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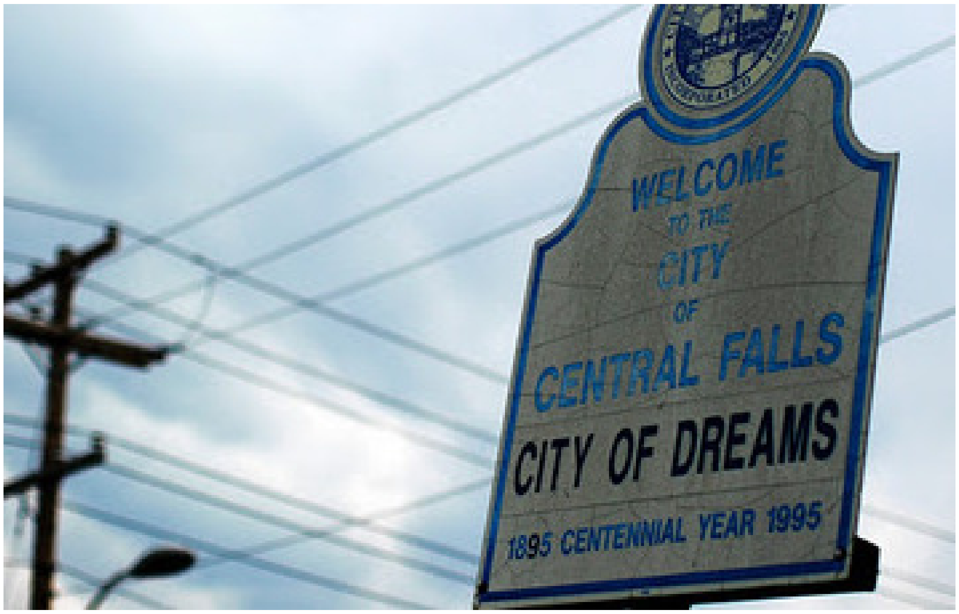
Labor Watch

The Battle For New England

By Ivan Osorio

Summary: *Like the rest of the nation New England is reeling from the economic recession. With their state finances deep in deficit New England state lawmakers are looking for places to cut the budget. The fattest target: government employee compensation.*



Central Falls, Rhode Island: driven to bankruptcy by municipal pensions

New England is generally considered among the most left-leaning regions of the country. This perception is largely correct, as it is reflected in the partisan tilt of the state's politics: Republican politicians are a rare species and becoming ever more so every year. However, recently, the region's dominant political tendency has run up against fiscal reality.

New England states, like states across the nation, are facing deep budget deficits, forcing state lawmakers to find ways to close the budget gaps by tackling one of the biggest costs they face: government employee compensation. As we saw in Wisconsin and Ohio, Republican lawmakers who take on the government employee union lobby can expect an all-out backlash from it. While public employee unions have not been as vocal in their opposition to Blue Team-proposed cuts, Democrats depend on campaign support from unions in a way Republicans do not, so alienating those unions could prove costly politically, which makes Democrats less likely to offer bold reforms—if any at all.

Yet even so, now state lawmakers in the nation's most heavily Democratic region are trying to close their states' budget gaps, and are being forced to confront entrenched union interests. As chief executives of state governments that do not enjoy the power to print their own currency, governors must take action if their states are to avoid bankruptcy. Public sentiment across the nation appears increasingly open to cutting public spending, and New England isn't immune to that trend. The general public could well reward at the ballot box those lawmakers who take on the public employee union lobby. Whether the region's politicians can take advantage of that remains to be seen.

Massachusetts

In the spring of 2011, Deval Patrick, the Democratic governor of Massachusetts, faced some subtle but unmistakable political pressure. The Obama administration asked him to think about the potential nationwide consequences of his policy proposals to revise the collective bargaining privileges of his state's public sector unions.

As *The Boston Globe* reported last July, "The White House took the unusual step of calling Governor Deval Patrick to discuss his plan to curb the collective bargaining rights of public employees, an indication that the Obama administration may have been concerned about the potential for national political fallout."

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State budget deficits bear no party label. They pose a problem no matter whether the officeholders are Democrats or Republicans. However, many Democratic officeholders have adopted a walking-on-eggshells approach toward cutting public spending, due to their political reliance on constituencies that depend on public spending. This caution underscores the political minefield they must navigate if they are serious about getting their states' finances in order. When Democrats appear ready to endorse any change to policies affecting state public employees, they must be prepared to anger one of their most powerful political constituencies.

