed to 100.0 (Cost of Living, National Average)*	*Indexed to 5.15 (Federal Minimum Wage)*
San Francisco	184.1	$9.48
Oakland	139.5	$7.18
San Diego	137.8	$7.10
Los Angeles-Long Beach	135.2	$6.96
Orange County	134.6	$6.93
Average, 324 urban areas	100.0	$5.15

SOURCE: Association of Community and Economic Development Research Professionals (www.accra.org).
NOTE: San Francisco PMSA consists of San Francisco, San Mateo, and Marin Counties. Oakland PMSA consists of Alameda and Contra Costa Counties.

greater than the $6.75 per hour state minimum wage that went into effect in 2002. In comparison, the self-sufficiency budget for a San Francisco family with one parent working full-time calls for a wage of over $17.00 per hour (California Budget Project 2002).

Advocates for living wage ordinances point out that simply adjusting the 1968 national minimum wage for inflation would yield a minimum wage of $8.54 (in 2003 dollars). Moreover, average worker productivity has grown by more than 50% in the intervening years and low-paid workers are more educated today than in the 1960s. Consequently, an even higher minimum wage would appear to be economically affordable.

The continuing growth in living cost differentials across metropolitan areas, mainly driven by housing costs, has created additional pressure for local living wage ordinances. In 2002, as Table 6.2 shows, the cost of living in San Francisco was 184% above the national average. Housing costs alone were more than 300% of the national average.[7] Housing costs are relatively more burdensome for low-income renter and homeowner households, which tend to spend a higher percentage of their incomes on housing than more affluent households do. This point is particularly apt

7. See the ACCRA website (http://www.accra.org). ACCRA stands for Association of Community and Economic Development Research Professionals. The ACCRA index draws on data concerning homeowners' costs but not renters'. The data collected by the National Low-Income Housing Coalition (http://www.nlihc.org) shows, however, that apartment rents and house prices correlate highly and positively across metropolitan areas. This means that the ACCRA index would generate similar results if renters' costs were included.

for San Francisco. However, as Table 6.2 shows, it also applies to the rest of California's urban areas, which all have living costs well above the national average for metropolitan areas.[8]

In contrast to the nearly universal coverage of minimum wage laws, the workers who are covered under local living wage ordinances usually represent a small proportion of a city's low-wage workforce. As Table 6.1 shows, most living wage ordinances are limited to the employees of businesses who hold municipal service contracts. A smaller number of ordinances, less than half of the total in the United States, also cover employees of businesses that receive substantial financial assistance from the city.[9] This narrow scope means that most low-wage workers in a city are not covered by the law. In this regard the first Los Angeles ordinance, passed in 1997, was typical; Brenner, Wicks-Lim, and Pollin (2003) estimated that it affected less than 2% of the city's lowest decile of wage earners. This low coverage rate raises the question of whether traditional living wage ordinances have changed or can change the conditions within the larger low-wage labor market.

Two developments have significantly increased the coverage of living wage ordinances. In Los Angeles, Miami, Oakland, and San Francisco, ordinances have been extended to cover employers who are tenants on city-owned property. The provision primarily affects the cities' airports; in Los Angeles and San Francisco airport workers comprise half of all the workers covered.[10] Employment at the nation's largest airports generally ranges from 20,000 to 50,000 workers, and about a third of them are low-paid. Comparable policies have been under discussion at an additional half-dozen of the largest airports in the nation.

The second development involves the addition of a geographic dimension to local living wage ordinances. This expansion has already begun with the inclusion of airports, which of necessity are geographical entities. It has also already occurred in some coastal California cities, which have extended ordinances to areas on or near the city's waterfront.[11] Potentially even more significant, a few cities are experimenting with extending their living wage ordinance to all employers in the city, which would establish a municipal-level minimum wage. (I discuss the implications of these developments at the end of this essay.)

Because minimum wage rates, which are not indexed, have not kept up with the growth of self-sufficiency income levels in California, living wage advocates often emphasize these low-wage workers' unmet needs. In San Francisco, for example, the rallying cry in a current living wage campaign is "Six seventy-five is not enough."

8. San Francisco had the highest cost of living index in 2002 of all metropolitan areas in the United States.
9. In many cities, policy makers have provided exemptions or waivers for many employers, especially those who are non-profit organizations, further limiting coverage.
10. A 2003 statewide Florida law effectively repealed living wage coverage at Miami-Dade Airport. Workers there had already received living wage raises, however.
11. Such ordinances are in effect in Berkeley, Oakland, and San Francisco.

Opponents of living wages see labor markets as operating benignly, with minimum wage jobs serving as teenagers' first stepping-stones to careers and wages that increase with experience. These opponents argue that the public costs of the policies will either be very large, as wage increases are passed on in higher contract costs, or that employers will reduce employment if they cannot pass on their cost increases. A further argument states that employers will substitute more educated workers when pay rates increase, so that the intended beneficiaries will actually lose rather than gain from the policies. These arguments derive from a coherent set of theoretical propositions, but their importance depends on the extent to which they apply empirically. I return in the next section to discussing the evidential basis for these propositions.

The arguments that advocates have developed touch on not only labor market failures and the failures of national- and state-level minimum wage policies; they also refer to efficiency and fairness failures in municipal out-sourcing policies, to the leverage of local governments over service providers, and, finally, to a demonstrated potential affordability of the policies.[12]

First, increasingly deregulated labor markets have not eliminated poverty-level wages. On the contrary, over the past two decades real wage rates have fallen for workers in the bottom two-fifths of the wage distribution, even as labor productivity has grown. Even the sustained economic expansion of the late 1990s brought only small real wage gains, and these were eliminated in the subsequent recession and jobless recovery.

Pay inequality grew faster in California than in the rest of the nation, and real pay for the bottom quintile of wage earners declined while the cost of living in the state outstripped the rest of the country. Indeed, the number of working but poor families did not fall during the 1990s expansion and has risen subsequently (California Budget Project 2003). Real wages in California, in short, have stagnated at best, and have failed to match long-term trends in productivity growth. This wage stagnation suggests either a market or a policy failure that could be corrected through policy interventions.[13]

Second, the decline in low pay resulted especially from a specific policy failure, namely the decline in real value of the national minimum wage, which has fallen

12. Although each point rests on a substantial research literature, I can only present them in a summary form here, and I cite the main research sources only partially; see the more extensive discussions in Reich and Hall 2001 and Reich, Hall, and Jacobs 2003.

13. I am not suggesting that wage growth and productivity must grow at the same rate, but rather that the market-oriented marginal productivity theory of wage distribution suggests that they should and would. The phrase "market failure" refers to the fact that the labor market has not functioned in this way. My previous work, and that of many others, has suggested that long-term "sharing" of productivity gains depends upon institutional rules and that these rules have changed significantly since the mid-1970s. See Gordon, Edwards, and Reich 1982 for a more complete account.

substantially since 1968 and stands considerably below the federally defined poverty level for a single wage-earner with a spouse and two children. Wage rates at the low end of the distribution are much more affected by movements in mandated national and state minimum wage policies than by immigration or by skill-biased technical change (Card and DiNardo 2002; Lee 1999). As many studies have shown (see, for example, Brown 1999), moreover, recent increases in the minimum wage have not restrained employment or economic growth.

Third, this national-level policy failure has only partly been addressed at the state level. Eleven states have set a state minimum wage above the national level, but none provides a living-level wage. Moreover, in California and in some other regions of the nation, urban housing costs have risen substantially, creating a higher cost of living that national and statewide policies do not address. Localities have stepped into this vacuum with living wage ordinances.

Fourth, declining wage rates in municipal services result from efficiency and fairness failures involving contracting out, or outsourcing. In many jurisdictions in the 1980s, taxpayers were told that local services could be made cheaper through outsourcing. The theory was that competition would reduce costs by squeezing public-sector wage overpayments and by increasing worker productivity without affecting service quality. Subsequent research showed that when outsourcing reduced direct costs, it did so primarily by reducing workers' pay below private-sector levels, reducing service levels and quality, and retaining hidden administrative costs in the public sector (Sclar 2000). Voters and legislators have therefore supported living wage mandates because they want to correct these efficiency and fairness failures. They do not want taxpayer dollars to support below-poverty wage rates.

We need to remember that the quality and quantity of local services, which are largely functions of pay rates and staffing levels, are determined in large part through taxpayers' ability and willingness to pay. Just as is the case for local public employees such as school teachers or firefighters, the wages paid to the employees of service contractors are set not only by a market exchange but also by a political exchange. Taxpayers want equitable treatment of workers as well as a fair return for their taxes, but contractors' wage rates can vary substantially and yet be consistent with efficiency and quality. As the expression goes, "you get what you pay for."

Fifth, living wage policies are targeted to local public services, which are not only paid for by taxpayers; they must be performed locally. Consequently, local governments have some leverage over service providers. They need not be concerned that the ordinances will drive contractors to relocate to another area. On the contrary, living wages can function as a local economic development policy, insofar as redistribution of local income to low-savings and local-spending households can increase multiplier effects on the local economy and, perhaps, relocate spending from overserved to underserved neighborhoods.

Finally, and perhaps most important, prospective studies of the potential costs to municipalities showed that the ordinances would increase operating costs by negligible

amounts for most contractors. A typical finding was that the ordinances would increase operating costs by between 1% and 2% and that the costs that would be borne by the city would amount to less than 1% of municipal revenue. Moreover, local government spending on welfare or health care might be less necessary.[14]

IMPACTS OF CALIFORNIA'S LIVING WAGE LAWS

The debate over living wage laws has been accompanied by a research literature that generally consists of prospective studies. For some cities, dueling studies have emerged from opposing camps. Prospective studies generally count the number of workers and firms that would be affected by living wage ordinances and calculate the benefits to the workers, the costs to the employers, and the likely costs to the city if employers pass their increased costs on in the form of higher service contracts. Many of the prospective studies suggest that, as crafted, living wage ordinances usually generate costs on the order of 1% to 2% of operating costs for the great majority of contracting businesses, a range that is unlikely to show up in an increased bid price, and that overall costs to the city are likely to constitute an even smaller percentage of local revenue. Other prospective studies come to less benign conclusions. Opponents of living wage laws argue that the policies may have undesired consequences, such as larger increases in city contract costs, adverse employment reductions among contractors' workforces, and the replacement of incumbent and targeted workers by a more educated and advantaged workforce.[15]

Since some living wage laws have been in place for several years, it should be possible to advance the debate beyond the prospective studies and to examine the actual impact of the policies. The next section reviews previous research on the impacts of minimum and living wages, discusses some of the methodological issues involved in measuring the impact of a living wage policy, and summarizes the impact studies that have been conducted for Los Angeles and San Francisco.

14. The Los Angeles study by Pollin and Luce (1998) was the first to present such findings. Pollin and his coauthors have found similar results for other cities as well (Pollin 2003). Peter Hall, Ken Jacobs, and I have conducted prospective costs studies for San Francisco, the San Francisco Airport, and the Port of Oakland; we have obtained similar numbers.
15. For examples of such studies, see the website of the Employment Policies Foundation (http://www.epf.org). Unfortunately, some of the opponents' studies draw upon survey data that was collected from employers using cover letters that announced the political agenda of the study. The resultant reporting bias casts serious doubt on the findings. For an example and critique involving San Francisco, see the discussion in Reich, Hall, and Hsu 1999. For examples involving Los Angeles and Santa Monica, see the website of the Political Economy Research Institute, or PERI (http://www.umass.edu/peri). This controversy parallels a controversy from the mid-1990s involving biases in data on minimum wage effects at fast-food restaurants; see Card and Krueger 2000.

Research on Minimum Wage Impacts in California

California's recent minimum wage increases provide an important background to the debate on living wages. The findings of Card and Krueger (1995) and Reich and Hall (2001) regarding wage compression and employment are especially pertinent because of their focus on California. Card and Krueger looked at impacts in California after the state raised its minimum wage in 1988–89, comparing its experience to that of a group of southern states that did not increase the minimum wage in this period. They found no measurable adverse employment impacts and some, although short-lived, real wage gains for low-wage workers.

Using a similar methodology, Reich and Hall examined the impacts of the 1996–98 California minimum wage increase from $4.25 to $5.75, comparing employment and pay trends in high-wage and low-wage industries. Employment grew in low-wage industries that were more affected by the minimum wage at the same rates as in high-wage industries, indicating that the policy did not generate any negative employment effects. Reich and Hall did find longer-lasting wage compression effects than did Card and Krueger, and they also found that the policy impacts were concentrated among workers in low-income families.

More recently, the California Budget Project examined the impacts of the 2001–02 California increases—from $5.75 to $6.25 and then to $6.75—and found that employment grew faster in California than in the rest of the United States (California Budget Project 2002). Indeed, from 1996 to 2002, California's minimum wage increased nearly 60%, yet the state's employment growth rate was higher than that of the rest of the nation—18.3% versus 12.6%.[16]

In sum, recent minimum wage research on California examines a policy that has much broader coverage than living wages and finds benign effects. The mandated wages are much smaller than in typical living wage ordinances, however, and therefore these studies provide only limited guidance to the impacts of setting much higher floors.

Research on Living Wage Impacts

To date, most living wage research studies have been *prospective studies*, estimating the costs and benefits of the policies prior to their adoption.[17] Prospective studies often are undertaken to provide guidance to policy makers. Their quality and

16. For a more detailed discussion, see Reich and Laitinen 2003, as well as the survey article by Brown (1999).

17. Previous surveys of living wage policies include Pollin and Luce 1998 and Luce 2002. Neumark and Adams (2000), although attempting to study the impacts of living wage policies, do not have any direct data on workers or employers covered by living wages. See also the California Living Wage Resources website (http://iir.berkeley.edu/livingwage) for studies of individual California living wage laws.

findings vary considerably, depending in part on the quality of the data that the authors collect. Generally, the more systematic studies rely upon local governments' contract databases, combined either with regional input-output data and Current Population Survey (CPS) data on pay by industry and occupation, or with researchers' surveys of the affected contractors.

The first major such study, by Pollin and Luce (1998), pointed out that the national minimum wage ceased to function as a "living" wage in the 1980s and then estimated how alternative living wage policy choices might affect Los Angeles workers, employers, and taxpayers. Their approach has been repeated for other jurisdictions.[18] Although individual workers are predicted to benefit, these studies generally find that impacts on other workers, employers, and taxpayers will likely be limited. As previously mentioned, Brenner, Wicks-Lim, and Pollin (2003) reported that about 2% of the lowest decile of wage earners in Los Angeles were covered or affected by the living wage ordinance.[19]

More recently, what might be dubbed *adoption studies* (such as Luce 2002) have documented the growing number of cities that have adopted living wage ordinances. These studies have shown that policies have been gradually broadening in coverage and scope. Martin (2001) examined the political and economic characteristics of a sample of cities that were among the first to adopt living wage ordinances. He found that political mobilization variables provided an important independent determinant of adoption (see also Nissen 2000). Levi, Olson, and Steinman (2003) collected and summarized a large number of descriptions of the characteristics of living wage campaigns that resulted in policy adoption. None of these studies examined the actual impact of the policies, however.

Impact studies, the last group of studies, evaluate the effects of living wage ordinances some time after they have been adopted and implemented. Three different approaches to studying these impacts have emerged. One approach, represented by Zabin and Martin (1999) and by Luce (2003), relates the effectiveness of living wage laws to the monitoring and enforcement processes that are instituted following their passage, which in turn are related to the continuing involvement of activist organizations. This approach demonstrates through case studies that the "social movement" effects that are prominent in the adoption studies influence implementation as well. This literature relies on interviews, often with local officials, and does not seek to measure quantitatively the impacts of the policies on workers and employers.

A second approach, represented by Neumark and Adams (2000), uses national CPS data to examine the effects of the ordinances through a cross-sectional regres-

18. Other examples include Reich, Hall, and Hsu 1999; and Zabin, Reich, and Hall 2000.

19. The prospective studies have expanded recently to include research on possible municipal-wide minimum wages. Pollin, Brenner, and Luce (2002) study the potential impact of the $6.15 minimum wage in New Orleans, and Reich and Laitinen (2003) study the potential impact of an $8.50 or higher minimum wage in San Francisco. Both papers take up questions of business relocation.

sion methodology. Their findings suggest that some types of living wage ordinances create benefits that accrue widely to low-income urban families; particularly effective are ordinances that cover employees in firms receiving business assistance from the city. Their large econometric effects appear overstated, however, when compared to the small number of affected contracts found in the case studies.[20]

A third approach uses before and after comparisons of surveyed firms and workers in an individual living wage city. The studies by Brenner on Boston (2003) and by Fairris on Los Angeles (2003) provide excellent examples of such work.[21] Both authors find substantial positive wage effects for covered workers and negligible disemployment effects.

Methodological Issues

Living wage ordinances are targeted to benefit low-paid workers while the costs are borne by businesses and the city's taxpayers. The costs to taxpayers depend upon the extent to which the higher wage floors generate higher payroll costs and, then, to the extent that these higher costs are passed on in the form of more expensive service contracts. Costs can also be shifted to the targeted workers, to the extent that contractors cannot obtain pass-throughs of their higher labor costs and respond instead by reducing their workforce or by switching their hiring to a different pool of workers.

Computing the benefits of these ordinances might appear to be a straightforward calculation of the number of workers on city contracts, multiplied by the average wage increase they receive, and adding in the ripple effect on workers who are not directly covered but receive increases because workers just below them receive increases. Using this approach, Fairris (2003) has reported that approximately 10,000 workers and 375 firms in Los Angeles are covered or affected by the city's ordinance.[22]

20. Neumark and Adams assume that the passage of ordinances is either exogenous or reflects the weight of local public-sector unions, while the adoption literature emphasizes the presence of strong community-based organizations, suggesting substantial omitted variables bias that may explain their findings. Neumark and Adams are attempting to address these issues in their work in progress.
21. Brenner and Luce, forthcoming, which examines firm data for Boston, Hartford, and New Haven, is another example.
22. To provide some comparative perspective, Brenner (2003) estimates that about 1,000 workers have benefited from Boston's living wage ordinance, which set a base wage of $9.11 at the time of his survey; the rate was raised to $10.25 per hour (for new or renewed contracts) in September 2001. A prospective study (Zabin and Kern 2003) of Sacramento's proposed ordinance estimated that 500 workers would benefit at a mandated wage of $8.60, and 2,000 workers would benefit at a mandated wage of $10. The Center for Policy Initiatives estimates that a proposed $11.95 living wage would benefit 1,600 employees of for-profit service contractors in San Diego. At the other extreme, New York City's living wage law for home care workers, scheduled to go into effect, is expected to raise pay for about 50,000 workers.

