

Proposed Testimony November 17 2022

Committee on Education and Labor, Subcommittee on Workforce Protections

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The Warehouse Worker Resource Center is a nonprofit organization based in San Bernardino County, California. San Bernardino and Riverside compose the Inland Empire, a region east of Los Angeles County. Warehousing is a significant and growing part of the US economy and a central part of the economy of the Inland Empire and Southern California. For the past decade, the Warehouse Worker Resource Center has been organizing workers in the warehouse industry of Southern California.

We support nonunion workers who face some of the worst conditions in the sector in the warehouses of the most important companies in the world. Over 40% of the freight that enters the United States comes in from the Ports of Los Angeles and Long Beach and a large percentage of these goods are transported by truck to our region where they are stored, packaged and shipped out to the rest of the nation. According to the Bureau of Labor Statistics, over 300,000 people in our region, and over 1.7 million nationwide, work in these warehouses, comprising a large and rapidly growing percentage of jobs in our region and nation.



The sector is growing quickly and a key part of the US economy. The regions of the nation where this sector is growing- the areas just outside of urban centers, the suburban and exurban regions- are places like the Inland Empire, Will County Illinois, central New Jersey- all the key areas of the sector that face similar challenges because they are dealing with the same employers and strategies of employment that are endemic to this sector.

The sector has grown rapidly in just the past ten years. In January 2012, there were just over 500,000 people employed in warehousing nationwide, in January 2019, just over a million. Now there are well over one and a half million. Much of the increase these past three years is made up by growth of Amazon's employment alone- through the COVID pandemic, as people purchased more from home, we have seen warehousing become a common job in every part of the country.

Our region, Inland Southern California, is home to 4.5 million people and is highly dependent on the goods movement sector. Our region has over one billion square feet of warehousing, the largest cluster of warehouses in the world, including operations from every major retailer in the nation, from Amazon to Walmart to Home Depot and Target. These facilities range from indoor-outdoor cross-dock facilities to massive million-square foot fulfillment centers to cold storage facilities. The vast majority of these facilities are non-union, and employ workers on an at-will basis. Research shows that the wages paid in these facilities are, on average, not adequate to support a family. BLS data indicates most jobs in warehousing nationwide average \$17 or \$18

per hour, not enough to sustain a family, especially in expensive, warehouse-dense regions like Southern California, New York/New Jersey or Chicago.

Employment

Data series	Back data	Jul. 2022	Aug. 2022	Sep. 2022	Oct. 2022
Employment (in thousands)					
Employment, all employees (seasonally adjusted)		1,787. 1	1,768. 6	(P)1,762. 1	(P)1,742. 1
Employment, production and nonsupervisory employees		1,573. 6	1,572. 2	(P)1,581. 3	
<p>Footnotes</p> <p>(P) Preliminary</p>					

Earnings by Occupation

Data series	Wages, 2021
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	Hourly		Annual	
	Median	Mean	Median	Mean
<u>Industrial truck and tractor operators</u>	18.67	20.19	38,840	41,990
<u>Laborers and freight, stock, and material movers, hand</u>	17.68	17.65	36,770	36,710
<u>Shipping, receiving, and traffic clerks</u>	17.80	18.14	37,020	37,720
<u>Stock clerks and order fillers</u>	18.11	18.39	37,670	38,260
<u>Transportation, storage, and distribution managers</u>	45.34	47.61	94,310	99,040

(Source: [Occupational Employment and Wage Statistics](#))

Data extracted on: November 14, 2022 (12:58:13 AM)