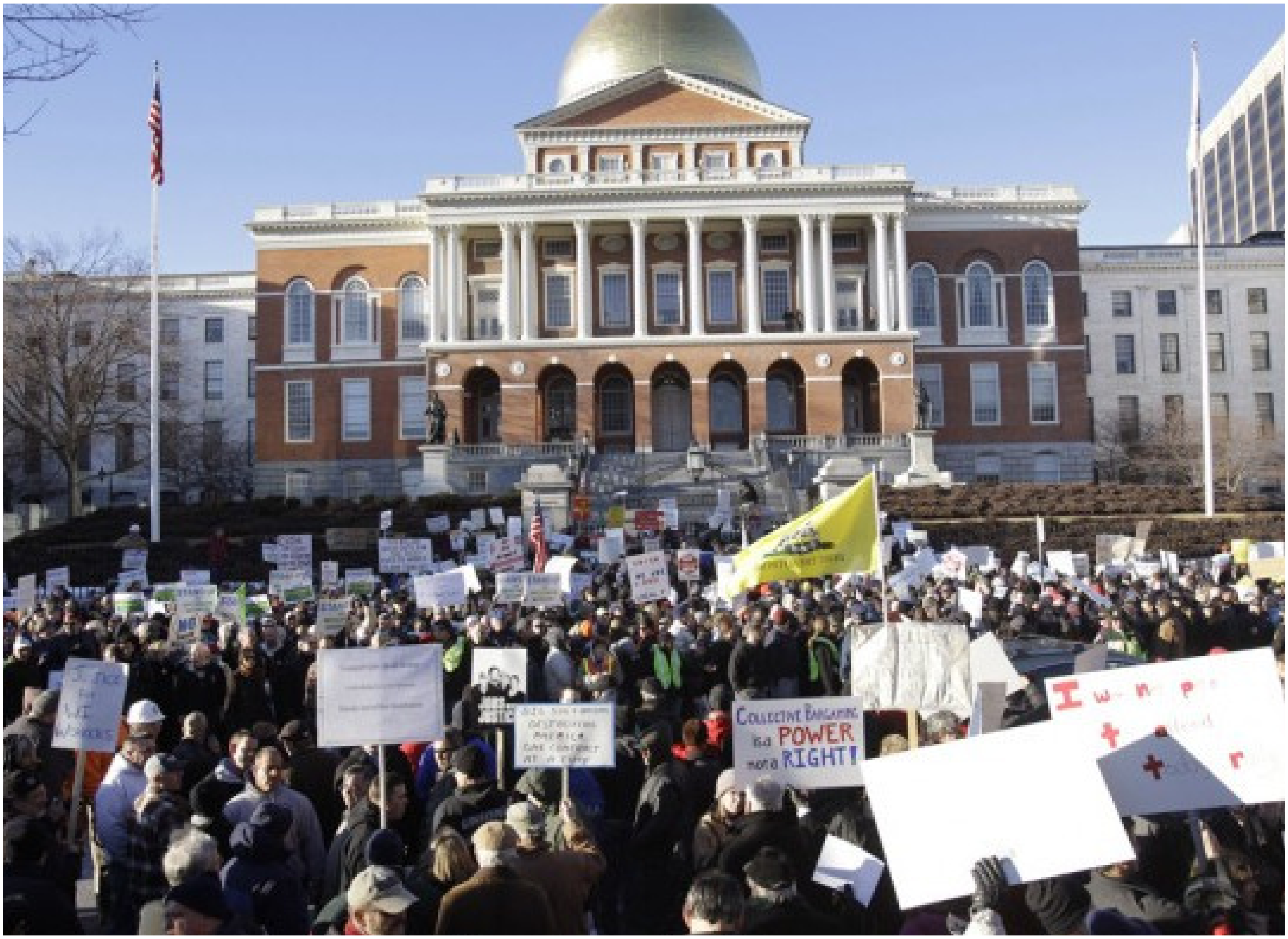
Compared to proposals introduced by Republicans like Governor Scott Walker in Wisconsin or Governor John Kasich in Ohio, Governor Patrick supported curbs on collective bargaining in Massachusetts that are quite modest. To save $100 million in health insurance costs, Patrick agreed to put limits on union power to prevent local government changes to employee health plans. The final bill he signed bends over backwards in providing for consultation and accommodation to the demands of the unions of teachers, police, firefighters and other public employees. As a result, the major state labor barons ultimately accepted the bill without vocal objection.