A number of indirect adjustment mechanisms, comparative trends among living wage and non-living wage contractors, and potential spillover effects further complicate the benefit calculations.[23] The indirect mechanisms (often referred to as "selection effects") include entry and exit of businesses from the ranks of city contractors and the entry and exit of their workers from their payrolls; both presumably are related to the length of time that a contractor has been under the ordinance. The comparative trends include the relative growth rates of employment and pay in different sectors that might have occurred without the ordinance. The spillover effects concern the extent to which the labor market for comparable workers is affected by pay increases given to the covered workers.

The extent to which costs have increased because of a living wage ordinance can also be computed simply by examining the affected contracts and comparing their before and after costs for comparable service levels (Sclar 2000). Here too, though, selection effects and comparative trends among nonliving wage firms must be considered and the extent to which employers have shifted costs back to the targeted groups must also be computed.

Moreover, as the recent literature on contracting out has emphasized, the quality of municipal services and the hidden administrative costs to cities that are not included in contracts can also vary. If living wage ordinances shift contracting dynamics from competition over price to competition over quality, and firms that pay higher wages tend to provide higher quality services, then cost figures must be adjusted appropriately. An improvement in a city's capacity to monitor its own contracts and to increase the proportion that is bid competitively also constitutes an indirect effect that can be of considerable importance.

A final consideration for understanding employer costs concerns possible adjustments to the ordinance; these mechanisms are often referred to as *efficiency wage effects.* One insight provided by efficiency wage theory is that firms that make identical products or services can be diverse in their human resource policies and yet be efficient and profitable. For example, higher pay rates induce more efficient management and utilization of the workforce, while also motivating employees to be more effective at the workplace. Studies of living wage impacts thus need to examine changes in human resource policies and worker performance.

In the current context, the most important efficiency wage adjustment mechanisms include: the effects on employee turnover, which in turn affect costs related to quits and replacements; the effects on unscheduled absenteeism; and the effects on worker effort, whether imposed through management edict and supervision or provided voluntarily by workers. Hiring standards and training of incumbent

23. A related question concerns whether the $1.25 incentive to provide employee health benefits has been effective in expanding employer-based health coverage. Conceptually, it should be possible to examine how many firms opted to add health benefits as well as how many employees chose to take up the new offers.

workers can also be affected. These efficiency wage adjustment mechanisms can mitigate the direct labor cost increases that are mandated by living wage ordinances.

Many of these issues are nicely illustrated by the Brenner (2003) study of living wage impacts in Boston. Brenner surveyed contracting firms in 2001, three years after the ordinance was implemented and when the living wage mandate stood at about $9.00 per hour. He collected data not only on wages but also on changes in employment, turnover, absenteeism, employee morale, and contract cost changes over the period of implementation.

Brenner divided his sample into two groups: living wage contractors who had to raise wages to comply with the ordinance (the treatment group), and those that were already in compliance because they were already paying more than the mandated level (the control group). He then compared before and after effects.[24]

Brenner found that about one-fourth of contractors, most of them non-profit organizations in social services, raised pay in response to the ordinance. Comparing the treatment and control groups, Brenner found significant positive wage effects. Among affected firms, the proportion of workers earning less than $9.25 per hour fell from 31% in 1998 to 4% in 2001, while the percentage among unaffected firms remained constant, at about 3%. Using CPS data to generate a comparison, Brenner found that the proportion of all workers in Boston who earned less than $9.25 fell from 24% to 19% during the same period.

Brenner did not find significant differences between affected and unaffected firms either in turnover or in unscheduled absenteeism. His qualitative data also suggest that employee effort and morale improved in affected firms. Employment grew in affected firms and unaffected firms alike, although because affected firms were significantly more likely to transform part-time into full-time jobs, they experienced faster employment growth (based on full-time equivalencies).

These studies suggest that a systematic calculation of benefits and costs requires a detailed data set that goes well beyond the administrative data that cities ordinarily collect on their contractors. The methodology must be well designed to take these indirect mechanisms into account. That these are high standards to meet helps to explain why it has taken some time to carry out these studies.

24. This technique, which is designed to hold constant changes that were unrelated to the ordinance, represents a standard method that is generally referred to as "difference-in-difference." Its primary assumption is that the living wage firms that make up the treatment group are not systematically different from the firms in the control group. In most difference-in-difference studies, this assumption does not hold perfectly, but the resultant biases can be manageable rather than fatal. The technique also presumes the absence of spillover effects from the treatment group to the larger population. This assumption is likely to hold when the number of covered firms and workers is small compared to the local labor market, as is the case in Los Angeles, but not when the number covered is relatively large, as is the case at the San Francisco Airport.

THE LOS ANGELES LIVING WAGE LAW

The Los Angeles living wage ordinance was first passed in March 1997 and went into effect the following month. The campaign for the ordinance was led by LAANE, which continues to be active in enforcement of the ordinance. At the time of passage, Los Angeles was the second city in California and only the tenth in the nation to adopt a living wage ordinance. The Los Angeles ordinance broke new ground because it covered a much more comprehensive group of contractors and workers than did earlier laws in Baltimore or Milwaukee.

The original version of the Los Angeles ordinance specified a living wage level of $7.25 with employee health benefits or $8.50 without. At the time, the state minimum wage had just been increased from $4.25 to $5.15 and was slated to rise to $5.75 early in 1998. Consequently, the living wage level (without health benefits) exceeded the state's minimum wage by 47.8%. Coverage included city service contractors and larger recipients of local economic development funds. The ordinance also indexed the wage mandate to future increases in retirement pay for city employees.

Los Angeles amended the ordinance in November 1998, primarily to expand coverage among businesses holding leases at Los Angeles International Airport (LAX), to add city employees, and to create a small-business exception for city lessees. The amendments included administrative changes that strengthened the ordinance's monitoring and enforcement mechanisms. As of 1 July 2003, the living wage rate was set at $8.53 with health benefits and $9.78 without. This living wage level (without benefits) exceeds, by 44.9%, the current (and unindexed) statewide minimum wage of $6.75.

The ordinance applies to service contractors (with contracts worth $25,000 or more), to recipients of business subsidies of $1,000,000 or more, and to companies that have a lease from the city (most of these contractors operate at LAX). Implementation has been phased in when leases come up for renewal. Additional provisions call for twelve paid and ten unpaid days off per year.

Other components of the ordinance are also worth noting. Non-profit contractors, who are most often involved in delivery of social services, are exempt from the ordinance if their CEO's pay is less than eight times the pay of their lowest-paid employee. Employers are required to inform employees who are paid less than $12.00 per hour of their potential eligibility for the federal earned income tax credit (EITC). Finally, collectively bargained contracts may supersede the ordinance, provided that both union and management agree to do so.

Using the city's database of living wage contractors, Fairris (2003) assessed the impacts of the Los Angeles ordinance on employers by collecting information from a stratified sample of covered establishments.[25] He also surveyed a comparable sample

25. Sander and Williams (2003) are conducting a separate study, but it is still in progress and has not yet been released publicly. These authors have undertaken forty case studies of Los Angeles city contracts, with a focus on how costs have changed and whether employment or productivity has been affected.

of Los Angeles establishments that were not contractors and were not covered by the ordinance. His "before" dates ranged from 1997 to 2002 for living wage contractors, depending on when they became subject to the living wage ordinance, and 2000 for the control group. The "after" date was 2002 for both groups.

Like Brenner, Fairris used the difference-in-difference methodology that compares before-and-after patterns between the treatment and control groups, and he was careful to check whether the treatment group and the control group differed in important ways. Although Fairris found some possible biases, they appear small; the "before" wage rates in the two samples, for example, were virtually identical.

Fairris's principal finding is that pay for employees covered by living wage contracts rose significantly faster than pay for the control group, by about $1.70 on average and $1.60 for firms that first came under the ordinance in 2002. This difference is remarkably close to the $1.52 difference between the state's minimum wage and the city's living wage in 2002. Fairris did not find any tendency for contractors to increase their offers of health benefits as a result of the ordinance, but he also found that they were and are more likely than non-city service contractors to offer health benefit coverage in any case. He did find that the living wage contractors on average added two days more of paid time off to employee benefits, compared to the employers in the control group.

Fairris also looked at the efficiency wage effects, which he labeled the "indirect effects," of the ordinance. His measures included changes in unscheduled absenteeism, overtime, employer-provided training, and employee turnover. Fairris found a statistically significant reduction of about one-sixth in unscheduled absenteeism among covered firms compared to uncovered firms, which he regards as an indication of both improved employee job satisfaction and labor productivity. He also found a significant reduction in the use of overtime, but not in the incidence of training.

Fairris found much greater reductions in turnover among the covered firms: one-third lower on average, which is a large effect. His attempts to control for confounding factors still leave estimates of turnover in a range that is from one-fourth to one-half lower than turnover among non-contractor firms. He traced the lower turnover to the higher wage rates offered and, using a conservative estimate ($807) of the cost of replacing a low-skilled worker, he calculated that lower turnover saves about 6% of the increased wage bill per worker, per year.

There is good reason to believe that the replacement costs per worker are likely to be much higher than reported by the contractors in the Fairris data. Using survey data from hotel, retail, and restaurant employers in Santa Monica, Pollin and Brenner (2003) found that replacing a nonmanagerial worker cost on average $2,090; even higher replacement costs have been reported by Reich, Hall, and Jacobs (2003) for a number of cities. Higher replacement costs mean that the savings from turnover reductions are even greater. Using data only from his covered service contractors in Boston, Brenner (2003) found that the median replacement cost per employee

was approximately $2,500. Brenner estimated that turnover costs are equivalent to approximately one-eighth of the total payroll costs of the workers affected by the Boston living wage ordinance. Since the Los Angeles ordinance increased workers' wages by approximately one-fourth, turnover reductions alone could save employers half of the cost of meeting the mandate.

Fairris could not examine many of the important issues surrounding the Los Angeles ordinance. In particular, he could not consider how many employees received increases, whether the number of workers employed changed, or whether firms changed the composition of their workforces.[26] His data also cannot tell us whether costs to the city went up as a result of the ordinance, or whether the quality of city services improved. Equally important, for statistical reasons Fairris excluded leaseholders and some service contractors at LAX from his sample. Consequently, we have greater confidence that his results are representative of non-airport contractors, but we have no insight about the ordinance's impact at the airport, where the environment is somewhat different and where perhaps half of the city's covered employees are located. Nonetheless, this study provides the most persuasive evidence yet that the Los Angeles ordinance did increase pay for targeted workers. It also demonstrates that paying higher wages significantly reduces turnover, thereby setting into motion human resource policies that can improve the well-being and productivity of workers in the long run, while generating some employer savings in the short run.

SAN FRANCISCO'S LIVING WAGE POLICIES

San Francisco passed and implemented its first living wage policies in 2000. The mandated wage initially was set at $9.00 per hour with a separate $1.50 per hour incentive for employee health benefits, as well as twelve paid days off per year. The wage level was to increase to $10.00 after one year and then to increase by 2.5% per year through 2005. The current policies are actually comprised of a series of ordinances that cover three main groups of workers (see Reich, Hall, and Jacobs 2003).

The first group of covered workers consists of the employees of service contractors, as in other cities. Nonprofit organizations—mainly deliverers of social services—are not exempt from the law, as they are in most other cities with living wage ordinances, although they were given greater latitude to pass wage costs on in higher

26. An ongoing survey of living wage contractors, directed by David Runsten of UCLA, will help to fill these important gaps. Runsten's preliminary analysis of his data indicates that over four-fifths of employers did not change employment levels. Some employers at LAX have reduced staffing levels, but their magnitude and their relation to recent declines in airport activity are not yet known.

contract costs. Following a subsequent budgetary report, the living wage level for nonprofits was frozen at $9.00; it increased as originally mandated among for-profit contractors.

Using a then-proposed living wage level of $11.00, one prospective study (Reich, Hall, and Hsu 1999) estimated that about 6,000 employees of service contractors would be affected by the law and that cost pass-throughs would cost the city about $30 million. The city subsequently determined that the budgetary allocation required to pay for this component of the policies was virtually identical to the estimate in their study.

The second group of workers who are covered by the living wage ordinance consists of home care workers. Previously, home care workers had functioned as independent contractors who were matched one-on-one with service recipients. Recent legal changes created an employer of record in San Francisco County: In-Home Support Services (IHSS), a quasi-governmental entity. With the advent of IHSS, home care workers' pay increased substantially from minimum wage levels. Nonetheless, it was estimated that 6,700 IHSS workers would get wage increases as a result of the living wage law and that virtually all the costs of these increases would be borne by state and federal sources (Reich, Hall, and Hsu 1999).

Howes (2003) carefully studied the actual impact of living wage laws and simultaneous collective bargaining developments on the IHSS workers in San Francisco. She drew on administrative data over the period from 1997 to early 2002, involving about 15,000 service recipients and 26,000 recipient-provider matches. Her study period thus covers both the transition to IHSS and the living wage policy implementation.

Howes found that the wage increases resulted in a major expansion of labor supply into home care employment, so that more needs in home care were met. Virtually all of the increased costs were borne from federal and state sources, causing substantial new money to enter the city's economy. Turnover among home care workers fell by 30%, turnover of provider-recipient pairs fell by 20%, and the proportion of matches between providers and clients who spoke the same language improved substantially, indicating an improved quality of service.

The third group of workers who are covered by the San Francisco living wage ordinances consists of employees at San Francisco International Airport (SFO). The ordinance that covers airport employees, dubbed the Quality Standards Program, was passed by the Airport Commission in January 2000; it was implemented in April for airline services contracts and in October for airline employees. The program established hiring, training, and compensation standards for all of the eighty employers with workers in security areas or performing security functions. The standards, which exceeded those set at the time by the Federal Aviation Administration, cover some 8,300 workers, including baggage screeners, skycaps, baggage handlers, airplane cleaners, fuelers, and boarding agents—anyone whose performance affects airport security and safety. The design and enforcement of the QSP resulted from

concerted organizing and negotiations by labor, innovative policy making by public officials, and enlightened acceptance by key employers.

The QSP is the subject of a large-scale impact analysis that I conducted with Peter Hall and Ken Jacobs (Reich, Hall, and Jacobs 2003).[27] Following a standard evaluation methodology, we surveyed business and working conditions and performance at SFO before and after the implementation of the policies. We faced the usual challenges of isolating the impacts of the program from other changes taking place. Since our sample was not large enough to support multivariate controls, our method for identifying policy effects relies on a series of first-difference comparisons.

For our main comparisons we obtained data from representative samples of all the covered firms both before and after the policy went into effect. These comparisons were made easier because all but one of the firms were operating at the airport at both points in time and because all faced the same changes in the airport's business environment. We controlled for effects that were not directly related to the QSP in the period of study, 1998–2001, such as any changes in passenger volume, the opening of the new International Terminal, improvements in management-labor relations, and the overall strength (or weakness) of the national and regional economy.

From the inception of the QSP in April 2000 to our data collection ending date of June 2001, almost 90% of the 11,000 ground-based non-management workers at SFO—approximately 9,700 workers—obtained a wage increase. The largest increases were recorded among entry-level workers in QSP-covered positions. The increase in the average entry wage was 33% for QSP-covered positions compared to 10% for non-QSP-covered positions.

The pay increases were most marked among the lowest paid airline service workers, including security screeners, baggage handlers, fuel agents, customer service agents, ramp workers, and cabin cleaners. For example, security screeners, who averaged $13,400 a year with no benefits prior to the QSP, earned $20,800 plus full benefits by January 2001, a 55% increase in wages, and a 75% increase in total compensation. Prior to the new city and airport policies, 55% of the ground-based nonmanagerial jobs paid an average of less than $10.00 an hour. By June 2001 only 5% of these jobs were paying an average of less than $10.00 per hour. The proportion of entry-level positions receiving $10.00 per hour or more increased from less than 3% to over 80%.

Prior to the QSP, lower wages in the airport labor market were concentrated among employees of airline service contractors. The pay increases mandated by the QSP significantly reduced the pay differences between in-house (airlines) and contracted out (airline services) ground-based jobs.

27. A preliminary report, issued in October 2001 in the wake of the September 11 attacks, focused on the recent pay increases among SFO's security screeners and the resultant steep decline in screener turnover (Reich, Hall, and Jacobs 2001). This report was influential in national policy debates that led to a doubling of pay for airport screeners throughout the United States.

Large declines in turnover were evident among jobs that received the largest wage increases: turnover rates fell by 80% for airport screeners and by 44% for cabin cleaners. Employee turnover fell dramatically for firms that experienced the greatest increases in wage costs. For those firms experiencing an increase in wage costs of 10% or more as a result of the QSP, turnover rates fell by approximately three-fifths (from almost 50% per year to 20%). In contrast, the turnover reduction was negligible (from 17% to 14%) among firms experiencing an increase in wage costs of less than 10% as a result of the QSP.

Unlike most other living wage policies, which typically cover only a small number of workers and have limited spillover impacts on the local labor market, the policies at SFO had a major impact on the labor market. About 8,000 of the 11,000 low-wage ground-based nonmanagerial workers received wage increases as a result of these policies. Other benefits to workers included new health benefits for approximately 2,000 workers and improved health packages or a wage premium for all 8,300 workers covered by the QSP. Hence, the living wage policies at SFO effectively established a binding minimum wage norm in this distinct labor market. These wage increases substantially reduced the overall level of wage inequality in the airport labor market.

The total costs of the wages, health benefits, leave, and employer-paid taxes that can be directly or indirectly attributed to the living wage policies are $57.8 million per year, equivalent to 0.7% of airline revenues. These costs are, for the most part, incurred by airlines operating at SFO. If these costs were passed on to consumers, they would average $1.42 per airline passenger.

