

## The Battle for Michigan

*Governor and Legislature vs. Government Employee Unions*

**By F. Vincent Vernuccio**

**Summary:** Michigan's economy has been weakening for years as the Big Three auto companies hemorrhaged jobs and manufacturing fled to more business-friendly states. Locals joked, "Will the last one to leave Michigan please turn out the lights?" But in November 2010 the Republican victory tide brought new promises to fix the state's finances and revive the economy. Republican Rick Snyder defeated his Democratic rival by a large margin (58-40%) to succeed Democratic governor Jennifer Granholm, and Republicans gained 21 seats to capture control (63-47) of the state House while retaining the Senate by a 26-12 margin. The battle in Michigan between government sector labor unions and a new generation of political leaders has not received as much mainstream media coverage as the tumultuous events in Wisconsin. And Governor Rick Snyder is not yet a conservative YouTube internet sensation like New Jersey Governor Chris Christie. But lawmakers in Lansing are weakening the power of Big Labor in a state that is a legendary union stronghold. And public sector unions are pulling out all the stops to protect their privileges.

**F**or quite a while Michigan's economy has been in very bad shape. In January 2010, the state had the third highest rate of unemployment in



**Michigan Governor Rick Snyder (R)**

the nation—14.4 percent. By March 2011 unemployment had fallen to 10.4 percent, but that was still high above the 8.9 percent national average. Fifty years ago Michigan ranked 9th in per capita income; it's now 39th. In 2008-2009, Michigan experienced the greatest loss of gross domestic product of any state in the nation, according to the U.S. Commerce Department's Bureau of Economic Analysis.

Michigan is also hemorrhaging residents. The census reports that it is the only state to

have lost population during the past decade: at just under ten million, Michigan has only 700,000 more people than it had in 1980.

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Detroit has lost 25 percent of its residents in ten years and is now smaller than at any time in the last century. Last year more people moved away from Michigan than any other state except New Jersey, according to a January 2011 study by United Van Lines. Michigan was once a labor union stronghold. But its economic and demographic collapse has driven away business, which has hurt unions whose members have lost their jobs and seen their children leave the state in droves. Organized labor lost 11.7 percent of its Michigan membership in just the last year.

In 2009 710,000 Michigan workers (18.8 percent) were unionized. One year later the number fell to 627,000 or 16.5 percent, the lowest on record. Twenty-six percent of Michigan workers belonged to a union in 1989 when the U.S. Department of Labor first began tracking union membership by state.

Since 2000 Michigan has lost about half

its manufacturing jobs as the Big Three automakers cut 230,000 jobs between 2000 and 2009. Nationwide membership in the United Auto Workers (UAW) fell from around 1,500,000 members in 1979 to barely a fifth of that in March 2010—only 355,199. However last year the UAW added 21,000 members, bringing its total to 376,612 nationwide. Perhaps the union should give thanks to the \$80 billion taxpayer bailout of the U.S. automotive industry (although many UAW members now work outside car manufacturing). The slight increase may also be due to an attempted forced unionization of Michigan home-based daycare workers, a scheme benefiting the UAW that newly-elected Governor Rick Snyder ended earlier this year.

The UAW and other largely private sector unions are losing members, but government sector unions continue to grow in numbers and power. In Michigan government unions currently make up around half the state's union membership.

### **Governor Rick Snyder Takes Charge**

In tackling the state's economic crisis Governor Rick Snyder and Republican majorities in the state legislature have picked their battles carefully. Instead of confronting union monopoly power head-on—for instance, by introducing a statewide right to work law—the Governor and legislature are trying to rein in the unions in an arena where they exercise direct control—Michigan state government.

Before his election Rick Snyder, 53, was a venture capital investor and a former CEO and board chairman of Gateway, the computer manufacturer. Upon taking office in January, Gov. Snyder acted quickly to close the enormous budget deficit he inherited from his Democratic predecessor, Gov. Jennifer Granholm. In February, he asked for \$180 million in concessions from government workers to reduce the state's budget gap. As of this writing the details of his request are still forthcoming, but they could include wage concessions and increased worker contributions to the state's employee health insurance and pension plans.