Nonetheless, the state's Democratic politicians were willing to challenge organized labor by undertaking changes to collective bargaining "rights." That makes their actions politically significant. University of Massachusetts political scientist Raymond J. La Raja sums up the unions' predicament. He points out that both the unions and the Democratic party understand that they will sink or swim together: "What was going on in places like Wisconsin and Ohio were strong talking points for the president and the Democratic Party going into the next election: that the Republicans want to take away your collective bargaining rights. So any indication that there were Democrats loosening collective bargaining rights undermined that message."

Those may be "strong talking points" for the Democratic Party's labor activist base, but they are probably much less appealing to the majority of taxpayers who must bear the costs of the generous government employee compensation which public sector collective bargaining engenders.

Bolder reforms likely would have sent blue-state unions to the barricades. Union chiefs like AFL-CIO head Richard Trumka remain angry at Democrats for not having done more for them when Democrats controlled both houses of Congress. But as loudly as Trumka and his colleagues complain, they know they have nowhere else to go politically.

Union heads and Democratic lawmakers are muting their differences in order to keep the Democratic Party's activist labor base energized against the Republicans. On the one hand, the state's Democrats could be hurt by the suggestion that they are kowtowing to union strong-arm tactics. But tensions with labor will build if Democratic lawmakers ap-



Unions march for collective bargaining "rights" at the Massachusetts State House in 2011

pear too ready to respond to taxpayers who bear the cost of over-generous government employee compensation.

Rhode Island

On August 2, 2011, the city of Central Falls, a city of 18,000 located about six miles north of Providence, declared bankruptcy after municipal retirees declined to make pension concessions. Central Falls, which had been in state receivership for a year, could not afford to pay $80 million in retirement benefits to 214 police officers and firefighters—an average of around $373,000 per retiree. The city asked 141 retirees for substantial benefit concessions, some cut benefits by as much as half. However, only two of the 141 retirees agreed to the city's request. They will now face the cuts anyway, pending a court's approval.

Central Falls is Rhode Island's poorest city. As New York Times reporters Mary Williams Walsh and Abby Goodnough noted last July, "It is hard to see how anyone thought such an impoverished tax base could come up with an additional $80 million for retirement benefits. If the city were contributing the recommended amount to the plan each year, it would take 57 percent of local property tax revenue." On the eve of its bankruptcy, Central Falls was spending a quarter of its budget on employee benefits.

Promising lavish compensation was a bad bet for both the city and its retired employees. But there is one party that benefits from that largess: government employee unions. Government unions' most powerful tool to extract higher compensation from elected officials—and taxpayers—is collective bargaining. As the executive director of the Rhode Island League of Cities and Towns, Daniel L. Beardsley told the Times, "wages, hours, and any and all terms or conditions of employment" for police and firefighters are subject to collective bargaining under Rhode Island law. "That means even the mustache."

The consequence is that many Rhode Island cities' employee pensions are in a parlous state. In a report last year, the state auditor general said that 24 municipal pension plans have less than 45 percent of the assets they need to meet obligations, largely because they have not paid enough into the plans. However, it is worth noting that underfunding also results from committing to overly generous future obligations.

The situation for Rhode Island cities became so dire that the state's politicians had no choice but to reform the state's pensions. On November 17, both chambers of the state's Democrat-controlled legislature voted by overwhelming majorities to overhaul the state's pension system despite strident government employee union opposition. A pension reform bill passed the Senate by a 34-2 vote and the House by 57-15. Governor Lincoln Chafee, an independent and former Republican who left the GOP because he considered it too conservative, signed the bill into law the next day.

The reform suspends pension increases for five years and then makes them conditional on the performance of the pension investments. It raises the retirement age and creates a hybrid pension benefit plan that mixes a defined benefit with a defined contribution plan similar to a 401(k) account. The pension overhaul covers 66,000 retired public school teachers, state employees, judges, police, and firefighters. But while other states have implemented hybrid defined contribution/defined benefit plans, Rhode Island's is the first to affect current employees as well.