We also examined whether the QSP pay increases generated improvements in work effort or productivity. Our employer survey found that higher wages and better benefits at SFO did translate into improved worker performance. Employers were more likely to report improvement than deterioration in overall work performance (35%), employee morale (47%), absenteeism (29%), disciplinary issues (44%), equipment maintenance (29%), equipment damage (24%), and customer service (45%).

Employment of ground-based airline and airline service workers rose 15.6% during the period in which the living wage policies were implemented, a time when airport activity levels increased by about 4% and airport officials forecast that the opening of a new terminal would generate greater levels of activity. Airport activity subsequently declined in concert with the downturn in the Bay Area economy and the aftermath of the events of 11 September 2001.

One concern with living wage laws is that they may lead to the displacement of intended beneficiaries of the policy. We found some evidence that the ordinances slightly changed hiring patterns of firms, specifically the hiring of more male workers in some low-wage occupations. The QSP also entailed the intentional raising of education requirements for screeners, but this requirement was not used to displace any incumbent workers. There is no evidence that the QSP changed hiring patterns by race or age.

In summary, the SFO experience with living wages indicates that such policies can substantially increase pay and benefits, reduce pay inequality, and improve services, all at minimal cost. Some of the SFO lessons, especially those related to the savings that employers realize through efficiency wage effects, would appear to apply in many other contexts. Pollin and Brenner (2000), for example, found that reduced turnover and absenteeism, lower supervision costs, and greater worker effort together offset about 20% to 25% of living wage costs. Our results for SFO are even higher (see Reich, Hall, and Jacobs 2003). In one extremely important dimension—pay for airport security screeners—SFO has already served as a model that has been adopted nationwide. Can SFO's experience with living wage ordinances be replicated more broadly? The impressive scale of the impacts at SFO derives from three distinct characteristics that can be relevant in other contexts, although they also differentiate this experiment from policies enacted elsewhere. First, since the wage policies at SFO are binding for such a large proportion of the workers in a discrete labor market, they are perhaps more comparable to a local minimum wage ordinance than to most living wage ordinances. Second, beyond simply improving wages and benefits, the SFO policies address a wider range of employment standards and regulations, notably in hiring and training requirements. Such an institutional context might be more conducive to generating the observed efficiency wage-type effects. Third, the policies were implemented in a context that maximized the likelihood that their costs would be borne by consumers, rather than through reduced levels of business or contractor effort, or through increased costs to taxpayers. These conditions, if present together, may suffice to permit higher pay and benefits, less wage inequality, and improved services as well.

PROSPECTS FOR LIVING WAGE ORDINANCES

Until this year the number of cities with living wage ordinance grew steadily, in both California and the rest of the United States, as Table 6.3 shows. The increases in 2001 and 2002 were particularly remarkable. Cities continued to pass living wage ordinances even in the face of the national recession that began in 2000, the shocks to tourism after 11 September 2001, and the subsequent fiscal crises of many states and localities.

As of mid-2003, the momentum has slowed, at least insofar as the number of ordinances on the books is concerned. Only eight new ordinances were passed in the first half of the year—none in California—although campaigns are still underway in many cities.[28] The upsurge in local budget crises in 2003 may have made passage of

28. Based on a LexisNexis search, these are Santa Fe (February), Atlanta (passed in March by City Council but not yet signed by the mayor), Prince Georges County, Maryland (June), and Palm Beach County, Florida (June). The ACORN Living Wage Resource Center website (http://www.livingwagecampaign.org) also lists four other smaller cities that passed ordinances in June and July.

TABLE 6.3. Number of Living Wage Ordinances Passed, California and U.S., January 1994–July 2003

	CALIFORNIA		UNITED STATES	
Year	*By Year*	*Cumulative*	*By Year*	*Cumulative*
1994	0	0	1	1
1995	1	1	2	3
1996	2	3	4	7
1997	0	3	7	14
1998	3	6	11	25
1999	2	8	15	40
2000	5	13	13	53
2001	3	16	24	77
2002	5	21	18	95
2003	0	21	8	103

SOURCES: ACORN Living Wage Resource Center; Employment Policies Institute; Luce 2002.
NOTE: Figures for 2003 are for January through July.

further living wage ordinances more difficult. Any ordinance implies some local budgetary costs, and policy makers facing deficits are looking for cuts rather than increases.

This is not to say that living wage developments have stopped altogether. Three trends are visible. First, in many cities that have ordinances in place, efforts are underway to improve the enforcement mechanisms already on the books. Los Angeles, for example, working with LAANE, began such an effort two years after the first ordinance went into effect. San Francisco set up a systematic contract enforcement office program in 2001; the enforcement mechanisms—including random audits and a complaint-driven procedure—were significantly upgraded in 2003. In one of the first such cases in the nation, Hayward was sued in July 2003 to enforce living wage provisions in a contract with an employer who was involved in a collective bargaining dispute.[29]

Second, in a number of California cities, efforts are underway to broaden local policies to include publicly subsidized development projects. One approach seeks to improve the accountability of local governments' economic development funds and their subsidies to firms. The city would be required to collect information on and, in

29. For a fuller discussion of implementation issues and an innovative classification of living wage cities according to the extent of enforcement activity, see Luce (2003). The study done by Zyblikewicz (2003) for the California Works Foundation represents another excellent discussion of implementation issues.

its decision making, take into account not only the number and quality of jobs that purportedly would be generated but also overall community impacts involving housing, transit, health care, and other issues.[30] Thus, community advocates in such cities as Los Angeles, Oakland, San Diego, and San Jose have begun calling for "Community Benefit Assessment and Impact Reports" before building permits are issued for large-scale projects that are publicly subsidized. Such initiatives would go beyond living wage issues in public contracts and would affect a broad set of urban development projects. The curtailment of tax breaks, or at least some demonstrated return from them, makes particular sense in a time of budget deficits.

Third, in a number of jurisdictions, living wage ordinances are beginning to be defined in terms of a geographic area rather than on the basis of individual service contracts. This trend began with the inclusion of property contracts at airports in Miami, Los Angeles, Oakland, and San Francisco. In these cases the contractors are located on a distinct contiguous area, with covered employers accounting for a much greater density among all employers in the area than is the case in ordinances based on service contracts. The trend continued in some small geographic entities, beginning in the Berkeley Marina, which is covered by a living wage ordinance, and in Santa Monica, where an attempt was made to cover much of the city's waterfront and many nearby retail developments; the ordinance was repealed in 2003 before it could be implemented.

Santa Fe, a city with a private-sector workforce of about 26,000, has passed an ordinance, scheduled to take effect next year, for a citywide minimum wage of $8.50. The Santa Fe ordinance covers all employers with at least 25 employees and includes scheduled increases to $10.50 in subsequent years. Similar efforts are underway in New Orleans and San Francisco. Voters in New Orleans passed a municipal minimum wage at $6.15, one dollar higher than the state minimum; this ordinance subsequently was rejected by a state court and currently is the focus of efforts in the state legislature. An initiative to create a San Francisco municipal minimum wage at $8.50 has qualified for the November 2003 ballot; if passed, the ordinance would be the first in California and would have the largest coverage to date.[31]

In a time of budgetary shortfalls, the costs of geographic-based ordinances fall not on the public budget but upon the private sector, making such initiatives more appealing to policy makers and voters. Moreover, the intense publicity created by living wage campaigns has spotlighted how difficult it is to live on the minimum

30. An agreement reported in the *Los Angeles Times* in 2001 concerning the Staples Center in Los Angeles represents a model for these efforts. For another important example, based in San Jose, see WPUSA 2003. See also Gross, LeRoy, and Janis-Aparicio 2002. A number of examples in Los Angeles and San Jose in which living wage standards became negotiated into collective bargaining agreements illustrate how the policies can affect workers who are not formally covered by living wage policies.

31. For a detailed prospective study of this initiative, see Reich and Laitinen 2003.

wage, especially in cities with high housing costs. This problem affects all employees, not just those of businesses that have service contracts with the city. The publicity and associated equity pressures may therefore generate more pressure for citywide ordinances. Whether efforts to establish municipal minimum wages will succeed is an open question. Whether or not they succeed, it appears that living wage campaigns have already begun to affect wage norms for many workers, not just those affected by the early living wage ordinances.

REFERENCES

Brenner, Mark. 2003. "The Economic Impact of the Boston Living Wage Ordinance." Paper presented at the Living Wage Research Conference, University of California, Riverside.

Brenner, Mark, and Stephanie Luce. 2002. *Living Wage Implementation and City Contract Costs: Evidence from New England.* Paper presented at the meeting of the American Economic Association, Atlanta.

Brenner, Mark, Jeanette Wicks-Lim, and Robert Pollin. 2003. *Measuring the Impact of Living Wage Laws.* PERI Working Paper 43. Amherst: Political Economy Research Institute, University of Massachusetts at Amherst.

Brown, Charles. 1999. "Minimum Wages, Employment, and the Distribution of Income." In *Handbook of Labor Economics*, vol. 3, edited by Orley Ashenfelter and David Card. New York: Elsevier.

Brown, Clair. 2002. *American Standards of Living 1918 to 1988.* New York: Blackwell.

California Budget Project. 2001. *Making Ends Meet: How Much Does It Cost to Raise a Family in California?* Sacramento: California Budget Project.

———. 2002. *Minimum Wage Increases Bring Real Wage Gains to California Workers.* CBP Budget Brief. Sacramento: California Budget Project.

Card, David, and John DiNardo. 2002. *Skill Biased Technical Change and Rising Wage Inequality: Some Problems and Puzzles.* NBER Working Paper 8769. Cambridge, Mass.: National Bureau of Economic Research.

Card, David, and Alan B. Krueger. 1995. *Myth and Measurement: The New Economics of the Minimum Wage.* Princeton, N.J.: Princeton University Press.

———. 2000. "Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania: Reply." *American Economic Review* 90: 1397–1420.

Elmore, Andrew. 2002. "Contract Costs and Economic Development in Living Wage Localities." Unpublished paper.

Fairris, David. 2003. "The Impact of Living Wages on Employers: A Control Group Analysis of the Los Angeles Ordinance." Paper presented at the Living Wage Research Conference, University of California, Riverside.

Gordon, David, Richard Edwards, and Michael Reich. 1982. *Segmented Work, Divided Workers.* New York: Cambridge University Press.

Gross, Joel, Greg LeRoy, and Madeline Janis-Aparicio. 2002. *Community Benefits Agreements: Making Development Projects Accountable.* LAANE Report. Paged electronic document. Retrieved 15 July 2003 from http://www.laane.org/ad/cba.pdf.

Howes, Candace. 2003. "The Impact of Paying a Living Wage to Essential Social Service Workers: Homecare in San Francisco County." Paper presented at the Living Wage Research Conference, University of California, Riverside.

Katz, Lawrence. 1986. *Efficiency Wage Theories: A Partial Evaluation.* Brookings Papers on Economic Activity. Washington, D.C.: Brookings Institution.

Lee, David S. 1999. "Wage Inequality in the United States during the 1980s: Rising Dispersion or Falling Minimum Wage?" *Quarterly Journal of Economics* 114 (3): 977–1023.

Levi, Margaret, David Olson, and Eric Steinman. 2003. "Living Wage Campaigns and Laws." Working paper, University of Washington, Seattle.

Luce, Stephanie. 2002. "Labor Market Deregulation and the U.S. Living Wage Movement." Paper presented at the Living Wage Research Conference, University of California, Riverside.

———. 2003. *Fighting for a Living Wage: The Politics of Implementation.* Working paper. University of Massachusetts, Amherst.

Martin, Isaac. 2001. "Dawn of the Living Wage—The Diffusion of a Redistributive Municipal Policy." *Urban Affairs Review* 36 (4): 470–496.

Neumark, David, and Scott Adams. 2000. *Do Living Wages Reduce Urban Poverty?* Working Paper 7606. Cambridge, Mass.: National Bureau of Economic Research.

Nissen, Bruce. 2000. "Living Wage Campaigns from a 'Social Movement' Perspective." *Labor Studies Journal* 25 (3): 29–50.

Pollin, Robert. 2003. *Evaluating Living Wage Laws in the United States.* PERI Working Paper 61. Amherst: Political Economy Research Institute, University of Massachusetts at Amherst.

Pollin, Robert, and Mark Brenner. 2000. *Economic Analysis of Santa Monica Living Wage Proposal.* PERI Research Report 2. Amherst: Political Economy Research Institute, University of Massachusetts at Amherst.

Pollin, Robert, Mark Brenner, and Stephanie Luce. 2002. "Intended vs. Unintended Consequences: Evaluating the New Orleans Living Wage Proposal." *Journal of Economic Issues* 36 (4): 843–875.

Pollin, Robert, and Stephanie Luce. 1998. *The Living Wage: Building a Fair Economy.* New York: The New Press.

Reich, Michael, and Peter Hall. 2001. "A Small Raise for the Bottom." *The State of California Labor* 1: 123–148.

Reich, Michael, Peter Hall, and Fiona Hsu. 1999. " Living Wages and the San Francisco Economy: The Benefits and the Costs" In *Report of the Bay Area Living Wage Research Group*. Berkeley: Institute of Industrial Relations, University of California. Available online at http://iir.berkeley.edu/livingwage.

Reich, Michael, Peter Hall, and Ken Jacobs. 2001. *Living Wages and Airport Security: Preliminary Report.* Los Angles and Berkeley: Institute for Labor and Employment, University of California. Available online from. http://iir.berkeley.edu/livingwage.

———. 2003. *Living Wages and Economic Performance: The San Francisco Airport Model.* Berkeley: Institute of Industrial Relations, University of California. Available online from. http://iir.berkeley.edu/livingwage. Paper presented at the Living Wage Research Conference, University of California, Riverside.

———. Forthcoming. "Efficiency Wages and Living Wages: Getting Back on a High Road in San Francisco." *Industrial Relations.*

Reich, Michael, and Amy Laitinen. 2003. *Raising Low Pay in a High-Income Economy: the Economics of a San Francisco Minimum Wage.* Berkeley: Institute of Industrial Relations, University of California. Available online at http://iir.berkeley.edu/livingwage.

Reynolds, David. 2003. *Living Wage Campaigns: An Activist's Guide to Building the Movement for Economic Justice.* Washington, D.C.: ACORN Living Wage Resource Center, with Wayne State University Labor Studies Center.

Sander, Richard, and Douglass Williams. 2003. "The Los Angeles Living Wage: Who Bears the Cost?" Paper presented at the Living Wage Research Conference, University of California, Riverside.

San Francisco Airport Commission. 1998. *The Economic Impact of the San Francisco International Airport.* San Francisco: San Francisco Airport Commission.

Sclar, Eliot. 2000. *You Don't Always Get What You Pay For: The Economics of Privatization.* New York: Century Foundation.

Working Partnerships USA. 2003. *A Community Plan for Accountable Development.* WPUSA Policy Briefs, Silicon Valley Equity Series. San Jose, Calif.: WPUSA.

Zabin, Carol, and Jen Kern. 2003. "The ERA Report: A Critique." Unpublished paper.

Zabin, Carol, and Isaac Martin. 1999. *Living Wage Campaigns in the Economic Policy Arena: Four Case Studies from California.* Berkeley: Center for Labor Research and Education, University of California. Available online from http://www.iir.berkeley.edu/livingwage.

Zabin, Carol, Michael Reich, and Peter Hall. 2000. *Living Wages at the Port of Oakland.* Berkeley: Institute of Industrial Relations, University of California. Available online from http://iir.berkeley.edu/livingwage.

Zyblikewycz, Helena. 2003. "Low-Wage Workers and State Dollars: Assessing the Impact of a Statewide Living Wage in California." Unpublished paper. Goldman School of Public Policy, University of California, Berkeley.

The State of California Labor, 2003, Vol. 3, pp. 199–226, ISSN 1531-9037, electronic ISSN 1541-9045.

Recent Developments in California Labor Relations

DANIEL J.B. MITCHELL

California's sluggish economy and the difficult budget challenges faced by state and local governments affected labor relations in the public and private sectors alike during 2002–03.[1] Roughly half of California's union-represented workers are employed in the public sector, and the state's fiscal situation in many cases threatened their jobs and salaries. Californians were also concerned with gaps in the health insurance system; although much private insurance coverage is provided through employers, many state residents still lack health insurance, especially those with low wages and incomes. Health services were also important in another area: union organizing efforts, especially among nurses. Another focus of concern in the state was the tourism and travel industry, which faced not only the 2001 terrorist attacks but also a downturn following the war in Iraq and the emergence of severe acute respiratory syndrome (SARS) in Asia.

CALIFORNIA UNION CONTRACTS

The U.S. Bureau of Labor Statistics (BLS) collects "major" collective bargaining contracts—those covering 1,000 or more workers—and summarizes them on the Internet.[2]

1. Except where indicated, information on developments cited below comes from newspapers, trade journals, and Internet sources, and generally covers the period through late July 2003, depending on information availability. The author thanks Chandra Keller for assistance in preparing this chapter.
2. A listing of California contracts from these files was published in the previous edition of the *State of California Labor*. The tabulations on which this section is based are based on information from these files that was updated as of March 2003. The full set of national files from which the California contracts were drawn can be found at http://www.bls.gov/cba/cbaindex.htm. The BLS contract files are not necessarily up to date and may be incomplete. Nonetheless, they provide valuable information.

   The BLS files indicate the state to which a contract applies. In some cases more than one state is listed or a contract is identified as national. For purposes of this chapter, only contracts that are reported as exclusively in California are tabulated, with two exceptions: those in the

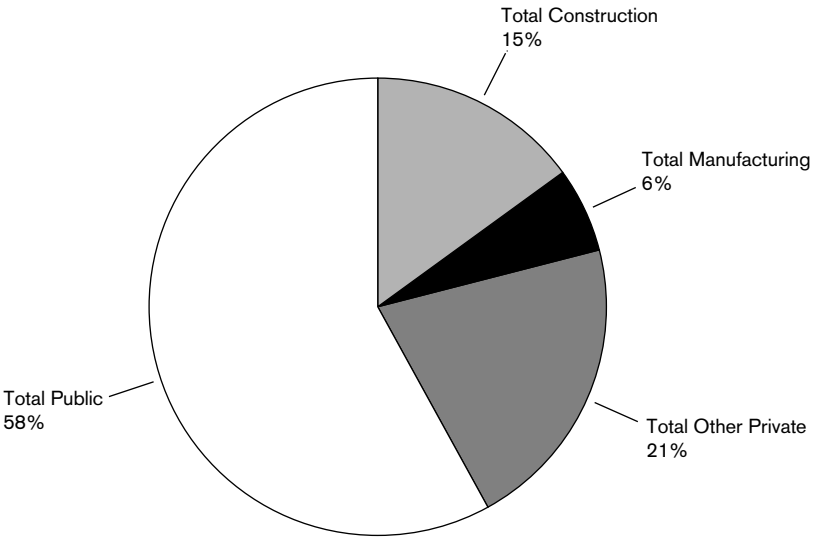

FIGURE 7.1. Major California Contracts, by Industry, as of March 2003
SOURCE: U.S. Bureau of Labor Statistics.
NOTE: Includes longshore and entertainment industries.