Much of Michigan's deficit stems from long-term liabilities owed to government employees. The two largest public pension plans, the Michigan Public School Employees' Retirement System (MPSERS) and the Michigan State Employees' Retirement System (MSERS), have a combined pension shortfall of \$15.1 billion, according to the Mackinac Center, Michigan's free market state think tank. The state's health care liability is in even worse condition. Mackinac estimates that Michigan's unfunded health-care liabilities range from between \$24.6 billion and \$40.2 billion, depending on the assumptions made.

Wages and benefits for Michigan government employees have increased over the last decade while in the private sector they have plummeted. On average wages increased 1 percent for Michigan government employ-

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**Editor:** Matt Patterson  
**Publisher:** Terrence Scanlon  
**Address:** 1513 16th Street, NW  
Washington, DC 20036-1480  
**Phone:** (202) 483-6900  
**Email:** mpatterson@capitalresearch.org  
**Website:** www.capitalresearch.org

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ees even as they fell by 25 percent for private sector workers for the decade. Benefits on average increased by a whopping 25 percent for government employees while workers in the private sector had a 6 percent drop in benefits during this same period.

Even though the Michigan state government has reduced its workforce in recent years, the increase in employee benefits has far outweighed any cost savings. In 2003 there were 54,866 full time government employees who cost the state \$3.8 billion.

By 2010, that number dropped to 46,570. Yet Michigan paid \$4.7 billion for their services.

In presenting his cost-cutting plan to lawmakers Gov. Snyder said, "This is more than just a budget or a tax proposal ... This is our opportunity to say let's stop living in the past and start looking towards the future." He said cuts are needed to make up for past debts: "We are going to take responsibility for a legacy of debt that has built up for decades." Snyder asked both houses of the legislature to pass his budget by May 31st.

**The Emergency Managers Act**

The hallmark of Snyder's plan, which has sparked the loudest protest from labor unions, is the "Increase Power of School and Local Emergency Financial Manager Act" (Public Act 4 of 2011,) also known as the "Emergency Managers Act." On March 17 Governor Snyder signed into law six bills that increase the governor's power to take emergency control of municipalities and school boards in financial distress. He acted despite the protests of thousands of union workers who came to the state Capitol in

Lansing to protest what they say is the loss of their right to collective bargaining.

These bills update existing legislation which gives the governor the power to declare a financial emergency in municipalities and school districts that are in dire fiscal straits. If a locality does not take steps to work with the governor's office to remedy its condition, the bills empower the Governor to put a municipality or school district into receivership and appoint an Emergency Financial Manager (EFM.)

An EFM is given the authority to reorganize a city's government, modify or terminate municipal and school board contracts, override school board decisions, take remedial action to oversee local pensions funded below 80 percent, submit contracts over \$50,000 to competitive bidding, and eliminate the salary and benefits of administrative officials (i.e., those who created a local community's problems). An EFM "almost becomes God," said Detroit mayor Dave Bing.

Perhaps the most important part of the Emergency Managers Act is the power it gives the EFM to renegotiate or terminate collective bargaining agreements. This is why so many unions are outraged over it.

The financial condition of any locality must be truly bleak before a governor is permitted to trigger actions leading to the appointment of an EFM. According to the Michigan Sen-

ate Bill Analysis summary, a governor is permitted to appoint an EFM only if "a local government financial emergency existed and no satisfactory plan to resolve it existed." An EFM can override local officials if "the local government entered into a consent agreement [with the governor's office] containing a continuing operations plan or recovery plan to resolve the financial problem, but materially breached the agreement."

The Emergency Managers Act outlines the preemptive measures available to local officials and specifies the review procedures that must be undertaken before a governor is permitted to appoint an EFM. In an April 14 interview with WJBK Fox 2 Detroit Gov. Snyder noted that the legislation requires that an early warning system be set up before an EFM can be appointed. In the interview, Snyder emphasized, "I don't want to see an EFM happen." The governor said he wants to work with local officials to avoid appointing an EFM.