**Employment, Hours, and Earnings from the Current Employment Statistics survey
(National)**

Series Id: CEU4349300006

Not Seasonally Adjusted

Series Production and nonsupervisory employees, thousands, warehousing and

Title: storage, not seasonally adjusted

Super Transportation and warehousing

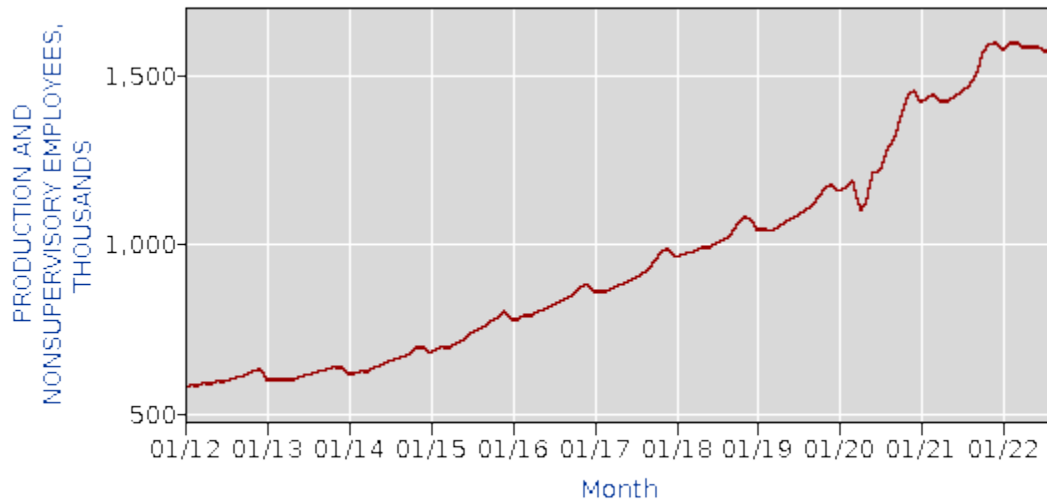
Sector:

Industry: Warehousing and storage

NAICS 493

Code:

Data Type: PRODUCTION AND NONSUPERVISORY EMPLOYEES, THOUSANDS



Common Issues: Subcontracting and Staffing Agencies

The industry includes a significant amount of workers who are employed through staffing agencies and at low wages. In many parts of the sector, workers are employed through staffing agencies. This issue leads to significant issues in our communities, specifically insecure economic conditions for workers across our region, one that is dominated by goods movement and logistics. Workers who are employed through staffing agencies tend to be more desperate for work, and know they could lose their jobs any day, if the warehouse operator just says they don't need them anymore. These millions of temporary and contingent workers tend to be disproportionately people of color, immigrants and women. According to Temp Workers Demand Good Jobs, a report by the National Employment Law Project and Temp Worker Justice that came out this year, wage theft, workplace injuries and retaliation are endemic in temp jobs including warehouse jobs.

Over the past ten years, we have supported workers to collect over \$30 million in stolen wages in warehouses in Southern California. The bulk of these wages were stolen from workers employed through staffing agencies, who are incentivized to not speak up about a short check, or who work for a short period and don't even notice it. The use of subcontracting and staffing

agencies structures legal liability so that the company whose goods are being moved can benefit from workers operating in low wage conditions and sometimes even facing wage theft, health and safety risks and other violations. We see that use temp agencies and subcontracting are strategies to avoid liability that, while common in many sectors of the economy, are employed at a high frequency in warehousing relative to other industries.

For instance in 2011 we worked on a case with a group of workers who moved goods at the largest Walmart warehouses in California, then operated by Schneider Logistics in Riverside County, and faced significant wage theft related to a piece rate scheme. Those workers were employed by staffing agencies but all the products they moved were for Walmart. The workers filed a suit around the wage theft resulting in discovery that Walmart had awareness of the pace of work and rate that they paid per container. We know that the largest companies in the world benefit from the operation of warehouse as cheaply and quickly as possible. In this case, the workers were punished for the warehouses' efficiency, waiting for each container, sleeping in their cars between containers and staying on site for up to a week. When a court allowed Walmart to be named in the class action that workers filed against the warehouse operator and the staffing agencies, the lawsuit was soon settled for \$21 million.