California contracts in the BLS files can be sorted by industry. As Figure 7.1 illustrates, 58% of the contracts are in the public sector, and, within the private sector, a major share of contracts is in the construction industry. Figure 7.2 shows the distribution of workers covered. Note that close to half of unionized workers under major contracts in this data set are in the public sector.

The importance of the public sector and the construction industry suggests that major unions in the state should be linked to those sectors. The BLS data confirm that supposition, as Figure 7.3 shows. Included are unions with important public-sector representation, such as the Service Employees International Union (SEIU, which has both public and private contracts), the National Education Association (NEA), the American Federation of Teachers (AFT), and the American Federation of State, County, and Municipal Employees (AFSCME); 34% of the workers covered by major contracts are members of these four unions. Construction unions are also prominent, as is the Screen Actors Guild (SAG). Retailing is represented by the United Food and Commercial Workers (UCFW), which has major contracts in the supermarket industry (for details, see Milkman and Rooks, this volume).

entertainment and West Coast longshore industries. Because these sectors are of evident importance to the state, the contracts are included even though they cover some non-California workers. These exceptions have little effect on the contract distribution, but they do affect worker distribution. In particular, worker coverage in the private sector, and at the Screen Actors Guild, is overstated. Analysis of California union membership data is consistent with these findings.

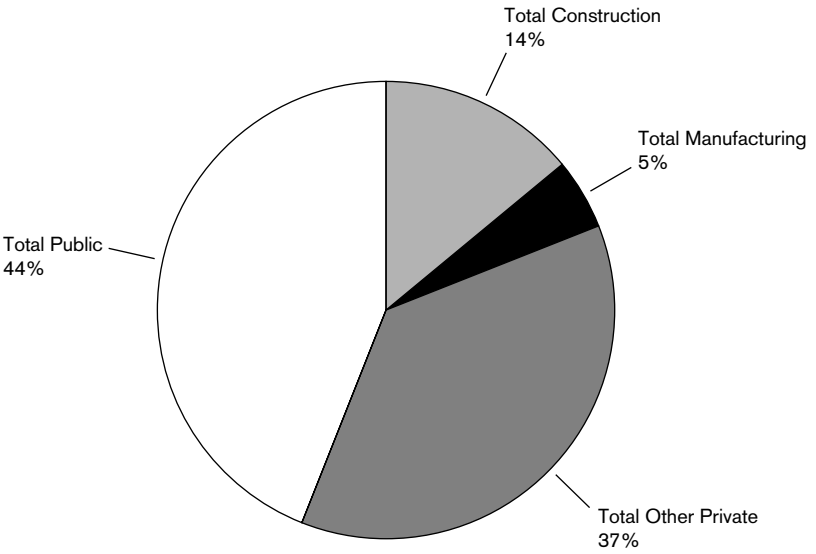

FIGURE 7.2. Workers under Major California Contracts, by Industry, as of March 2003

SOURCE: U.S. Bureau of Labor Statistics.
NOTE: Includes longshore and entertainment industries.

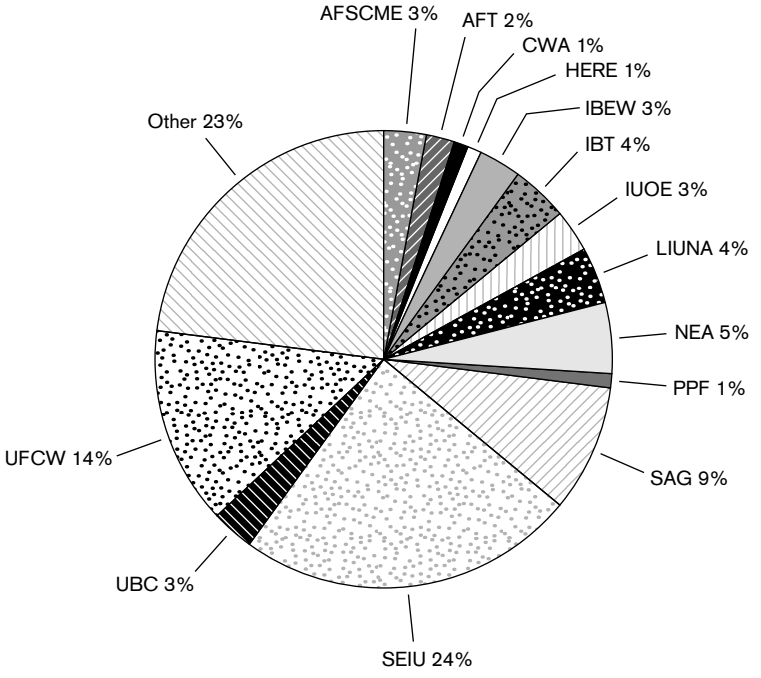

FIGURE 7.3. Workers under Major California Contracts, by Union, as of March 2003

SOURCE: U.S. Bureau of Labor Statistics.
NOTE: Includes longshore and entertainment industries.

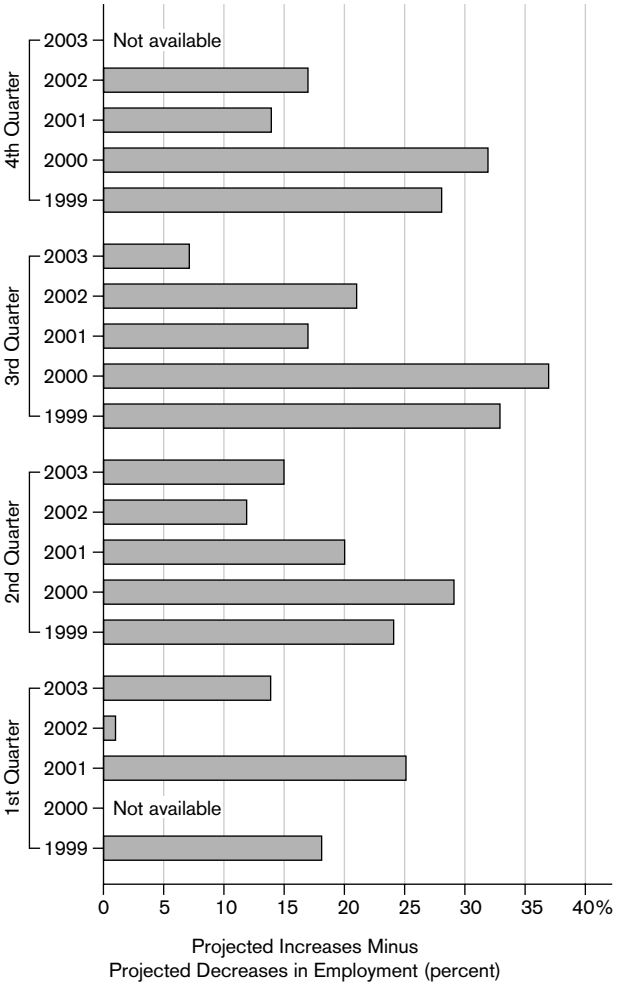

FIGURE 7.4. Employers' Projections of Employment Growth, California, 1999–2003

SOURCE: Manpower, Inc., Net Employment Outlook Series.

ECONOMIC BACKGROUND

The general economic slump that began in 2001 continued to affect California, and the rest of the nation as well, during 2002–03. Because of the dot-com bust, Northern California experienced a sharper economic decline than Southern California did (Pastor and Zabin 2002). By early 2003, employment in San Jose and San Francisco had fallen by over 10%.

A rough picture of the state's job market from 1999 to 2003 is provided by Figure 7.4, which presents the results of the Manpower, Inc., employment survey. This survey asks employers whether they expect to hire workers, lay off workers, or maintain

TABLE 7.1. First-Year Median Union Wage Settlements in California and the United States, 1999–2002

	PRIVATE SECTOR		STATE AND LOCAL GOVERNMENT	
Year	*California*	*U.S.*	*California*	*U.S.*
1999	3.6%	3.0%	4.0%	3.0%
2000	4.0	3.4	3.0	3.5
2001	4.1	3.5	5.0	3.5
2002	4.2	3.5	3.6	3.5

SOURCE: Bureau of National Affairs, Inc., *Daily Labor Report* (various issues) (Washington: BNA, 1999–2002).
NOTE: California contracts without sufficient information to compute a percentage are omitted. The private sector includes public enterprises such as transit agencies.

employment levels in the quarter following the survey date. The figure shows the difference between the percentage of employers who anticipated increasing their pay roster and the percentage planning a decrease for each quarter from 1999 though the second quarter of 2003.[3] According to the survey, employment expectations in California declined substantially in the second quarter of 2001 and remained depressed for several quarters. Data for the first half of 2003 show an expectation of modest recovery. However, employers looking toward the third quarter were showing signs of pulling back in hiring, suggesting a full recovery might be delayed.

The UCLA Anderson Forecast predicted an upturn in employment, but expected that job growth would not climb above 2 percent per annum until the latter part of 2004.[4] According to its projections, payroll employment growth in the state will go back to a longer-term trend growth rate of about 2.5 percent per annum by late 2004. Employment growth in the state and local government sector, however, was notably retarded by the fiscal crisis that developed as the economy softened and government receipts fell precipitously. Even a resumption of employment growth at the pre-recession rate will not make up all the jobs lost during the slump.

Despite the soft economy, first-year wage adjustments in union contracts from 1999 to 2002 generally continued to run ahead of national settlements, as Table 7.1 shows. It is reasonable to expect that, given the particularly severe state and local budget crunch in California, future public-sector settlements will show smaller gains.

3. Data for the first quarter of 2000 are not available for California. Because there is substantial seasonality in the series, the chart is broken down by quarters to reflect the substantial seasonality.
4. See UCLA Anderson Forecast 2003.

Unlike the recession of the early 1990s, California's slack economic performance during 2001 and 2002 did not disproportionately affect its private sector. Many unionized workers in the private sector are outside manufacturing and so are more insulated from world economic trends than are those involved in goods production. Thus, it is quite possible that private-sector wage settlements in California could continue to outpace those in the nation as a whole.

CONTRACT NEGOTIATIONS IN 2003

Appendix A provides a list of selected union management agreements in California that expire in 2003; the data are drawn from the tabulations of the Bureau of National Affairs, Inc. (2003). Although public-sector contract expirations occur throughout the year, a concentration appears in June, at the end of the fiscal year. Negotiations in the public sector often extend over a long period, and the budget problems of state and local governments may well prolong the process. Budget difficulties may also lead to the reopenings of public-sector contracts that are not officially due to expire in 2003. Notable expirations in the private sector include those involving janitors in Los Angeles, San Francisco, and the Bay Area in April, various construction agreements in the May–July period, and supermarket contracts in the Southern California area in October.

Major Labor Issues in the Public Sector

The public sector has been deeply affected by California's growing budget woes. The state budget—specifically the General Fund, which provides financing for the bulk of state programs other than transportation—was running a substantial deficit at the end of the 2002–03 fiscal year, raising the specter of pay freezes or cuts and layoffs for state and local employees and reductions in public services that would likely curtail state and local programs.[5] Although large figures were being reported in the media at this writing, such numbers can be misleading since budget officials are in the habit of summing together past deficits, current deficits, and future deficits (calculated under varying assumptions). By May 2003, this sum—the so-called "shortfall"—had reached $38 billion.

More meaningful was the actual cash deficit (disbursements minus receipts) for 2002–03, which came to $10 billion and which would have been about $3 billion

5. Origins of the state budget crisis have been reviewed elsewhere and need not be repeated here (see Hirsch and Mitchell 2003). In essence, the state became heavily dependent on capital gains taxes on stock options and other stock transactions in the late 1990s and ran a deficit at the business cycle peak. When the economy turned down and the stock market went into substantial decline, the deficit widened owing to the fall in state revenue.

higher were it not for one-shot receipts, especially bond sales related to the tobacco settlement (California Controller 2003). Despite cutbacks and revenue enhancements that had already occurred, the legislative analyst and the governor both projected an ongoing structural deficit of $7 to $8 billion that would need to be corrected in future years. Meanwhile, state bond ratings were downgraded as lenders became increasingly nervous about California's fiscal condition.

The legislature was unable to reach agreement on the 2002–03 budget until September 2002, more than two months past the end of the fiscal year. Because California's constitution requires a two-thirds vote in the legislature to pass a budget, bipartisan agreement is ultimately required. The state controller warned that if a budget was not passed "on time" in 2003—which it was not—the state's ability to borrow would be jeopardized and a cash crisis could ensue. Budget crises in previous years forced the state to pay its creditors, including its employees, in "warrants" of uncertain value rather than cash. A California Supreme Court decision in early May 2003 introduced a further complication by appearing to require the state controller to pay state employees no more than the minimum wage should a budget impasse last beyond 30 June.[6] That is, even if the necessary cash were on hand, it might not be applied to meet the full state payroll.

State and local finances are intimately linked in California because revenue is transferred between the state and local government entities. For that reason, the state's fiscal dilemma has broad implications for state and local labor relations. As budgets tightened, labor relations became tenser. For example, in July 2003 the Orange County Employees Association demanded, but was refused, travel expense records of judges and court administrators. The union sought to show that there was waste in the county's court budget that could otherwise have been used for pay increases.

School districts are especially affected by the budget crunch. In September 2002 seven unions and the Los Angeles Unified School District agreed on a plan to maintain existing health care benefits and to increase wages. The current contracts expired in June 2003, however, and wage and job security issues were back on the table. In initial bargaining the union asked for a 6 percent pay increase; the district offered no increase and indicated it would seek to save money by furloughing teachers and other employees.

In November 2002 the state legislature cancelled a special income tax credit enjoyed by schoolteachers. Although the cancellation is just for taxes covering year 2002 (payable in 2003), it may well be extended to future years. The California Teachers Association indicated strong opposition when the legislature threatened to roll back budgetary incentives for school districts to reduce class size.

The Los Angeles Community College District announced in February 2003 that it might need to furlough various administrators, a plan opposed by an International

6. Controller Steve Westly indicated that, based on the court decision, he could pay more than the minimum wage, but such an action could spark litigation by taxpayer groups.

Brotherhood of Teamsters local representing those employees. Other districts, including Compton and Santa Monica, announced various cutbacks, sparking union objections. Union faculty members at the Ventura County Community College District, however, voted to accept various pay and other concessions in exchange for an early retirement incentive plan.

The stock market drop that contributed to the decline in state revenue also adversely affected the portfolios of public pension plans. During the 2002–03 budget debate, a move to suspend the state's contribution to the California Public Employees' Retirement System (CalPERS), the country's largest state pension fund, in exchange for an interest-bearing IOU was ultimately rejected. A new proposal, to borrow from the outside market to make contributions, emerged in the debate over the 2003–04 budget. Unless returns improve, legislators will feel increasing pressure to incorporate some combination of employer and employee contributions to ensure adequate funding. Either development would make less money available for the wages and benefits of public workers.[7]

The state's budget woes generated difficulties elsewhere in the public sector. The influential California Correctional Peace Officers Association, which represents prison guards, pulled out of talks on pay concessions after the state announced plans to close a women's prison.[8] Unions representing workers at the Los Angeles County courts rejected a suggestion that employees work for accrued vacation time in lieu of pay. And in July 2003 an Oakland fire station was scheduled to be closed after the Firefighters and city negotiators were unable to reach an agreement over a city proposal to raise worker contributions to their pension plan.

State Health Insurance Policy for California Workers

One public policy issue that remains on the state's agenda despite the budget crisis is health insurance coverage. Even if a dramatic policy change is not possible in the offing, the focus on covering the state's uninsured is likely to lead to a rethinking of the issue. A major change in California's policy could spark imitation by other states.

A relatively high proportion of California's population is not covered by health insurance. The nonelderly residents of California (i.e., those not eligible for federal Medicare) largely obtain their coverage—if they have it—through employers. (Those

7. A court decision restricting the pay levels of portfolio managers at CalPERS and another state pension plan covering teachers in April 2003 has complicated the administration of those programs. There is also litigation pending against the University of California's pension plan to disclose details of its private equity investments. The University's pension situation is also complicated by the possibility that it would lose the contract to manage the Los Alamos National Laboratory. Lab employees are included in the University pension system and a loss of the contract could involve some loss of pension fund assets.
8. The prison guards have been repeatedly spotlighted as major contributors to state election campaigns. Public controversies have arisen concerning overtime pay and other matters.

on "welfare" receive coverage through Medi-Cal.) Many employers, however, especially low-wage employers, do not provide health coverage.

California has been debating health insurance policy since the World War I era. In 1945 Governor Earl Warren proposed a single-payer plan that was defeated in the legislature. Two years later he proposed a "pay-or-play" approach that was also defeated. In the 1990s California voters defeated initiatives that featured both single-payer and employer mandates.[9] Although some progress was made in the late 1990s in covering children of the working poor through the Healthy Families program, large gaps in coverage remain. Those without coverage often wind up in the emergency rooms of public hospitals. This method of providing health care is expensive, inefficient, and ineffective, and it contributes to the fiscal problems of local governments.

The failure of the Clinton plan for mandated employer-based coverage in 1993–94 quieted the debate over universal coverage for a time, but rising health care premiums in the early 2000s revived the topic. Only one state—Hawaii—mandates employer coverage. Pressure for a state solution in California—since none has been forthcoming at the federal level—has led to new proposals. For example, in late 2002 the CEO of Blue Shield of California called for a system based on employer-mandated coverage, with tax-funded benefits for California residents not eligible for employee benefits.[10]

Two approaches have been proposed in the California Legislature. One, put forward by California state senator Sheila Kuehl, would replace current programs with a state-run "single-payer" fund. The Kuehl plan is broadly similar to Canada's provincially run system. The alternative proposal, identified with state senate leader John Burton, would mandate employer coverage with a "pay-or-play" option: employers would either buy coverage from a private carrier or pay to join a state fund. The system would be similar to workers' compensation. Indeed, the proposal is partly linked to the medical component of workers' comp (which is, as noted below, having a cost control problem).