Government employee unions have threatened to challenge the reform in court. Indeed, in Central Falls, retired police and firefighter unions went to court to challenge pension cuts as part of the city's bankruptcy. Chafee has said he will introduce legislation giving local governments greater ability to tackle their pension costs. In January, he met with local officials to discuss which costs they most needed to tackle. It is safe to say that government unions will challenge these and other reforms as well as any municipal cutbacks resulting from them.

Local government legislation is significant because it conflicts with the most powerful tool public employee unions have to extract lavish compensation: collective bargaining. Rhode Island's state pensions were set by law, not collective bargaining, but even here government unions use their political clout by making campaign contributions to politicians that make the laws that govern pensions.

Connecticut

While the crisis in public finance has forced Democrat-leaning Massachusetts and Rhode Island to address their budget issues, not all New England politicians appear willing to take this step. In Connecticut, Governor Daniel Malloy refuses to challenge his state's government employee unions. Worse, his administration bolsters government unions' power, thus perpetuating the underlying political conditions that put so many state governments in financial hot water.

On January 20, 2012, Moody's Investor Service, one of the big three Wall Street rating agencies, announced it had downgraded Connecticut's debt rating, from Aa3 to Aa2, citing the state's unfunded pension liability. At the time of the downgrade, the state's pension fund was only 48 percent funded, well below the level the Department of Labor defines as "critical." During the same week, Governor Malloy announced that the state's revenues were projected to decline by $95 million for the fiscal year ending June 30. Last year, he enacted the state's biggest ever tax increase.

State officials reacted angrily to the downgrade, but they really should welcome it as a wakeup call. "Moody's did a good job of looking at the state's fiscal picture objectively and intensively," said Republican State Senator L. Scott Frantz of Greenwich, the banking committee's ranking member. "In addition to getting a gift from Moody's, this should serve as a wakeup call for a number of people."

Malloy has touted concessions he gained from government employee unions for projected savings in the state's budget. However, those concessions are paltry compared to what is needed, and the savings from them are overstated.

The Malloy administration had announced that labor union concessions would produce $4.8 billion in pension savings to the state's budget over 20 years. However, on January 25, the Connecticut Office of Fiscal Analysis (OFA) revised the administration's estimate down to $3.6 billion in pension savings, of which less than half—$1.7 billion—was attributed to union concessions.

It should not be surprising that the savings are less than what the Malloy administration touted. The so-called "concessions" asked little of the unions, who were promised that there would be no layoffs or furloughs for four years. They accepted a two-year wage freeze followed by three annual 3 percent raises.

The retirement age will remain 62 until 2022 and then will increase by only two years. And there are minor changes in health benefits. The same day that OFA announced its findings, Malloy left for Davos, Switzerland, to attend the high-dollar schmoozefest known at the World Economic Forum.

Malloy's insouciance in the face of dire economic news may be annoying. But what is truly appalling is that he is making the deficit worse. Even as Connecticut faces a huge fiscal shortfall, the Governor proposes to increase the public payroll.

On September 21, 2011, Governor Malloy, bypassing the legislature, signed two executive orders that reward his union allies. The orders categorize employees of independent home care and child daycare providers as state employees and, bypassing normal secret ballot procedures, use card check methods to unionize them. The main beneficiary is the Connecticut State Employee Association (CSEA/SEIU 2001), an affiliate of the Service Employees International Union (SEIU). State Sen. Joe Markley (R-Southington), a leading critic of Malloy's coziness with unions, said, "This is forced unionization, plain and simple."

The Governor, recalling earlier union unhappiness with his request for minor labor concessions, said, "Please don't question my commitment to labor. You never heard me attack labor and I won't." He can say that again.

Forced Unionization through "Card Check"

SEIU is the big winner of Malloy's move. SEIU Connecticut State Council director Paul Filson said, "It's something we've been working on for a number of years—to organize home and child care workers in the state who don't have the right to organize into unions. It is our goal to change the law and give workers the right to talk about wages, benefits, and training."