Michigan enacted its original Emergency Financial Managers Act in 1990 and previous governors appointed managers eight times to address the financial problems of local governments. Unfortunately, little was achieved by the prior law.

Under the old law, emergency financial managers were hampered because they could be sued by government employees angered by budget cuts. Recognizing that an emergency manager's job may require painful changes,

the new law protects EFMs from personal liability, offering individuals protections typically afforded to the state. The government mitigates risk by buying insurance for a manager. In the past, a manager would have to pay out-of-pocket legal expenses. Under the new law EFMs can be represented by the attorney general and legal costs are paid by local government.

### **Fiscal Reform—Even in Detroit**

The city of Detroit provides a good example of why Michigan needs EFMs. The city is awash in red ink. Having lost a quarter of its tax base in ten years, the city can no longer afford to provide the same level of services to a severely decreased population. But making sensible and necessary cuts to the city budget and workforce is not easy, especially when government employee unions erect every imaginable roadblock to workforce reductions.

The bills signed by Gov. Snyder amend the Emergency Managers Act so that local elected officials in Detroit and elsewhere can now cut city jobs and budgets, putting city finances on par with the taxes available from a decreased population- if they are given the power. They give hope to administrators whose hands are otherwise tied by collective bargaining agreements.

In April, Detroit Mayor David Bing, a Democrat, warned that his city had a \$200 million deficit that could swell to \$1.2 bil-

lion by 2015. During a budget presentation, Bing said drastic financial measures were necessary. He proposes to shrink the city's deficit by hiking taxes on casinos and seeking union concessions to cut the cost of city workers' health and pension plans. Bing says he will ask the state to appoint an EFM if 48 public employee unions representing city workers refuse to make contract concessions.

Bing, a 65 year-old former Detroit Pistons NBA great, was elected mayor in 2009 to replace the disgraced Kwame Kilpatrick, who resigned after being charged with perjury and obstruction of justice. (Imprisoned for parole violation, Kilpatrick was subsequently indicted for extortion, bribery and fraud.) Mayor Bing has said he is not afraid to have the state appoint an EFM to oversee city finances. He told a gathering of urban affairs experts that "what [EFMs do] right-sizes a lot of the obstacles you have to deal with on a day-to-day basis." And "With a financial manager on the scene, he or she almost becomes God and can do whatever is necessary to bring financial stability back."

### **An EFM for Detroit Schools**

Large deficits and failing schools make the Detroit Public Schools (DPS) district a prime target for Snyder's reforms. Robert Bobb, who heads DPS, is already an EFM. He was appointed by Gov. Granholm and retained by Gov. Snyder to fix a \$327 mil-

lion school deficit. During the week that Mayor Bing was announcing his budget, Bobb was handing out layoff notices to every one of DPS's 5,466 salaried employees, including all of its teachers and 250 administrators. Not all the layoffs will be permanent, but Bobb's action, announced on April 14, is a first step to decreasing the school workforce, forcing it to adapt to lower student enrollment and education reforms.

DPS schools comprise half of the 92 lowest achieving schools identified by the Michigan Department of Education. According to MDE the schools were "identified using the federally-prescribed and federally-approved formula used for the federal School Improvement Grant. That formula considers student proficiency levels, academic improvement rates; whether a school made Adequate Yearly Progress; and whether a secondary school had a graduation rate below 60 percent."

DPS not only faces a \$327 million shortfall, but it has to deal with union contracts mandating that the city must fire teachers by seniority. New teachers, no matter how excellent, must be let go before more senior teachers, no matter how underperforming. However, with an EFM in charge, Detroit Public Schools can overrule such provisions. Because of the measures passed in March, Bobb could "void union contracts, side-line school board members, close schools and authorize charter schools," according to the *Wall Street Journal*.

While the union turmoil in Wisconsin has received far more media attention, organized labor has railed against the Emergency Managers Act. Michigan State AFL-CIO president Mark Gaffney called the law's EFM provision "a takeover by the right wing and it's an assault on democracy like I've never seen." He added, "It takes every decision in a city or school district and puts it in the hands of the manager, from when the streets get plowed to who plows them and how much they are paid." Gaffney noted, "In schools, the manager would decide academics or if you have athletics."