While it is unlikely that any major change in California's health insurance system will materialize in the immediate future, modest changes are occurring. For example, in January 2003 four Bay Area counties announced a plan to use tobacco-related funding and other sources to expand health insurance for children.[11] In another example, under a new statute, AB 2178, California employers covered by living-wage ordinances can purchase health insurance from a special plan run by nonprofit organizations for small employers. Such covered employers need not meet the small-size

9. See Mitchell 2002.

10. See *Los Angeles Times* 2002a.

11. Governor Davis requested that the federal government allow localities to provide matching funds for federal assistance in maintaining coverage of children of the working poor, since state matching funds are restricted by the budget crisis. It is unclear at this writing whether the request will be granted.

criterion normally required for such access. Governor Davis signed the new law in September 2002.

Developments Unrelated to the Budget

Although California's budget constraints clearly had an impact on labor relations in the public sector, not all labor issues revolved around the state's fiscal condition.

A *Los Angeles Times* exit poll after the November 2002 elections found that 17 percent of voters were union members and another 11 percent were in households containing a union member. These two groups voted for Democratic Governor Gray Davis by 57 percent and 50 percent, respectively, compared with 44 percent of other voters.[12] Absent the union-linked voters, Davis and his opponent, Bill Simon Jr., would have been essentially tied. It is likely that unions will play a major role in the 2003 gubernatorial recall election, opposing the replacement of Governor Davis. In Los Angeles, municipal and other unions played an active role in defeating a proposal to create separate cities in the San Fernando Valley and in Hollywood.

California's Public Employment Relations Board (PERB) reported a notable increase in activity surrounding the filing and processing of unfair labor practice charges in 2001–02, as shown in Table 7.2. Fifteen representation elections were held, and all but one resulted in representation by a labor organization. Six decertification elections were held, with four polls leaving union representation intact.[13] Nine called for the recision of a "fair share fee" (agency shop) arrangement. Recisions resulted in two cases; the other seven elections left the arrangement in place.

About 70,000 California workers are members of postal unions. The largest is the American Postal Workers Union (APWU), which represents 340,000 of the 750,000 postal workers in the United States. Citing the U.S. Postal Service's financial problems, APWU agreed in December 2002 to a two-year extension to a contract that would have expired in November 2003. The extension matches a contract negotiated by the National Association of Letter Carriers in June 2002.[14] A similar extension was negotiated by the National Postal Mail Handlers Union, an affiliate of the Laborers' International Union of North America.

Apart from postal workers, there are probably over 180,000 federal workers in California. Most received a 4.1 percent wage increase in 2003, reflecting pay adjustments approved by Congress in February, which were 1 percent higher than those recommended by President Bush. Passage of the Homeland Security bill in

12. *Los Angeles Times* 2002b. The other voters cast 45 percent of their votes for Republican candidate Simon, a statistically insignificant difference from their 44 percent for Davis. Unions, especially those in the public sector and construction, were major contributors to the Davis campaign.
13. One led to decertification; the other was awaiting final decision when the PERB report was issued.
14. The smaller Rural Letter Carriers has a contract expiring in 2004.

TABLE 7.2. Public Employment Relations Board Charges and Their Disposition, 1994–2002

	1994–95	*1995–96*	*1996–97*	*1997–98*	*1998–99*	*1999–00*	*2000–01*	*2001–02*
Unfair labor practice charges filed	532	546	660	621	604	511	461	935
Disposition								
Charges withdrawn	169	151	155	188	176	149	139	184
Charges dismissed	139	138	172	149	158	173	153	354
Complaints issued	152	213	338	278	312	216	193	240
Total	460	502	665	615	646	538	485	778

SOURCE: Public Employment Relations Board, *Annual Report* (various issues) (Sacramento: PERB, 1995–2002).

November 2002 enabled the consolidation of twenty-two federal agencies into the Department of Homeland Security. Reflecting demands made by the Bush administration, the legislation exempts many of the new department's employees from union representation. In California these policies especially affect airport security screeners, who are employees of the Transportation Security Administration (TSA). The American Federation of Government Employees filed a lawsuit in January 2003 that sought to overturn the ban on unions at TSA. In late April 2003 TSA announced that it would reduce the number of screeners at several California airports.

A possible strike of Metropolitan Transit Authority (MTA) bus and train supervisors represented by the American Federation of State, County, and Municipal Employees (AFSCME) in Los Angeles County was averted in August 2002. The new contract provided for a committee to work out ongoing benefit issues and called for wage inequity adjustments. The agreement was reached after two years of negotiations. Meanwhile, mechanics and maintenance workers at MTA represented by the Amalgamated Transit Union (ATU) continued to negotiate after the expiration of their contract in January 2003. And ATU drivers for the MTA threatened strike action when their contract expired in June 2003. Governor Davis formed a fact-finding panel to investigate the dispute. Under state law, the governor can block a strike for sixty days in an effort to promote a settlement.

At the University of California, Berkeley, lecturers struck for two days early in the 2002 fall semester over ongoing issues of job security. Similar short strikes occurred later at other campuses. A contract was eventually signed in July 2003, resolving some of these concerns and raising pay levels. Meanwhile, in June, another group of professionals—doctors employed by Los Angeles County—voted to decertify their union three years after voting for union representation. The Union of American Physicians and Dentists indicated that it might file legal objections to the decertifi-

cation election. The doctors lost a flexible benefit plan after they organized, and the union began litigation against the county, citing a state law that prevents employers from rescinding benefits when employees join a union. The lawsuit was still pending at this writing.

In April 2003 the Los Angeles Unified School District removed 250 bus routes previously under contract to Laidlaw Educational Services and awarded them to another operator. Laidlaw had experienced a Teamsters strike a year earlier. When the Teamsters complained that the new operator was nonunion, the district denied that its decision was antiunion and pointed to various deficiencies in Laidlaw service. Meanwhile, candidates backed by United Teachers Los Angeles were elected to the district's school board in March.

In January 2003 CalPERS settled an age-discrimination lawsuit by agreeing to pay out $250 million to public safety employees whose disability retirement benefits had been cut back because they were hired at an older age. The settlement effectively nullified a portion of the California Government Code that gave fewer benefits to workers who were hired after age 30. In February 2003 Sean Harrigan, a vice president of the Food and Commercial Workers, was elected president of the CalPERS governing board, defeating San Francisco Mayor Willie Brown. Harrigan cited restraining health costs, which CalPERS pays for many public workers, as a major objective.

In April 2003, in *County of Riverside vs. Superior Court*, the California Supreme Court unanimously voided SB 402, legislation that allowed unions representing public safety workers to request binding interest arbitration in the event of an impasse with their employers. Unlike other public-sector employees in California, safety workers do not have the right to strike, and the law was intended to provide a substitute. The court ruled that the law improperly put governmental decision making into the hands of an arbitrator.

EMPLOYMENT-RELATED PUBLIC POLICIES

Changes in public policy have far-reaching effects on employees throughout California, whether they are in the public or the private sector. Until recently, federal and California state law required employers to provide unpaid family leave for maternity and similar reasons. In September 2002 California adopted new legislation that provides for *paid* family leave under its state disability program starting in 2004. The program is to be funded through employee contributions. Allowable leaves will be up to six months in duration.

Employers in California must provide workers' compensation coverage. In the state's "pay-or-play" system, they may either obtain coverage from a private carrier or buy insurance from the State Compensation Insurance Fund. In early 2003 the State Fund was considering a halt on new policies because of rising medical costs and an

inadequate "rainy day" reserve. Various private carriers have exited the state market, exacerbating the problem.[15] State Insurance Commissioner John Garamendi sought to assure employers that they would have continued access to the State Fund if other coverage could not be obtained.

Meanwhile, various benefit increases under the program went into effect on 1 January 2003, raising the maximum weekly payout for temporary or permanent total disability to $602. Maximum weekly benefits under California's unemployment insurance program rose to $370 per week. Employer groups complained that the program would likely require new payroll taxes in 2004. In the first quarter of 2003 the trust fund for unemployment insurance stood at 0.55 percent of wages in California, below the U.S. average of 0.77 percent.[16]

Apparel workers in San Francisco received $865,000 in back pay after Wins of California Inc. declared bankruptcy. Wins, a contractor for several big-name retailers, employed mostly workers of Chinese origin. The wages, distributed in October 2002 by the state labor commissioner, came from a special fund established by a state law enacted in 1999. Funded by a tax on apparel employers, the law provides back pay for workers who are shortchanged by employer bankruptcies or similar situations. Community organizations were said to have played an important role in obtaining the payment.

Federal law requires employers with one hundred or more workers to give sixty days advance notice of mass layoffs. State legislation enacted in 2002, AB 2957, extends the requirement down to employers of seventy-five or more workers. Another new bill, SB 1818, insures that all state labor protections apply to workers regardless of their immigration status. The new law was promoted by a U.S. Supreme Court decision in 2002 that denied certain federal labor law remedies to undocumented workers.[17] AB 1599, passed in September 2002, added age discrimination in employment to the list of state prohibitions. A state court decision in 2001 had rejected a state-level claim for age discrimination on the grounds that age was not specifically mentioned in California antidiscrimination law. The new act overrides that decision.

Despite notable legislative successes by unions, not all bills favored by organized

15. A 2002 report published by the Upjohn Institute found that experiments with "carve-outs" for workers' comp in construction in California have neither produced great success in reducing costs nor done damage (Levine 2002). Changes in state law permit carve-outs pursuant to collective bargaining agreements in timber and aerospace. The Workers' Compensation Insurance Rating Bureau submitted recommendations of a 10.6 percent increase in premiums to the California Department of Insurance in April 2003.
16. Texas and New York, the next two largest states, had essentially exhausted their trust funds by the fourth quarter; their ratios were zero.
17. *Huffman Plastics Compounds v. NLRB* (122 S. Ct. 1275). The national AFL-CIO filed a complaint with the International Labor Organization in November 2002 over the Court's decision, alleging that it violates international agreements on workers' rights.

labor were signed into law.[18] AB 2989, a bill that would have required ordinary workers to receive severance pay when such pay was offered to managers, was vetoed by the governor. A tightened ergonomics standard for repetitive motion injuries, AB 2845, was also vetoed. And AB 2242, a bill that would have applied a cost-of-living escalator to the California minimum wage, died in the senate.[19]

MAJOR LABOR ISSUES IN THE PRIVATE SECTOR

The U.S. Bureau of Labor Statistics reported only two major work stoppages—those that affect 1,000 employees or more—in California's private sector in 2002. The Teamsters struck Delta Dental, an insurance carrier, from July 19 to August 12 in a dispute involving 1,200 workers. The strike was settled with a four-year contract that provides pay increases but also increases weekly hours. More prominently, a lockout in the maritime industry (discussed below) affected 10,500 workers in California and other West Coast states and lasted from 27 September until 9 October 2002. Settlements and other labor relations developments in the private sector are reported below by industry.

The federal National Labor Relations Board (NLRB) regulates labor relations for the private sector (and the U.S. Postal Service). The board conducts representation and other elections and adjudicates unfair labor practice charges (ULPs) against employers and unions. Such charges often arise during organizing campaigns or during negotiations. During the federal fiscal year ending 30 September 2002, the greatest number of unfair labor practice charges in California were filed against hospitals (Table 7.3). This area of health care was the center of intensive organizing efforts and some tense negotiations, especially regarding nurses (discussed below). A related area, nursing and residential care facilities, also made the top ten list of ULPs. Individuals filed the largest number of charges, as shown in Table 7.4. Charges filed by the Teamsters and the SEIU accounted for over one-fourth of the 2,958 charges filed.

Far fewer ULPS were filed against unions. The hospitals ranked fifth among industries filing these charges (Table 7.5). The Teamsters and the SEIU topped the list of unions charged, receiving over one-fourth of the 850 charges filed in California (Table 7.6).

18. The National Right to Work Legal Defense Foundation has tended to support litigation that would limit political use of dues and agency fee monies collected by unions. In April 2003, for example, it filed a class-action suit against the Professional Engineers in California Government in an attempt to force a refunding of such payments that the suit alleges were improperly collected by the union.
19. In January 2003 the California Industrial Welfare Commission voted against an increase in the state minimum wage, which currently is $6.75.

TABLE 7.3. Top Ten Industries Charged under NLRB Section 8(a) Unfair Labor Practice Filings, California, Fiscal Year 2002

Industry	*Number*
Hospitals	292
Special trade contractors	219
Administrative and support services	175
U.S. Postal Service	148
Broadcasting and telecommunications	134
Food manufacturing	105
Waste management and remediation services	103
Transit and ground passenger transportation	99
Accommodation	90
Nursing and residential care facilities	83
All California 8(a) cases	2,958

SOURCE: National Labor Relations Board.

TABLE 7.4. Top Ten Parties Filing Unfair Labor Practice Charges under NLRB Section 8(a), California, Fiscal Year 2002

Party	*Number*
An individual	536
International Brotherhood of Teamsters	420
Service Employees International Union	382
International Union of Operating Engineers	v183
Hotel Employees and Restaurant Employees Union	92
Communication Workers of America	80
American Postal Workers Union	73
United Brotherhood of Carpenters	64
International Brotherhood of Electrical Workers	59
United Food and Commercial Workers	46
All California 8(a) Cases	2,958

SOURCE: National Labor Relations Board.

TABLE 7.5. Top Ten Industries Filing Unfair Labor Practice Charges under NLRB Section 8(b), California, Fiscal Year 2002

Industry	*Number*
U.S. Postal Service	70
Special trade contracting	64
Administrative and support services	64
Accommodations	51
Hospitals	43
Broadcasting and telecommunications	39
Building, developing and general contracting	32
Food beverage stores	32
Support activities for transportation	29
Food manufacturing	29
All California 8(b) Cases	850

SOURCE: National Labor Relations Board.

TABLE 7.6. Unions Charged under NLRB Section 8(b) Unfair Labor Practice Filings, California, Fiscal Year 2002

Union	*Number*
International Brotherhood of Teamsters	137
Service Employees International Union	100
Hotel Employees and Restaurant Employees	63
United Brotherhood of Carpenters and Joiners of America	44
American Postal Workers Union	41
International Brotherhood of Electrical Workers	38
United Food and Commercial Workers Union	37
International Longshoremen and Warehouse Union	35
International Union of Operating Engineers	34
National Association of Letter Carriers	23
All California 8(b) Cases	850

SOURCE: National Labor Relations Board.

Aerospace

At one time, before the end of the Cold War, developments in aerospace labor relations might well have been centered in Southern California; in 2002, however, the UCLA Anderson Forecast estimated that the total number of people employed in California aerospace was 131,000, down from 383,000 in 1986. The Forecast did see some growth in aerospace employment over the next few years, based on limited recovery of the airline industry and increased military demand. Boeing, for example, received additional orders for C-17 military transports in August 2002, which will keep its Long Beach plant (formerly a McDonnell-Douglas facility) open into 2008. The plant employs about 7,000; the United Auto Workers (UAW) represents the production workers.[20]

Nonetheless, the aerospace industry retains little of its former importance to California. Companies such as McDonnell-Douglas and Lockheed, once headquartered in Southern California, have been absorbed and restructured and no longer have headquarters in the state. Only one Fortune 500 aerospace company, Northrop-Grumman, is still based here. The Northrop component of this merged firm was historically a largely nonunion operation.[21]

Difficult labor negotiations at Boeing in 2002 involved plants in the Northwest and Midwest represented by the International Association of Machinists, but plants in California were not affected.[22] It is likely that those settlements and the general economic climate surrounding the industry will have an impact on negotiations in California when contracts at Boeing and Lockheed Martin facilities expire in 2004 and 2005, respectively.

One California aerospace contract was renegotiated with the Machinists in February at BF Goodrich Aerostructures Group, a parts manufacturer in Chula Vista and Riverside. The three-year agreement, for 1,200 workers, includes wage increases and continued escalator adjustments.

Agriculture

Thanks to its omission from federal coverage under the original Wagner Act of 1935, agriculture is the largest component of the private sector whose labor relations

20. Boeing has about 35,000 employees in Southern California (about 24,000 in Los Angeles County), and is one of the area's largest private employers.
21. Northrop and Grumman merged in 1994 as part of the general restructuring of the aerospace industry after the end of the Cold War. Northrop did have some independent unionization at one time, but most of its operations were nonunion and the company was well known for its early operation of a grievance-and-arbitration system that emulated such arrangements in the union sector.
22. In February 2003 the NLRB upheld a 2002 election in which Boeing engineers in California and Florida decertified the Southern California Professional Engineering Association. The decertification was partly the result of employees' unhappiness with the association's decision to link with the Office Employees.

are regulated largely by the state. Starting in the 1970s the Agricultural Labor Relations Board (ALRB), California's counterpart to the federal National Labor Relations Board (NLRB), has administered a state statute dealing with union recognition procedures and unfair labor practices. Since agriculture accounts for only about 2 to 3 percent of state wage and salary employment, the ALRB has a much lower caseload than the NLRB does, and it issues only a few decisions each year.[23] Table 7.7 provides data on ALRB's issuance of decisions and orders in 1998 through 2002.

TABLE 7.7. Decisions and Orders Issued by the Agricultural Labor Relations Board

Calendar Year	*Decisions and Orders Issued*
1998	9
1999	7
2000	5
2001	5
2002	9

SOURCE: Agricultural Labor Relations Board.

Relatively few California farm workers are represented by a union. For those who are, a major concern in the state legislature in 2002 was the failure of workers to reach a "first contract" settlement with their employers. As in the rest of the workforce, a union win in a representation election does not guarantee that the employer and the union will be able to negotiate a collective bargaining agreement. State Senate President Pro Tempore John Burton initially proposed a bill, SB 1736, that would provide for mandatory binding arbitration when union and employer reach an impasse. The bill was modeled on legislation enacted the previous year covering so-called backstretch workers at horse racetracks. After the Burton-backed bill cleared the legislature, the United Farm Workers (UFW) urged Governor Davis to sign it, mounting demonstrations in Sacramento against the backdrop of the ongoing gubernatorial election campaign. Employers, represented by the California Farm Bureau, strongly opposed the bill.