In reality, Malloy's action lets union bosses and politicians set wage and work rules, makes home care less affordable to consumers by raising its cost, and reduces competition among entrepreneurs by erecting barriers to entry into the home care industry. The Malloy administration makes the argument that independent home care and day care contractors are "public employees" because they are compensated by the state when some of their clients receive state Medicaid payments. This is the latest episode in a nationwide attempt by organized labor to redefine the meaning of "public" so that anyone who receives a government payment can be considered a state employee. Should this effort succeed, unions will have vast new pools of workers to organize.

Under this arrangement, a pro-union governor authorizes a shell agency to act as the home care workers' "employer." The agency then releases to the union contact information for the workers it seeks to organize. The union mails workers a nondescript "card-check" inquiry asking them if they want to join the union. These mailers function as ballots. The union only needs to receive a majority of returned cards—not a majority of all workers in a proposed bargaining unit—to be recognized as the workers' exclusive bargaining representative.

For SEIU, this stealth unionization strategy has already proven very profitable. A similar effort in Michigan in which only 20 percent of eligible workers participated, won SEIU representation power over 45,000 health care workers.

Most workers were unaware of what was happening and did not bother to sign or return the cards. Since 2006, SEIU has collected $28 million in compulsory union dues from home care workers in Michigan.

The strategy has allowed SEIU and the American Federation of State, County & Municipal Employees (AFSCME) to unionize thousands of home health care workers in 14 states.

In Connecticut, CSEA/SEIU 2001 has already unionized 4,100 child day care workers who receive pay through the state's Care4Kids program—even though only 1,691 workers returned card-check ballots. The vote for unionization was 1,603 to 88, a margin so absurdly lopsided that it raises the possibility that only union partisans were instructed to return the cards.

In January 2012, the Malloy administration released to SEIU contact information for an estimated 6,000 to 8,000 home health care workers. Anticipating that the union intended to mail the unsuspecting workers card-check ballots, the Competitive Enterprise Institute and the Yankee Institute for Public Policy, a Connecticut-based free-market think tank, responded with a mail campaign in early February. The two groups alerted Connecticut home health care workers about SEIU's efforts to unionize them by stealth. What is at stake for Connecticut home health care workers? Around $624 a year in annual SEIU dues or 1 percent of salary—whichever is higher.

Right to Work's Prospects in New Hampshire and Maine

The pushback against union power has been going on in the private sector as well. On February 1, 2012, Indiana Governor Mitch Daniels signed into law a right to work bill passed by both houses of the legislature, thus making the Hoosier State the 23rd right to work state in the nation—and the first one in the Rust Belt.

This is likely to put considerable competitive pressure on neighboring states to follow suit, as Indiana's business environment becomes much more attractive for investment than its compulsory unionism neighbors. Likewise, a right to work state in the Northeast would also create greater competition for investment and jobs with its neighbors. Which state that is likely to be no one knows yet, though Maine and New Hampshire have been vying for that title.

New Hampshire may be a gubernatorial election away from enacting right to work. In the 2010 midterm elections, Republicans took control of both houses of the legislature. Then last year, the new Republican majority passed a right to work law, which Governor John Lynch, a Democrat, vetoed. Lynch was reelected in 2010 to a fourth consecutive two-year term. (New Hampshire is one of two states where governors serve two-year terms; the other is neighboring Vermont.)

However, having survived the Tea Party-fueled Republican wave that helped give the GOP significant electoral victories across the nation, Lynch must not be relishing the prospect of facing off against a Republican legislature. On September 15, 2011, he announced that he would not be seeking a fifth term in 2012. The lack of an incumbent gives Republicans a much better shot at capturing the governorship. If they manage to do so and retain control of the legislature, things will be looking up for right to work in New Hampshire.

Meanwhile, pro-right to work lawmakers in the Granite State continue pushing for right to work. On February 9, 2012, the legislature held a hearing on House Bill 1677, a new version of the bill Lynch vetoed last year, with around 300 union members in attendance. "Despite the big numbers, passion on both sides was muted. This may be because that while the pivotal votes are perhaps months away, the outcome is already known," reported The Nashua Telegraph's Kevin Landrigan. "Unless there are a lot of turncoat legislators—highly unlikely since fierce lobbying took place on both sides for eight months in 2011—the Republican-dominated legislature will pass this bill, HB 1677."

And, notes Landrigan, "Like last November, Democratic Gov. John Lynch will veto the bill and the move to override that decision will come up short. What is new is that right to work has already emerged as a touchstone issue in the upcoming race for governor." Indeed, Republican gubernatorial candidates Ovide Lamontagne and Kevin Smith have endorsed right to work. The fight for right to work looks to be joined in earnest in 2013.