In an MSNBC interview leftist filmmaker Michael Moore called for demonstrations: "Go to Lansing. Tell Gov. Rick Snyder you won't let him kill our unions and take away our right to vote for mayor." One thousand protesters organized by AFSCME, the public employees union, denounced Gov. Snyder when he gave the commencement address to University of Michigan graduates last month. Said ASCME Council 25 secretary-treasurer Larry Roehrig, "We know what needs to be done and we will do it. We are the people!"

What the law's opponents never mention is that local school districts and municipalities largely brought their budget problems on themselves and passed up opportunities to work with the state to fix their finances. They fail to point out that when a local government declares bankruptcy, it could put the state government on the hook for much of

its debt. Finally, detractors are silent about local officials like Detroit's Dave Bing and Robert Bobb, who welcome EFMs because they give Michigan cities, towns and school boards a way to pull themselves out of the red. The Emergency Managers Act helps protect all Michigan taxpayers from paying for the budget deficits incurred by its most profligate local officials and the special interests lobbying them for more public spending.

### **An Energized State Legislature**

Members of the Michigan state legislature are on a roll. They are introducing many other bills meant to reduce public spending and level the playing field for non-union workers attempting to work for state and local governments.

For instance, in February State Rep. Joe Haveman (R-Holland) introduced House Bill 4205. It would end the resort to mandatory binding arbitration in labor disputes between municipal police and fire departments and unions representing police and firefighters. Current law allows an appointed third party to settle contract disputes if police and firefighters agree to give up the right to strike. Rep. Haveman said arbitrators frequently ignore city budget constraints in awarding pay and benefits increases to public employees

Other Michigan state legislators seek the repeal of prevailing wage laws that tilt state

contracts to contractors who are unionized, driving up taxpayer costs. (For more on prevailing wage laws see *Labor Watch*, January 2011.)

Said Rep. Brad Jacobsen (R-Oxford), who introduced House Bills 4224, 4225 and 4226 in February, "Michigan has one of the most restrictive prevailing wage laws in the country...The current law requires the state to pay significantly higher wages than is necessary to complete state contracts. It's time to repeal this law and save our state and our taxpayers from paying too much for our construction projects."

Project labor agreements (PLA) require government agencies to award public construction contracts to unionized firms. Rep. Haveman introduced House Bill 4287 to prohibit PLAs for "state, school and local public construction, road projects, etc., or as a condition of selective tax breaks granted for private projects." Sen. John Moolenaar (R-Midland) introduced companion legislation, Senate Bill 165. He argues that taxpayers will benefit when union and non-union firms have equal access to competitively bid for government construction work.

Union officials vow to fight the repeal of PLAs. Robert C. Anderson, business manager for Journeymen & Apprentices of the Pipefitting and Plumbing Industry United Association Local 85, told the Saginaw News: "It's an attack on construction trades; it's an attack on the middle class."

Those who support repealing prevailing wage laws and PLAs say current law gives union construction firms an unfair advantage and wastes taxpayer dollars. Nationwide only 13 percent of construction workers are unionized. According to the Mackinac Institute's Paul Kersey, increased competition will save the state up to \$250 million a year. Jimmy Greene, president of the nonunion Associated Builders and Contractors Saginaw Valley Chapter, told the Saginaw News that prevailing wages are "not designed for the worker but to maintain the bureaucracy of the union shops."