In a compromise, Governor Davis signed AB 1736, legislation that provides a complicated mediation procedure to resolve first contract impasses. The legislation limits the number of cases that can be disputed and includes a "sunset" provision, which requires that the governor reauthorize SB 1736 in 2008. The ALRB enacted regulations implementing the new law in early 2003. In response to grower complaints about provisions that required them to give unions access to their financial records, the ALRB modified its regulations to accord with federal standards on such disclosures. Actual use of the mediation procedure is likely to be the subject of litigation; the Pacific Legal Foundation filed a lawsuit challenging the process in February 2003. An early test of the legislation may involve Pictsweet Mushroom Farms in Ventura, where an impasse has continued since 1987. In July 2003 the UFW requested mandatory mediation at Pictsweet.

23. Agricultural wage and salary employment in California ranges from 300,000 to 500,000, in a highly seasonal pattern. Decisions and orders of the ALRB involve both unfair labor practices and election outcomes.

In February 2003 the UFW replaced the Coastal Berry of California Farm Workers Committee as the representative of 900 workers at Coastal Berry in an ALRB election in Watsonville. UFW officials regarded the Committee as an employer-dominated entity, although the ALRB accepted it as a legitimate organization.[24] A new contract was negotiated in June, providing pay and benefit increases.

Also in February a group representing farm workers in Florida began a hunger strike at the Irvine headquarters of Taco Bell. The demonstration was part of a campaign to raise piece rates for workers at Taco Bell suppliers. The ALRB received a petition from workers at the E&J Gallo Winery for a decertification election in March. The election was held, but the uncounted ballots were sealed, pending an investigation into UFW charges that a company representative had pressured workers to sign the petition. The ALRB issued a complaint accusing the winery of unfair labor practices in April. A decision had not been reached as of this writing.

Controversy continued over the importation of guest workers in cases of alleged labor shortages.[25] A grower in San Diego County was successfully sued on grounds it offered more favorable housing and wages to guest workers than to U.S. residents. The grower was ordered to provide equal conditions to its U.S. resident workers.

The United Farm Workers (UFW) proposed that tax credits be given to agricultural employers who provide health insurance to their workers. Under the proposal, the credits would replace existing sales tax exemptions for agricultural machinery and other farm inputs that were adopted in a budget compromise in 2001.

A new state law allowing felony rather than misdemeanor charges in work accidents resulted in indictments of a dairyman and his foreman in February 2003. The indictments stemmed from a farm accident two years earlier, in which two employees were overcome by fumes from a liquid manure pool and drowned. Also in the safety area, the UFW and other farm worker advocates proposed in April that the California Occupational Safety and Health Standards Board (CalOSHA) implement a ban on hand weeding. Proponents pointed to back injuries that result from the practice. Growers, particularly organic growers who cannot use herbicides, oppose the effort.

The employment concerns of farm workers also attracted the support of celebrities. Movie star Ed Begley Jr. wrote, produced, and directed a musical based on the life of Cesar Chavez that opened in Los Angeles in March 2003. Several actors participated in the effort to enact the ALRB mediation legislation (described above), including Warren Beatty, Robert Redford, Jack Nicholson, Barbara Streisand, and Martin Sheen. Dolores Huerta, a co-founder of the UFW, received the $100,000 Puffin/Nation prize for her work in various social causes. The seventy-two-year-old Huerta pledged to use the money to train community activists.

24. State law follows federal law in banning employer-dominated labor organizations, or so-called company unions.

25. The Immigration and Reform Act of 1986 allows employers to hire foreign workers temporarily when domestic workers are not available.

Airlines

Before deregulation, California was the home base for such long-gone airlines as Western and PSA, smaller carriers that were absorbed by other companies. Under the old Standard Industrial Classification (SIC) code definition, over 180,000 employees were found in California "air transportation" in 2000. At the end of 2002 that number was below 130,000.[26] Service to and within California today is provided mainly by surviving major carriers such as United and American Airlines and by low-cost operations such as Southwest Airlines and JetBlue Airways. These two no-frills airlines have remained profitable. At Southwest, the Machinists negotiated a six-year agreement for customer service representatives and clerks in December 2002 with wage increases and other benefits, and in January 2003 the independent Aircraft Mechanics Fraternal Association replaced the Teamsters in a National Mediation Board election.

The larger carriers have had financial difficulties for several years. Their problems were exacerbated by the terrorist attacks of 11 September 2001 and were further worsened by the Iraq war of 2003 and a decline in travel to and from Asia after the outbreak of severe acute respiratory syndrome (SARS). The most dramatic impact of the airline slump was probably felt by United Airlines, which has roughly 20,000 California employees. About one-fifth of United flights originate in California, especially from Los Angeles International Airport (LAX) and San Francisco International Airport (SFO).

In December 2002 United was unsuccessful in obtaining a loan from the federal Air Transportation Stabilization Board, the agency created to support the industry after September 11. Shortly thereafter, United declared bankruptcy.[27] The company's stock, which had once soared as high as $90 per share in the late 1990s, fell below $1 per share and was de-listed from the New York Stock Exchange. Bond rater Fitch Ratings consequently reported a "negative outlook" for LAX, although the airport remained highly rated. Employees owned 55 percent of United Airlines before the company filed for Chapter 11 protection. The airline's Employee Stock Ownership Plan was officially terminated in July 2003; employees will receive some value for their shares although the amounts were not clear at this writing.

United and the Machinists had experienced particularly difficult contract negotiations in the months leading up to the bankruptcy. In January 2003 a federal bankruptcy judge gave the airline permission to cut Machinist wages below contract levels. Other unions at United had earlier agreed to concessions. In July workers covered by the Machinists contract, apparently upset by all that had transpired, voted to join another independent union, ending their association with the Machinists.

26. Use of the Standard Industrial Classification was discontinued in 2003, making later data incompatible.
27. US Airways filed bankruptcy in August 2002, but it has a much more limited presence in California than United does. It ultimately won loan guarantees from the ATSB in February 2003.

United's bankruptcy did not lead to bankruptcy at rival American Airlines. American, which is not employee controlled, sought large wage concessions from its pilots (who have an independent union) and its other workers. American approved large bonuses for executives during or shortly after unions had voted on pay concessions. The firm withdrew the bonuses when news of the bonuses became public and the airline's CEO resigned. After the controversy quieted, the unions at American accepted or re-accepted concessions. Concessions made by the pilots were reported to be less severe than those contained in the initial agreement. The financial future of American remains uncertain at this writing. American is also a major presence at LAX and SFO.

Other carriers that serve cities in California, such as Delta and Northwest Airlines, also sought concessions. Alaska Airlines began hinting in April 2003 that it too might take such action, although no specific demands were made. Hawaiian Airlines sought bankruptcy protection in March 2003. It tentatively proposed closing its bases in California for its California pilots, seeking to avoid the costs of lodging them at Hawaiian hotels. At America West, pilots rejected a tentative agreement in March 2003, although pay cuts and similar concessions were not on the table.

Defined-benefit pensions in the airline industry are insured by the federal Pension Benefit Guaranty Corporation (PBGC). It appeared likely that a number of these retirement plans might be terminated and turned over to the PBGC in underfunded status, creating a financial problem for the agency. Highly paid employees, such as pilots, might also see their pensions cut as a result of a cap on PBGC pension payouts. In addition, California's important tourist industry might experience fallout from airline bankruptcies and related difficulties.

The airline industry was also affected by national security concerns. After much debate, Congress agreed to allow commercial airline pilots to carry guns in the cockpit under certain circumstances; the provision was included in the legislation that created the Department of Homeland Security in November 2002. The Air Line Pilots Association (ALPA), the largest pilots' union, expressed concern about a new program under which a pilot's license, or the licenses of other certified airline workers, could be revoked prior to a hearing by federal authorities.[28] More traditional safety concerns were reflected in ALPA's disappointment regarding the Burbank Airport Authority's decision to abandon efforts to construct a new terminal, which would have been located farther from the runways than the existing structure is. Construction was blocked by local residents who were concerned that a new terminal would increase air traffic and aircraft noise.

Construction

In March 2003 the State Building and Construction Trades Council of California voiced concern about a potential diversion or nonexpenditure of Proposition 42

28. ALPA has challenged the new program in federal court.

funds. Prop 42 requires that tax revenue from gasoline sales, which previously went to the General Fund, be spent on transportation projects. Governor Davis proposed suspending the proposition to help address the state's burgeoning deficit. Prop 42, enacted in March 2002, was supported by construction unions but opposed by public-sector unions. Budget problems could also affect state apprenticeship funds, and the construction trades sought to protect these funds from cutbacks.

In May 2003 the International Brotherhood of Electrical Workers (IBEW) negotiated an innovative contract with electrical contractors in Santa Clara County (which was hard hit when the dot-com bubble burst). The new contract provides no wage increase in the first year of its two-year life, and it gears second-year wage increases to the level of construction activity. Increased activity could raise wages by as much as $2.05. In June electrical workers in the San Francisco area also approved a contract after rejecting two prior proposals. This contract diverts the entire first-year pay increase to health care and leaves the second-year split between health care costs and wages to be determined.

The United Brotherhood of Carpenters and Joiners of America (UBC) also negotiated an interesting contract in June 2003 that reflects market conditions in Northern California. Under the agreement, which is actually an extension of an existing contract expiring in 2008, a series of wage increases are scheduled with some regional variation. The contract includes a cost saving of seventy-five cents an hour for independent contractors who join the accord. This inducement is funded jointly by covered employers and the union.

At the national level, the Bush administration succeeded in its efforts to ban project labor agreements as a bid specification on federally funded construction. Such agreements, which had been promoted by the Clinton administration, are intended to guarantee labor peace during the life of the project. Litigation against the executive order issued by Bush ended when the U.S. Supreme Court refused to hear an appeal in January 2003. The ban was generally supported by nonunion construction contractors and opposed by construction trade unions. It will affect construction on federal projects in California as well as elsewhere.

Electrical Equipment

General Electric's contracts with its unions expired in June 2003. GE does have some union-represented workers in California, although most are outside the state. The unions—chiefly the Communications Workers of America (CWA) and United Electrical, Radio, and Machine Workers of America (UE)—engaged in a two-day strike in mid-January 2003, protesting an increase in health care copayments.[29] The strike, which received national media coverage, helped focus public attention on

29. CWA merged with the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (IUE) in 2000, thus inheriting representation at GE.

the issue of employer-provided health insurance. The issue is receiving special attention in California, and high-profile negotiations centering on health care between GE and its unions would reinforce that debate.

Unions also put pressure on GE management in the pension area by pushing a stockholder proposal related to executive compensation. In the past, earnings from the pension fund were summed with corporate earnings to determine executive bonuses. GE agreed to revise its procedure to exclude pension income. The fact that the pension fund suffered losses in 2002 and 2001 may have played a part in the corporation's willingness to accept the change. The California state pension plan, CalPERS, has backed a stockholder resolution to tie executive pay at GE more closely to performance targets.

The eventual GE contract, negotiated in June, provides for some increase in the health care payments by employees, but the unions argued that the percentage share of the burden was preserved. The parties estimated that the contract, which contains both guaranteed and escalator adjustments, would raise wages by about 3.9% per year over a four-year term. Various pension improvements were also included.

Entertainment

Although Southern California remains a major center of film and TV production, concerns about "runaway" production, especially to Canada, was a major focus for unions in 2002. None of the five movies nominated for best picture at the 2003 Academy Awards was filmed locally. Proposals to encourage film companies to stay in California have included state tax credits—difficult to achieve in a time of budget crisis—and similar federal subventions.

Union officials in Los Angeles also expressed concerns about the operation of the Entertainment Industry Development Corporation (EIDC). This entity was created to promote local film production and jobs as a semiautonomous, albeit government-sponsored, corporation. Charges of financial irregularities led to the resignation of EIDC's president in December 2002. The EIDC did report that production days in Los Angeles neighborhoods rose slightly from 2002 to 2003.

Members of the Screen Actors Guild (SAG) and the American Federation of Television and Radio Artists (AFTRA) voted in July to reject the merger that had been proposed by union officials in April. SAG members narrowly defeated the proposal, which required membership approval of both organizations. Seventy-five percent of AFTRA approved the consolidation, but the SAG vote was about 2 percent short of the 60 percent margin needed for approval.

Officials estimated that a merged organization would have 150,000 members. Many actors—an estimated 40,000—currently belong to both unions, and a merger might avoid disputes over jurisdiction as movie technology shifts from film to digital production. A merger plan also fell through in 1999. Merger proponents at SAG suggested there would be further efforts at combining the two unions, and the issue

seems likely to play a prominent role in the upcoming officer elections at SAG in November 2003.

In October 2002 a group of television writers filed a class action lawsuit against networks, production studios, and agencies, charging that these organizations discriminated against writers over the age of forty. Their action failed to convince a California Superior Court judge, who ruled in January that the plaintiffs would have to file separate class-action suits against each organization. On the other hand, also in January, a federal court ruled that an employee covered by the International Association of Theatrical Stage Employees (IATSE) could sue to recover alleged underpayment of overtime from an employer. The ruling stated that since the employer's union contract was silent on whether work on several projects should be aggregated for overtime calculations, labor law did not preempt the employee's suit. Because of the contingent nature of work in this industry, the question of long hours is an issue of concern. In another entertainment industry development, SAG deplored condemnations on talk radio of well-known actors who opposed the war in Iraq in the spring of 2003.

Various entertainment unions united with producers to lobby against a loosening of restrictions on media ownership by the Federal Communications Commission (FCC). After the Commission eased restrictions in June 2002, instituting far-reaching revisions of the rules that govern the ownership of newspapers and radio and television stations, legislation limiting the new regulations was introduced in the House and the Senate. Unions and producers fear a loss of bargaining power and jobs should ownership become more concentrated.

IATSE succeeded in negotiating an initial three-year contract covering production of music videos in December 2002. In February 2003 IATSE signed a three-year basic agreement with Hollywood studios. The contract covers a reported 30,000 production workers and includes various wage and benefit gains. A representation dispute between Teamsters and Clear Channel Communications at a Rolling Stones concert in San Francisco's Pac Bell Park was averted in November 2002 after Mayor Willie Brown intervened.

California's Occupational Safety and Health Standards Board adopted new rules in 2002 to protect workers using TV news vehicles with high microwave masts. In a highly publicized incident in 2000, a reporter was nearly electrocuted when a mast touched overhead electrical cables.

The Writers Guild of America created a website through which creative works intended for radio, television, film, video, or interactive media can be registered electronically. It provides a less cumbersome method of registration than sending such works to the Guild by mail.

Another area of entertainment that is important to California is professional sports: the state is home to five—one-sixth—of the nation's major league baseball teams. A major league strike was averted with a settlement in August 2002, allaying fears that the baseball season would end as it did in 1994, without a World Series.

A strike would have had short-term ripple effects on stadium workers and suppliers and California's tourism industry. Commentators also worried that a strike could erode fans' interest in professional baseball. The contract, which extends to 2006, provides for a complex system of revenue sharing and taxes on payrolls above a designated threshold.

Food Processing

A heavily Latino workforce at Brawley Beef, a meatpacking plant in Brawley, California, voted to be represented by a joint entity composed of the UFCW and the Teamsters in September 2002. A new contract with wage and benefit increases was reported as ratified in May 2003. Health care issues were featured in the food industries as they were in others. Workers at various California canneries settled a new three-year contract with the Teamsters in July 2003 that continued complete employer-paid health insurance. If health costs continue to rise, however, employee co-pays could be triggered in the third year of the contract.

Health Care[30]

The health services industry remains under pressure from managed care, rising costs and premiums, drug prices, and—particularly for public hospitals—budgetary stringency. Perhaps because of these strains, this industry remains an active area of union organization and bargaining.

A recognition dispute involving nurses at the Antelope Valley Health Care District and the California Nurses Association (CNA) led to an investigation by the state attorney general as to whether state funds were being used to discourage unionization.[31] The incumbent board chair of the Antelope Valley District had been defeated in board elections the previous November, and two CNA-backed candidates had been elected.[32] Nurses at the large Cedars-Sinai Medical Center complex in Los Angeles also voted for CNA representation in an NLRB-administered election in December 2002. The hospital management filed objections to the election, but a federal labor board judge overturned the objections in March, following hearings in February.

Nurses at the University Medical Center in Fresno won a legal victory in July 2003. The facility was originally owned by Fresno County but was privatized in

30. Also included in this section is the health care sector, whether public or private, for-profit or nonprofit.

31. Application of the California law to private employers receiving state funds was blocked by a federal judge in October 2002, on grounds the state requirement was preempted by federal labor law. This decision, however, would not apply to a state or a local hospital.

32. In an odd development, the outgoing chair was accused of backing SEIU after his election defeat. He denied the allegation.

1996. Although the CNA had previously represented the nurses, the new owners refused to recognize the union. When the NLRB ruled that CNA representation should be continued, hospital management appealed to the courts. The D.C. Court of Appeals ruled in the union's favor.

At Kaiser-Permanente in Northern and Central California, CNA negotiated a four-year pact that ended mandatory overtime. Work hours have been a particular concern of nurses in California and elsewhere in recent years. Proposed minimum nurse-to-patient ratios are now on the table pursuant to state legislation. The two largest nurses' unions in the state, CNA and the Service Employees International Union (SEIU), strongly supported the legislative approach. Similar proposals are now being put forward in the U.S. Congress. Negotiations are also being handled privately, as in the Kaiser case. Thus, a July 2002 contract between CNA and Hospital Corporation of America (HCA) hospitals in Santa Clara provides for arbitration of disputes over staffing ratios. Workload considerations affected organizing drives as well. At Pomona Valley Hospital, SEIU organized nurses by emphasizing workload issues; nurses voted for representation at that facility in September 2002.

Complaints by CNA concerning patient-care infractions at San Ramon Regional Medical Center, a Tenet Healthcare Corporation facility, produced citations by state authorities. A hospital spokesperson blamed the organizing drive that was underway.