Like the New Hampshire legislature's Republican majority, Maine Governor Paul LePage was elected in 2010 with considerable Tea Party support. To date, the tea partiers' enthusiasm for LePage seems well justified. In February 2011, shortly after taking office, he said that he would push for right to work legislation, even if it were to provoke Wisconsin-style union protests.

The following month, LePage courted controversy when he sought to have a mural removed from the state's Department of Labor building in August, claiming that it was too pro-union. A spokeswoman for the governor said that several business leaders had complained about the mural, and that he had received an anonymous fax comparing it to North Korean propaganda, which "use[s] these murals to brainwash the masses." While this was largely a symbolic fight, it does seem to indicate a willingness to take on the organized labor establishment.

LePage will need that determination if he is serious about pushing for right to work legislation in his state. Last year, State Rep. Tom Winsor (R-Norway) introduced a right to work bill in the legislature," but right to work is yet to become law in Maine. LePage said, "[I]t's going to be a tough battle." Indeed. While Republicans hold a majority in both houses of the Maine legislature, the state's GOP establishment is largely dominated by moderates who may not be enthusiastic about taking unions' political power head on.

Still, right to work supporters are not standing still. In January 2012, the Maine Heritage Policy Center released a paper touting the benefits of right to work by analyzing economic gains made by Oklahoma after it enacted a right to work law—the last state to do so before Indiana this year.

Conclusion

All around the nation, taxpayers are eager to fight back against union privileges that have done so much to put their states' finances in the red. Just as importantly, politicians seem to be listening, even in deep-blue New England. As the case of Connecticut shows, not every governor and legislature is ready to do the right thing. But taxpayers and their representatives are alert and ready to resist unions' power. That power may be considerable, but economic reality is much more potent.

LW

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LaborNotes

More good news on the jobs front: unemployment unexpectedly fell to 8.3 percent in January, down from 8.5 percent the previous month. The economy added 243,000 new jobs, exceeding the predictions of many analysts. However, Federal Reserve Chairman **Ben Bernanke** warned in a hearing before the **Senate Budget Committee** that we still have a long way to go: "It is very important to look not just at the unemployment rate, which reflects only people who are actively seeking work... There are also a lot of people who are either out of the labor force because they don't think they can find work or in part- time jobs."

On February 9th, **Capital Research Center** president **Terrence Scanlon** hosted a panel on the future of public-sector unions at the 2012 **Conservative Political Action Conference** (CPAC) in Washington D.C. Frequent *Labor Watch* contributors **Vincent Vernuccio** of the **Competitive Enterprise Institute** and **Kevin Mooney** of the **Pelican Institute** were featured speakers at the panel discussion titled "The Return of Big Labor." Vernuccio compared the economies of right-to-work states with those having "forced unionization," noting that the former generally have better GDPs, more jobs, fewer taxes, and more worker freedom.

Speaking of right-to-work, the Indiana state senate voted 28-22 on February 1st to pass its own right-to-work legislation, which Gov. **Mitch Daniels** quickly signed. Indiana is the 23rd state in the Union to adopt such a law, and the first in the Rust Belt. Hoosiers rule.

Vincent Giordano, head of the **New Jersey Education Association** (NJEA), was recently asked in an interview for public television why he opposed school choice reforms that would allow poor Americans the same opportunity to pull their children out of failing or dangerous schools and place them in the same safe and effective private schools that the wealthy enjoy. His response: "Life's not always fair." What a heart, huh? The labor boss, who earns more than "half a million in salary and other compensation," reports Commentary magazine, has unsurprisingly been a staunch opponent of New Jersey Gov. **Chris Christie**'s efforts to bring education reform to the Garden State.

President **Barack Obama** has damaged his normally solid support among unions over his decision to kill the **Keystone XL** pipeline. **Mark H. Ayers**, president of the **Building and Construction Trades Department, AFL-CIO**, blasted the president in a press release, saying: "[W]ith a national unemployment rate in construction at 16 percent nationally, it is beyond disappointing that President Obama placed a higher priority on politics rather than our nation's number one challenge: jobs." And no wonder - killing the pipeline has cost an estimated 20,000 jobs.