We have good joint employment laws in California and believe that they have been critical to holding employers accountable to the law. We know that the NLRB is currently reviewing the joint employment standard and the US Department of Labor reinstated a joint employment standard last year. These rules create a strong disincentive to excessive use of subcontracting and staffing agencies, and pushes accountability closer to the decision maker and more capitalized party- the retailer or at least warehouse operator rather than some small, fly by night staffing agency.

As the warehouse sector has changed over the past decade, a key influence on the sector has been Amazon. The first Amazon warehouse opened in California in San Bernardino in 2011, as the city entered into bankruptcy. The community was excited about a big name employer moving to one of the poorest cities in the nation. Residents soon saw that Amazon hired a lot of people- and those people turned over quickly, due to dangerous conditions, insecure hours and most of all, high pace of work, or rate, as Amazon terms it.

A core issue of warehousing is pace of work. Workers are pushed to move as quickly as possible in these workplaces, in order to keep up with the rapid pace of delivery necessary to keep the supply chain thin and running smoothly. Amazon has accelerated these forces, moving workers rapidly through their facilities in order to keep up with the rapid pace of their operations. Amazon's intention is not to store products, but rather to keep them moving and flowing through their systems, in order to have as thin and quick a supply chain as possible. This is the state of the art- what the rest of the industry aims to match.

When you order a product to arrive in 24 or 48 hours, there is no magic robot or process that makes that happen. The product moves fast because people run. People move quick and get injured, maybe look away and bump into something. The rates that employer put workers to

keep up with result in higher injury rates, higher turnover, more workers- young people- losing time to injuries and sometimes losing working capacity completely.

Amazon has an additional tool that it uses to move people quickly- data. Amazon, a data company first and foremost, tracks each workers's productivity through their handheld devices as well as cameras tracking their work at all times. With this data companies like Amazon can both identify workers who are working too slowly and work up justification for discipline or termination.

When this is happening in peripheral sectors of the economy, it's a problem. When it's happening at the largest employers in the country, it's a sign of a failing system, one that has failed to take into account human lives and safety. A report by Human Impact Partners, "The Public Health Crisis Hidden in Amazon Warehouses" details the impacts of quotas and rates on warehouse workers at Amazon warehouses in Southern California. The report notes that 75% of workers surveyed experienced physical pain and/or injuries in efforts to 'make rate.'

In response to these facts, the Warehouse Worker Resource Center in partnership with labor and health and safety partners and then-Assemblymember Lorena Gonzalez introduced and passed Assembly Bill 701, a bill that restricts warehouse employers ability to discipline workers for not keeping up with quotas, and requires employers to provide detailed information to workers and the state labor commissioner about their quotas. These kinds of policies are intended to push back against the relentless increase of rate that results in high turnover, as seen in reports like NELP's "Amazon's Disposable Workers: High Injury and Turnover Rates at Fulfillment Centers in California," which details turnover rates of 70% (nationally in 2017) to 100% per year (Amazon warehouses) in warehouses in the U.S.

Other issues that are endemic in the warehousing industry are related and rooted in these insecure conditions. Heat has become a common issue in warehousing as the industry has grown and climate change has accelerated. In Southern California this past summer the temperatures reached up to 121 degrees outside, and this resulted in hazards for workers across the state both indoors and out. The combination of heat and high production quotas make warehousing an especially dangerous job and one that calls out for attention from regulators. In response, in 2016 we worked with California State Senator Connie Leyva to pass AB 1167, a bill to establish protections for indoor workers who face excessive heat. We believe these kinds of policy protections, especially when aligned with workers organizing to protect themselves, can save lives and make warehouses more productive by keeping their workers healthy.

Amazon is now the largest warehousing company and one whose practices of high turnover and pace of work are the industry standard. This is unacceptable and workers are standing up, across the country, organizing for better conditions, engaging their communities and calling for Amazon and other major retailers to do better. We believe that the department of Labor has a key role, with strategic enforcement like OSHA's investigation of Amazon facilities, by

establishing strong joint employment policies, and establishing serious strategies around issues like indoor heat and pace of work.