Health care workers other than nurses raised issues regarding workload and patient care. A settlement in December 2002 between SEIU and two hospitals in Stanford—Stanford Hospital and the Lucile Packard Children's Hospital—established a labor-management committee to deal with such matters. Workload and related concerns were also an element of a settlement in the Bay Area that involved SEIU, San Jose Medical Center, and other local hospitals. After an acrimonious recognition dispute, SEIU reached a first contract for nurses at Garfield Medical Center in Monterey Park in March 2003. Meanwhile, SEIU won representation elections at various HCA facilities in the Los Angeles area in early 2003. And CNA won a nurses' election at Mary-San Pedro Hospital near the Port of Los Angeles in July 2003.

In December 2002 both parties declared victory in a lawsuit brought by the National Right to Work Legal Defense Foundation against SEIU. The union represents 80,000 home health care workers in Los Angeles County who, under a special arrangement with the Los Angeles County Board of Supervisors, are employed by the county rather than by individual disabled persons. A federal court directed SEIU to refund a portion of the dues it had collected from these aides, but, in the same ruling, the court dismissed the Right to Work foundation's challenge to the constitutionality of the representation plan established in 1997. Meanwhile, in October 2002 the County Board of Supervisors approved pay raises for the aides following a dispute with SEIU over a proposed ballot proposition that would have increased their wages.

At the other end of the pay scale, physicians became increasingly concerned about the loss of professional control to managed care administrators. Whereas some doctors have unionized over the issue, a group at County Memorial Hospital in Ventura used

litigation to protect their interests in an April 2003 lawsuit against hospital management. The doctors, who accused management of eroding professional control, have received outside financial support from the California Medical Association and the American Medical Association. Hospital management has received support in the litigation from the California Healthcare Association, a trade association.

Bargaining in the health care industry reflected the wide loss of "traditional" defined-benefit pension plans that resulted from the Enron scandal. A new defined-benefit plan was a key provision of a first contract for CNA-represented nurses at Long Beach Memorial Medical Center. The settlement was reached in December 2002, after two short strikes in the fall. A defined-benefit plan was also part of the package in the Kaiser-Permanente accord described above.

Other strikes in the health industry also ultimately produced settlements. At Queen of Angeles–Hollywood Presbyterian Medical Center, for example, SEIU reached a three-year settlement after two short strikes. The agreement raised wages and reduced the employees' share of health insurance costs.

Unions in the health care industry used techniques other than bargaining and strikes to pressure employers in California. After a scandal at Tenet hospitals involving alleged unnecessary procedures and improper billing, SEIU and the California State Employees Association pressed CalPERS, to investigate the firm. SEIU noted that insufficient staffing ratios were part of the problem. A subsequent investigation in early 2003 suggested that costs at Tenet's facilities were higher on average than payments to other health providers. Tenet agreed to a more cooperative stance during organizing campaigns by SEIU and AFSCME in May. Under the agreement, workers who organize will be guaranteed pay increases comparable to what the firm had been giving to other employees. CNA, which was not part of the deal, denounced the plan and said it would file unfair labor practice charges.

Celebrity power was fielded by SEIU in a recognition dispute at Providence St. Joseph Medical Center in Burbank. The union enlisted Ellen Crawford, who plays a nurse on the popular TV hospital drama show *ER*, to demonstrate for recognition after a representation election in favor of unionization in September 2002. Troy Evans, another *ER* star, had been similarly recruited in March.

The UCLA hospital system was forced to borrow funds from the campus administration to pay its bills in December 2002. A consultant was hired and was expected to recommend job cuts that the system's administrators hoped could be accomplished through attrition. Unions in the UCLA system were said to be monitoring the system. Apparently only the nurses, who are represented by CNA, were assured that they would not be laid off.

A program that provides compensation to health care workers who become disabled by smallpox was adopted by Congress and signed into law by President George Bush in April 2003. Federal policy has encouraged workers to receive smallpox vaccinations, but industry unions have been reticent to recommend vaccination absent a federal compensation system. Few California health workers had

received vaccinations before the legislation was passed. Indeed, the San Francisco Department of Public Health imposed strict regulations on those workers who did agree to be vaccinated, prohibiting contact with patients for two to three weeks after the shots.

High Tech

The dot-com bust and the generally soft economy continued to affect Silicon Valley and the high-tech industry generally. A number of firms announced mandatory unpaid leaves rather than outright layoffs, including the Hewlett-Packard Company (HP) and Gateway. Others, such as Computer Sciences Corp. in El Segundo, mandated that employees use up their vacation time. A group of "contract" workers began litigation against HP, arguing that the firm was using their contingent status to deny them required overtime pay. Meanwhile, in early 2003 *Fortune Magazine* designated one hundred firms nationally as "Best Companies to Work For." Of the fifteen that were in California, fourteen were in the computer or Internet industry.[33]

Dot-coms and other high-tech firms in California made heavy use of stock-related pay during the boom era. Efforts by the Financial Standards Accounting Board (FASB) to require or encourage the expensing of stock options have been strongly resisted by these firms. After recent corporate accounting scandals, however, pressure for such expensing gained ground.[34]

Although little union organizing has occurred in California's high-tech industries, SEIU Local 1877 has been pressing Silicon Valley employers to use "responsible contractors" for janitorial services. SEIU identifies five of the fourteen high-tech "Best Companies" as using such contractors.[35] SEIU has targeted Yahoo! as a firm that is not meeting its demands, and Yahoo!'s cleaning contractor was served with an NLRB complaint in December 2002, alleging unfair labor practices in its actions to oppose unionization. On the other hand, some high-profile Silicon Valley companies such as eBay and Genentech have been supportive of SEIU efforts and reportedly assisted in the resolution of the 2003 janitors' contract.

High-tech workers gained a means of protest over working conditions courtesy of a California Supreme Court decision in June 2003. A fired Intel worker had sent numerous e-mails to other company employees denouncing firm practices. The court ruled that employers could not use the courts to halt such tactics, although they could attempt to block such e-mails by technical means.

33. The one non-high-tech firm was Vision Service Plan, an insurance carrier.
34. The London-based International Accounting Standards Board has been moving toward recommending expensing of employee stock options.
35. These firms are Xilinx, Adobe, Agilent, Silicon Graphics, and Sun Microsystems. SEIU also listed HP among the firms that use "responsible" cleaning contractors.

Hotels

Hotels are an important element of California's tourism industry. In San Francisco the Hotel Employees and Restaurant Employees (HERE) settled a longstanding dispute with the San Francisco Marriott, reaching a first contract in August 2003. The union had originally supported construction of the hotel on the understanding that a "card check" would be recognized. Although the hotel opened in 1989, it was not until 1996 that the union achieved recognition with the assistance of Mayor Willie Brown. The new agreement generally follows labor agreements with other San Francisco hotels.

Similarly, in Santa Monica a lengthy recognition dispute between HERE and Loews Hotel ended with a card check in December 2002. The hotel agreed to binding interest arbitration if a first contract could not be negotiated. Unions and community organizations had earlier succeeded in having the city council enact a living wage ordinance that would have boosted wages at beachfront hotels and other area employers; the ordinance was effectively repealed by the voters in a referendum in November 2002.

Unionization at Native American gaming establishments remains an ongoing issue in California. Complicating the picture is the state's budget crisis: the governor hopes to negotiate greater state revenues from tribal casinos in exchange for concessions such as permission to add slot machines. Although the casinos are not subject to federal labor law, various understandings in the labor area may be part of agreements that allow casino construction and expansion.

In January 2003 the first union contract with a tribal casino was concluded between HERE and the Cache Creek Casino in Brooks. The three-year accord provides wage increases and health insurance and allows arbitration of contractual issues to be handled by a tribal panel. Representation disputes exist at other tribal casinos, however, and a legislative hearing in April 2003 was devoted to labor conditions at these establishments.

Janitors and Building Services

SEIU's national Justice for Janitors campaign gained widespread recognition in the early 1990s when a major breakthrough in organizing occurred in Los Angeles (see Erickson et al. 2002). In 2000, following a three-week strike, Los Angeles janitors were able to reach an accord with cleaning contractors that provided wage and benefit increases; the agreement was facilitated by the intervention of local political and religious leaders.[36] In early March 2003, as this contract moved toward its 30 April expiration date, Mayor Jim Hahn indicated his support for the city's janitors. A new contract was reached in early May. The agreement runs for five years and

36. See Erickson 2002. A children's book about the strike of 2000, *¡Sì, Se Pueda! Yes, We Can!*, by Diana Cohn, was published in 2002 by Cinco Puntos Press.

provides modest wage increases, but preserves fully paid family health insurance, reflecting the growing interest in health insurance generally and for low-wage workers in particular. Although the market for Los Angeles commercial office space was depressed by the general economic slump, vacancies and rents appeared to be stabilizing at around the time negotiations occurred. Bay Area markets, however, continued to exhibit rising vacancies and falling rents.

Open participation of representatives of building owners and managers was an interesting element of the negotiations in Los Angeles. The Justice for Janitors campaign had in the past faced problems related to legal issues concerning secondary pressure, picketing, and strikes. Janitors are generally employed by cleaning contractors rather than the owners and managers of the buildings they clean, yet it is the owners and managers who are key to the decision to use union-represented labor and who ultimately pay the cleaning costs. Participation of owners and managers at the bargaining table established a link between the contractors and the owners and managers, and the legal issues faded. If these bargaining arrangements become the norm in other cities, the issue of secondary interests will recede from janitorial unionization and bargaining. Thus, the negotiations in Los Angeles could potentially set a pattern for negotiating arrangements, apart from whatever pattern might be set by the contract terms.

Accords reached in other parts of the country predated the negotiations in Los Angeles. A new contract was reached in the Boston area in the fall of 2002, for example, involving some cleaning firms that also are important in the Los Angeles area. Similar developments occurred in Minneapolis in early 2003 and in the Chicago area only a few weeks before the expiration date of the Los Angeles contract. Settlements were also reached in other west coast cities, notably Seattle and Portland, and in Denver.

Within California, janitors in San Jose, Orange County, and Sacramento also reached settlements in 2003. A one-week strike occurred in June in Sacramento, leading some elected officials to relocate their offices to avoid picket lines. In addition, the Sacramento City Council officially supported the janitors' campaign. Health care coverage or improvement was an element in all of these negotiations. In San Francisco related negotiations by SEIU for building guards also led to new contracts. The scene in San Francisco for janitors was complicated by a decertification attempt. Workers, upset with a national SEIU trusteeship of their local, petitioned the NLRB in an effort to establish an independent union, and the NLRB issued a complaint against SEIU in response.[37] Negotiations on a new contract for San Francisco janitors continued, however. A new settlement had not been reached at this writing, and health care costs remained a major issue.

37. This effort was supported by the California State Employees Association, which became a local of SEIU in 1988, but has been attempting to disaffiliate. The SEIU also is the subject of an NLRB complaint that nonstrikers during the 2000 dispute were unfairly penalized. A hearing was scheduled for April 2003. The National Right to Work Legal Defense Foundation was supporting this complaint.

In the Los Angeles area the L.A. County District Attorney prosecuted several nonunion cleaning subcontractors associated with Encompass Services—a bankrupt Texas-based firm—for labor violations. The owners were arrested in September 2002 and charged with various offenses including avoidance of paying wages owed. Apparently, the owners would open and close cleaning firms under different names, using family members as the ostensible management. The prosecution was, in part, the rest of complaints by the Maintenance Cooperation Trust Fund, which was established by SEIU and unionized contractors in the Los Angeles area. The fund is financed by a one-cent-per-hour employer contribution, pursuant to the 2000 labor-management agreement.

Maritime

Although the West Coast's longshore lockout of 2002 was not confined to California, the bulk of the 10,500 workers in the bargaining unit represented by the International Longshore and Warehouse Union (ILWU) was employed in the state. When difficult negotiations with the Pacific Maritime Association (PMA) went past the 30 June 2002 contract expiration date, Bush administration officials began signaling that a work stoppage would lead to a Taft-Hartley injunction. This may well have delayed the ultimate settlement since a court-ordered cooling-off period would have removed the usual pressure of a contract expiration date.

Negotiations continued, but in late September the PMA announced a lockout, charging that port workers were engaged in slowdowns. The lockout caused considerable economic disruption to a range of firms, from retailers depending on imports for Christmas sales to the Los Angeles Opera, which was unable to obtain shipbound sets and props. In early October President Bush used the Taft-Hartley Act to reopen the ports. A federal judge directed the parties to continue negotiations during an eighty-day cooling off period, during which terms of the expired contract would remain in effect. Even with the injunction, employers continued to accuse unions of work slowdowns.[38] The parties eventually reached a settlement in November, and ILWU members ratified a six-year contract in January. It provides shippers and stevedoring firms the right to implement new laborsaving technology but protects union jobs and provides for wage and benefit increases.[39]

The maritime industry in California is also affected by homeland security concerns. Various plans are being considered or have been implemented for security checks of cargo and port and shipping workers. The AFL-CIO Transportation Trades

38. The U.S. Justice Department investigated the complaints and found evidence that both sides contributed to reduced productivity, but the infractions were not of sufficient magnitude to warrant penalties.

39. A dispute between the ILWU and the Machinists over certain jurisdictional issues surfaced during the larger negotiations with the PMA. These issues had not been resolved at the time of this writing.

Department has been generally supportive of a bill that would provide identification cards for port workers, but the ILWU has called for protections for workers against unjust dismissals on security grounds. Port officials and users have pushed the federal government for funding to increase security but relatively little support has been received.

ILWU history has been dramatized in a play about the union's founder, Harry Bridges. The one-man play, "From Wharf Rats to Lords of the Dock," ran in San Francisco in the summer of 2002, before the lockout, and again in the spring of 2003. The play, written by Ian Ruskin, has been performed in various venues since 2000. It was presented in the Los Angeles harbor area in July 2003 and will be included in a PBS film directed by Haskell Wexler.

Petroleum

Labor contracts in the petroleum industry were renegotiated in 2002 and will not expire until early 2006. Hence, no major negotiations have occurred or are scheduled to occur in California, the third-largest oil producing state, in 2003.

Unocal Corp., a Southern California–based oil producer with over $5 billion in annual revenue, has faced continuing controversy concerning its activities abroad. The company is facing civil litigation in California regarding labor rights abuses in Myanmar (Burma), and it may be tried on similar charges in federal court.[40] Under pressure from shareholders, especially Amalgamated Bank (owned by the Union of Needletrades, Industrial and Textile Employees, or UNITE) and other labor and religious groups, Unocal adopted a new statement of labor rights principles in March 2003. The firm pledged to uphold core labor rights abroad as designated by the International Labor Organization.

A suit against Occidental Petroleum, another California-based firm, was filed in federal court in April. The case cites alleged human rights abuses related to Occidental's operations in Colombia.

Publishing

A representation dispute at the *Chinese Daily News* in Monterey Park continues. Employees voted for CWA representation in an NLRB election held in early 2001, but the paper's management was still challenging the election at this writing.

40. At this writing, Unocal was considering appealing to the California Supreme Court to dismiss the suit against it. Unocal's motion to dismiss its federal suit was to be reviewed by the U.S. Court of Appeals in June. In a tangentially related case, Nike has appealed a 2002 California state Supreme Court decision to the U.S. Supreme Court. Under the decision, Nike could be sued for false advertising if it were shown to have incorrectly asserted in ads that its shoe suppliers abroad met appropriate labor standards.

Railroads

There are about 13,000 railroad workers in California. Under a binding arbitration agreement for a contract that became amendable in 1999, members of the Transportation Communications Union (TCU) will receive pay increases through 2004, but will pay an increased share of health insurance costs. In another arbitration award, United Transportation Union (UTU) workers were given jurisdiction over remote-controlled locomotives in freight yards. The UTU has been involved in a jurisdictional dispute with the Brotherhood of Locomotive Engineers (BLE) for an extended period. Attempts to merge the two unions failed in 2002, and BLE is now considering a merger with the Teamsters. Under the Railway Labor Act, agreements do not "expire" in the railroad industry but instead become amendable, pursuant to the statute's negotiating procedures.

Retail

Rite Aid Corp., a major national chain of drugstores, reached agreements with its clerks and pharmacists in Southern California for new contracts with the United Food and Commercial Workers (UFCW) in July 2002. The chain was reported to be in financial difficulties after a corporate accounting scandal. Rising health care insurance costs were reported to be a major issue. The new agreements retained complete employer coverage of health insurance premiums, although copayments for services were increased. Retail grocers in Southern California also reached agreements with UFCW and the Teamsters in October.

Drug and grocery retailers remained concerned about inroads by nonunion Wal-Mart, which reportedly has plans to open about forty stores in California. Unions have called on some California city councils to make zoning decisions that would essentially exclude new Wal-Marts from being constructed.[41]

Telecommunications

Workers at landline-based telephone services in California are heavily unionized and have contracts that do not expire until 2004. Wireless communications services have been growing rapidly in California, however, and pose an organizing challenge in many cases. A recent study identifies California as the largest national center of corporate headquarters for this industry, and 60,000 workers are reported to be in wireless communications. Key areas of concentration are the Bay Area and San Diego (San Diego Regional Technology Alliance 2002). In some areas of the country the Communications Workers of America (CWA) has been able to negotiate "neutrality" clauses for card-check recognition of wireless workers employed by landline firms.

41. Inglewood's city council withdrew an ordinance that would have blocked a Wal-Mart after receiving advice from its city attorney.

Trucking

Controversy continues over a NAFTA provision that would allow Mexican trucking firms free access to U.S. roadways; Mexican trucks are currently restricted to commercial zones within twenty miles of the U.S.–Mexico border. Implementation of the provision stalled during the Clinton administration, in large part owing to objections over safety issues that were raised by the Teamsters. The Bush administration sought to implement the NAFTA provision but was blocked by a federal court injunction in January 2003. Among the groups bringing suit were the Teamsters, the California Federation of Labor, and the California Trucking Association. California Attorney General Bill Lockyer also joined the plaintiffs in the suit. The injunction was issued on the grounds that the administration had not adequately considered the negative impact that older Mexican diesel trucks would have on the environment.

During 2002 and 2003 the Teamsters concluded major agreements with United Parcel Service (UPS) and the Motor Freight Carriers Association (MFCA). The 2002 UPS agreement provided for pay increases over a six-year period and an increase in full-time jobs. UPS also agreed to a neutrality clause with regard to future representation elections. No strike was involved in this settlement, but some UPS business was reportedly lost to rival carriers when the possibility of a strike loomed. The Machinists also negotiated a multiyear deal with UPS in March 2003. The final year of the new contract includes a me-too clause providing for the same adjustments that the Teamsters will negotiate with UPS in 2008.

The negotiations for the National Master Freight Agreement between the Teamsters and the MFCA were complicated by the liquidation of Consolidated Freightways Corp., which declared bankruptcy in a California court in September 2002.[42] Over 1,900 California workers lost their jobs. The Teamsters and Machinists brought suit against Consolidated, alleging unpaid wages and other losses of benefits. The Teamsters reached an accord with the surviving "less-than-truckload" freight companies in February 2003 on a five-year pact that provides pay increases and continued health care at no cost to workers. The new agreement also bans subcontracting work to Mexican trucking firms.

The Teamsters also negotiated a five-year accord with major automobile transportation firms in July 2003; some of these firms operate in, or are based in, California. Under the new contract base wages are frozen for the first two years, but a fully employer-paid health insurance plan is protected. An escalator clause, triggered by inflation above 3 percent, was also included.

Teamsters Local 396 in Covina won a federal court order against C&N Waste Services, a California waste hauling firm, requiring recognition, back pay, and pay-

42. Also in the background is a longstanding representation dispute with Overnite Transportation that has involved ongoing litigation and decertification elections. Overnite has a presence in various California metropolitan areas.

ment to various health and welfare funds. The owners of the firm reportedly shut down a unionized firm and then created C&N as a nonunion entity. After threats of arrest for contempt of court, the owners of the firm agreed to the back pay and other terms.

Utilities

California's electricity crisis of 2001 continued to reverberate in the private sector. The crisis, the origins of which are still being investigated and litigated, led to the bankruptcy of Pacific Gas and Electric Company (PG&E), a major utility in Northern California. An offer by the company for a new agreement with the Utility Workers Union of America (UWUA) was heavily rejected in a membership vote in December 2002. A new offer for a five-year contract with a wage reopener after three years was voted on in May 2003; despite the firm's bankruptcy, the proposal did not involve pay concessions. The International Brotherhood of Electrical Workers (IBEW) reached a settlement with PG&E in April 2003, but agreed only to offer it to the membership with a "neutral" recommendation.

Other Developments in the Private Sector

The National Center for Employee Ownership included eight California firms in its list of the top one hundred companies owned by a majority of their workers (as measured by the number of employees) in 2002. The two largest were Science Applications International of San Diego (a research and computer systems firm with 41,000 employees) and Parsons Corp. of Pasadena (an engineering and construction firm with 12,000 employees).

Standard & Poor's reported in April 2003 that of the twenty-nine California-based firms listed in the S&P 500, twenty-six had underfunded defined-benefit pension plans. Three—Northrop Grumman Corp., Hewlett-Packard Co., and Chevron Texaco Corp.—had liabilities exceeding $2 billion. The decline in the stock market was a major cause of the shortfalls. Reconciling the underfunding will raise the direct cost of labor compensation and could squeeze other pay and benefit increases.[43]

43. David E. Feller, professor emeritus at UC Berkeley, died in February 2003; he was eighty-six. Before joining the law school faculty, Feller was a nationally recognized appellate lawyer. As general counsel for the Steelworkers union, he argued the famous "Arbitration Trilogy" cases before the U.S. Supreme Court in 1960. In these cases the Court strongly endorsed voluntary "rights" arbitration to settle grievances and limited the ability of lower federal courts to second-guess arbitration decisions. Feller was a major force in organizing the Faculty Association at UC Santa Cruz, the only such association in the University of California system with bargaining rights secured in a PERB representation election.

CONCLUSION

California remains an area of union organizing despite its economic difficulties. The health care industry, and nursing in particular, is a hotspot in current organizing drives. California's union sector is especially concentrated among public employees, however, and state and local budget problems in California will make negotiations in government difficult over the next few years. Unions in the state have developed notable clout in the political arena. Their support was important in the outcome of the 2002 gubernatorial campaign as well as many other races.

Public policy in the employment arena has supported various union objectives in recent years, including increases in workers' compensation and unemployment insurance benefits. California also has adopted the nation's only state-level policy of paid family leave. The current debate over universal health coverage for California workers is likely to be more protracted than the controversies surrounding other workplace issues have been. Because California is the largest state and often sets trends, and because federal policy in the health care area is unlikely to change in any fundamental way in the near term, any action taken in regard to health care will receive national attention.

California's economy has bifurcated the state's private sector geographically. The national slump has affected all parts of the state, but the dot-com bust has particularly depressed the Bay Area. The Southern California economy remains stronger, but a full recovery is not expected for some time. California is especially vulnerable to difficulties in the airline industry. Many of the state's workers are employed by airlines, airports, and closely related facilities and are directly affected by decreases in tourism and travel. And public-sector labor relations will be affected throughout the state by the state's ongoing budget crisis. Given the state's economic outlook, labor relations, in both public and private sectors, will be operating in a distressed environment in the immediate future.

REFERENCES

Bureau of National Affairs, Inc. 2003. *2003 Source Book on Collective Bargaining: Wages, Benefits, and Other Contract Issues.* Washington: BNA.

California State Controller. 2003. *General Fund Cash Basis Report for the Fiscal Year Ended June 30, 2003*. Paged electronic document. Retrieved 29 July 2003 from www.sco.ca.gov/ard/genfun/gencash03/gencash03.pdf.

Erickson, Christopher, Catherine Fisk, Ruth Milkman, Daniel J.B. Mitchell, and Kent Wong. 2002. "Justice for Janitors in Los Angeles." In *California Policy Options 2002*, edited by Daniel J.B. Mitchell. Los Angeles: UCLA School of Public Policy and Social Research.

Hirsch, Werner Z., and Daniel J.B. Mitchell. 2003. "Making California's State Budget More User-Friendly and Transparent: Further Thoughts." In *California Policy Options 2003*,

edited by Daniel J.B. Mitchell. Los Angeles: UCLA School of Public Policy and Social Research.

Los Angeles Times. 2002a. "California Insurer Urges Universal Health Coverage." 4 December: C5.

———. 2002b. "Times Exit Poll Results." 7 November: A34.

Mitchell, Daniel J.B. 2002. "Impeding Earl Warren: California's Health Insurance Plan That Wasn't and What Might Have Been." *Journal of Health Politics, Policy and Law* 27: 947–976.

Pastor, Manuel, and Carol Zabin. 2002. "Recession and Reaction: The Impact of the Economic Downturn on California Labor." *The State of California Labor* 2: 37–59.

San Diego Regional Technology Alliance. 2002. *California's Wireless Wonders: A Study of California's Wireless Industry.* San Diego: SDRTA.

UCLA Anderson Forecast. 2003. *The UCLA Anderson Forecast for the Nation and California: 2nd Quarter 2003–4th Quarter 2004.* Los Angeles: UCLA Anderson Forecast. Earlier editions also consulted.

APPENDIX. Selected Union Management Contracts Expiring in California in 2003, by Expiration Date

Employer or Contract Name	*Union*	*Number of Workers*	*Month of Expiration*
Los Angeles County	MEBA	6,750	1-03
Los Angeles County	IUPA	1,250	1-03
Los Angeles County	AFSCME	2,650	1-03
Los Angeles County	SEIU	3,800	2-03
Kern County	SEIU	5,800	3-03
EBSCSM Building Maintenance Bay Area Agreement	SEIU	2,000	4-03
Maintenance Contractors Agreement (Los Angeles County)	SEIU	6,500	4-03
Maintenance Contractors Agreement (Orange County)	SEIU	3,000	4-03
Rockwell Semiconductor Systems	IBEW	550	4-03
Campbell Soup Co.	IBT	1,050	5-03
Glass and Glazing Contractors	PAT	800	5-03
Industrial Employers and Distributors Association	ILWU	900	5-03
National Electrical Contractors Association (Oakland)	IBEW	1,000	5-03
National Electrical Contractors Association (Santa Clara Valley)	IBEW	1,800	5-03
National Electrical Contractors Association (San Diego and Imperial Counties)	IBEW	2,000	5-03
National Electrical Contractors Association and Western Line Constructors (Northern California and Nevada)	IBEW	1,600	5-03
San Francisco Electrical Contractors Association	IBEW	1,150	5-03
San Francisco Employers Council	SEIU	5,500	5-03
Alameda Contra Costa Transit Authority	ATU	1,500	6-03
Associated General Contractors	LIUNA	14,000	6-03
Associated General Contractors	UA	9,000	6-03
Associated General Contractors, Building Industry Association, and Southern California Contractors Association	OPCM	5,500	6-03
Associated General Contractors, Building Industry Association, and Southern California Contractors Association	IBT	2,500	6-03
California Plumbing and Mechanical Contractors Association	UA	1,800	6-03
California Processors, Inc.	IBT	15,000	6-03
California State University	AFT	1,500	6-03
Catholic Healthcare West (Sacramento)	CNA (independent)	1,500	6-03
Catholic Healthcare West (San Francisco)	CNA (independent)	1,000	6-03

APPENDIX. (*Continued*)

Employer or Contract Name	*Union*	*Number of Workers*	*Month of Expiration*
Fresno Unified School District	SEIU	3,100	6-03
Garden Grove Unified School District	SEIU	2,500	6-03
Kern County	SEIU	5,000	6-03
Kern, Inyo, and Mono Counties Sheet Metal and Air Conditioning Contractors	SMWIA	2,200	6-03
Lodi Unified School District	NEA (independent)	1,200	6-03
Los Angeles, City of	IAFF	3,000	6-03
Los Angeles, City of	IUPA	9,300	6-03
Los Angeles County Metropolitan Transportation Authority	ATU	4,300	6-03
Los Angeles Unified School District	NEA (independent)	43,500	6-03
Mason Contractors Exchange of Southern California	LIUNA	1,200	6-03
Mechanical Contractors Association	UA	2,100	6-03
Newport-Mesa Unified School District	AFT	1,000	6-03
Northern California Mechanical Contractors Association	UA	2,100	6-03
Northern California Painters Employers Bargaining Council	PAT	1,000	6-03
Riverside County	LIUNA	2,000	6-03
Riverside County	SEIU	2,100	6-03
Sacramento County	SCEO	2,200	6-03
Sacramento County	AFSCME	550	6-03
Sacramento County In-House Supportive Services Authority	SEIU	6,350	6-03
San Diego County	SDCDSA (independent)	2,000	6-03
San Francisco, City of	IFPTE	1,800	6-03
San Francisco, City of	SEIU	3,000	6-03
San Francisco City and County	SEIU	10,000	6-03
San Francisco Community College District	AFT	1,000	6-03
San Francisco Unified School District	SEIU	1,000	6-03
San Joaquin County	SEIU	1,050	6-03
San Jose, City of	SJPOA (independent)	1,400	6-03
Southern California General Contractors	LIUNA	35,000	6-03
Southern California Painters	PAT	3,000	6-03
University of San Francisco	AFT	650	6-03
Western Steel Council	BSOIW	500	6-03
Alameda County	SEIU	6,500	7-03
Alliance of Motion Picture and Television Producers (Multistate)	IATSE	37,000	7-03
California, State of	Physicians and Dentists (independent)	1,400	7-03
California, State of	ASCME	3,750	7-03

APPENDIX. (*Continued*)

Employer or Contract Name	*Union*	*Number of Workers*	*Month of Expiration*
Hotel Employers' Council of Southern California	IUOE	500	7-03
Northern California Drywall Contractors Association	PAT	1,200	7-03
Paratransit Inc.	ATU	900	7-03
San Francisco Maintenance Contractors	SEIU	4,000	7-03
Stanford University, Linear Accelerator Center	SEIU	1,100	8-03
Los Angeles County	SBCTC	1,500	9-03
Los Angeles County	JCIR	1,500	9-03
Los Angeles County	SEIU	35,900	9-03
Coastal Berry Co.	Coastal Berry of California Farm Workers Committee (independent)	1,200	10-03
Long Beach Unified School District	SEIU	1,900	10-03
Retail Food, Meat, Bakery, Candy, and General Merchandise Agreement (Los Angeles)	UFCW	5,350	10-03
Retail Food, Meat, Bakery, Candy, and General Merchandise Agreement (Southern California)	UFCW	80,000	10-03
Fresno County	SEIU	3,900	11-03
General Motors Corp.	UBC	6,500	11-03
Levy Premium Foodservice	HERE	600	11-03
San Francisco Garage and Parking Lot Agreements	IBT	1,400	11-03
Pacific Rim Drywall Association	UBC	1,000	12-03
Southern California Edison Co.	IBEW	5,850	12-03
Southern California Edison Co.	UWUA	2,350	12-03
University of San Francisco	University of San Francisco Faculty Association (independent)	500	12-03

SOURCE: Bureau of National Affairs, Inc.
NOTE: A list of union abbreviations may be found at the beginning of this volume.

The State of California Labor, 2003, Vol. 3, pp. 227–265, ISSN 1531-9037, electronic ISSN 1541-9045.

About the Contributors

Frank D. Bean is Co-Director of the Center for Research on Immigration, Population, and Public Policy and Professor of Sociology at the University of California, Irvine. His most recent book is *America's Newcomers and the Dynamics of Diversity* (2003) (with Gillian Stevens).

Kate Bronfenbrenner is Director of Labor Education Research at Cornell's School of Industrial and Labor Relations. Kate, who received her Ph.D. from Cornell in 1993, worked for many years as an organizer and union representative. She is the co-author and editor of several books on union strategies including *Organizing to Win: New Research on Union Strategies* (1998) and *Ravenswood: The Steelworkers' Victory and the Revival of American Labor* (1999) and has published numerous articles, chapters, and monographs on union and employer behavior in organizing and bargaining campaigns and the impact of global trade and investment policy on workers and unions.

Robert Hickey is a Ph.D. student in Collective Bargaining, Labor Law, and Labor History at Cornell's School of Industrial and Labor Relations and a graduate research associate in the Office of Labor Education Research. Prior to coming to Cornell, he worked for many years as an organizer and union representative for the International Brotherhood of Teamsters. Rob, who received his MS degree from Cornell in 2003, is the author and co-author of several articles and monographs on union bargaining and organizing strategies in the global economy.

Sean W. Jaquez is an associate attorney with Jones Day in Los Angeles. He received his B.A. in Sociology from the University of California, Berkeley, in 1999 and his J.D. from Stanford Law School in 2002. He has interned with the U.S. Department of Education, Civil Rights Division, and with the ACLU of Northern California. Currently he is involved in grassroots efforts to develop and implement solutions to the growing educational and social concerns facing his hometown of El Monte, California.

Jerome Karabel is Professor of Sociology at the University of California, Berkeley, and a Senior Fellow at the Rockridge Institute, a progressive think tank in Oakland, California. He is the principal investigator of a Ford Foundation–funded study of the effects of the elimination of affirmative action on the University of California and the author of "The Rise and Fall of Affirmative Action at the University of California," which appeared in the *Journal of Blacks in Higher Education* in 1999. He is working on a book that is tentatively titled "The Chosen: Admission and Exclusion at Harvard, Yale, and Princeton, 1900–2003."

John Logan teaches in the Department of Industrial Relations, London School of Economics and Political Science. He has published articles on U.S., Canadian, and U.K. industrial relations in several journals, including *Advances in Industrial and Labor Relations*, *Industrial Relations Journal*, *Relations Industrielles/Industrial Relations*, and *Historical Studies in Industrial Relations*.

B. Lindsay Lowell is Director of Policy Studies at the Institute for the Study of International Migration of Georgetown University. His research interests are in immigration policy, labor force, and economic development. He is the co-editor of *Sending Money Home: Hispanic Remittances and Community Development* (2002). He received his Ph.D. in Sociology, with an emphasis in demographics, from Brown University.

Isaac Martin is a Postdoctoral Fellow at the University of California Institute for Labor and Employment. In 2004 he will assume a position as Assistant Professor of Sociology and Urban Studies at the University of California, San Diego. In addition to his work with Jerome Karabel on admissions to UC, he has conducted a variety of other research on the relationships among politics, state and local public policy, and inequality. His research on living wage policies was published in the *Urban Affairs Review* in 2001. He is currently working on a book about grassroots tax revolts in the United States and Europe since World War II.

Ruth Milkman is Professor of Sociology at the University of California, Los Angeles, and Director of the UC Institute for Labor and Employment. Her research and writing has ranged over a variety of issues surrounding work and labor organization. Her recent books include *Farewell to the Factory: Auto Workers in the Late Twentieth Century* (1997) and the edited volume *Organizing Immigrants: The Challenge for Unions in Contemporary California* (2000). Her current research focuses on immigrant workers and their relationship to organized labor in contemporary Southern California.

Daniel J.B. Mitchell is the Ho-Su Wu Chair in Management at UCLA's Anderson Graduate School of Management and holds a joint appointment in the UCLA School of Public Policy and Social Research. He is an expert on wage determination and labor issues and has written extensively on such topics as concession bargaining, flexible pay plans, employee benefits, social insurance, and other aspects of labor market analysis. He is co-editor of the journal *Industrial Relations* and past president of the North American Economics and Finance Association. He is the former director of the UCLA Anderson School's Forecasting Project.

Michael Reich is Professor of Economics at the University of California, Berkeley, and the Research Chair of the Institute for Labor and Employment. His numerous books on labor economics include *Labor Market Segmentation* (1975), *Racial Inequality* (1981), *Segmented Work, Divided Workers* (1982), *Social Structures of Accumulation* (1994), and *Work and Pay in the United States and Japan* (1997). His current research focuses on wage and benefit mandates.

Daisy Rooks is a graduate student in Sociology at the University of California, Los Angeles. Her research focus is on job retention and turnover among staff organizers in the contemporary U.S. labor movement. Recent publications include "The Cowboy Mentality: Organizers and Occupational Commitment in the New Labor Movement," in *Labor Studies Journal* (2003), and "Sticking It Out or Packing It In? Organizer Retention in the New Labor Movement," in *Rebuilding Labor: Organizing and Organizers in the New Union Movement*, edited by Ruth Milkman and Kim Voss (forthcoming).