### **The Left Fights Back**

Criticism of Governor Snyder's plan to cut the state budget deficit by restricting union collective bargaining has been vocal and vitriolic. Union protests at the Capitol in Lansing on March 16 resulted in over a dozen arrests for trespassing and "obstructing a police officer." Several of those arrested were not union members but college students, an indication that labor unions are looking for allies on campus and coordinating their campaign with other special interest groups. In April Rev. Jesse Jackson scheduled meetings to build a coalition in Michigan to combat Gov. Snyder's policies like that in Wisconsin against the policies of Gov. Scott Walker. Jackson urged activists to pay close attention to the city of Benton Harbor, which had a state-appointed EFM in control of its policies. Comparing Michigan to Libya, Jackson said, "We don't like one-man rule,

except in Benton Harbor.” Jackson complained that “the only difference between Michigan and Wisconsin is they’re fighting back. What’s happening here is worse than Wisconsin, but here there is no resistance.” Jackson’s complaint is contradicted by the attacks launched against the governor’s policies and the vulgar personal attacks to which he has been subjected. A video produced by Americans for Prosperity Michigan (AFP Michigan) documents an April 13 union protest in Lansing. The video, titled “Adult Conversations” and edited for Labor Watch, shows signs calling the governor a tyrant, a prostitute, Qaddafi, Hitler, and more. Signs suggest the governor be neutered and say he wants retirees to eat dog food.

Concerning the irrationality of the personal attacks against Gov. Snyder, AFP Michigan State Director Scott Hagerstrom remarks that “union bosses lied to their membership about the sustainability of the current system. The rank and file needs to take their anger out on their leadership not on those advocating for limited government and economic liberty.”

Protests by government unions have added to the strain on municipal services. In support of the April 13 protests, the Detroit News reported that fifty city bus drivers “called in sick ... apparently to attend a mass protest in Lansing against Gov. Snyder’s proposed budget cuts.” The sickout reduced bus services to 78 percent of nor-

mal and caused buses to run 30 minutes late. The Michigan Education Association (MEA) has threatened illegal strikes. In response to the emergency manager’s bill the Detroit News reported that MEA President Iris Salters asked local union officials to prepare for “crisis activities up to and including job actions.” Her letter elaborated: “Let me be clear on what this vote means. It authorizes MEA to engage in significant activities — up to and including a work stoppage.”

Michigan law forbids government employee strikes but provides no significant fines or penalties if government employees stop work. Currently, a teacher involved in a “work stoppage” may be subject to loss of a day’s pay. After time-consuming hearings, fines may be imposed, but on the teacher, not the union. A bill introduced by state Rep. Paul Scott (R-Grand Blanc) would increase these penalties and authorize fines on the union, of \$5,000 per teacher per day if the MEA went on strike. Another bill by Rep. Bill Rogers (R-Brighton) would suspend a striking teacher’s license for two years.

### Conclusion

A teacher work stoppage puts children’s education at risk. A sick out by bus drivers deprives low income Detroit residents of transportation they need. Despite boasting that they fight for those who cannot fight for themselves, Michigan’s public employee unions are willing to harm the most vulnerable in society to get what they want.

The battle in Michigan has not garnered as much attention as the one in Wisconsin, but it is just as important. In 2010 Michigan voters elected Rick Snyder governor and sent Republican majorities to both houses of the legislature. They sent the politicians a clear message: get the state’s fiscal house in order and bring business back. Snyder and the legislators are acting on their orders, and they are taking steps to curtail the overreach of government unions. But it is unlikely that the bills introduced in the legislature and enacted into law will be sufficient to make Michigan attractive once again to private business. Only a state right to work law can succeed in overturning the monopoly power of organized labor.

**LW**

*F. Vincent Vernuccio is Labor Policy Counsel at the Competitive Enterprise Institute and formerly candidate for Congress from the 15th District of Michigan.*

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**Many thanks,**

**Terrence Scanlon  
President**

# LaborNotes

The U.S. economy added 244,000 jobs in April, with the manufacturing, health care, and retail sectors among those seeing robust growth. Especially welcome was news that the public sector actually shed 24,000 jobs. Unfortunately, the national unemployment rate ticked up from 8.8 to 9 percent in the same period, a discrepancy perhaps caused by people re-entering the job market after a hiatus.

On May 2nd, **AFL-CIO** president emeritus **John Sweeney** addressed an adoring crowd at **Catholic University of America** in Washington, D.C. as part of the symposium titled “120th Anniversary of *Rerum Novarum*: Church, Labor and the New Things of the Modern World.” Don’t worry – *Labor Notes* was present at the speech so you wouldn’t have to be. The aged labor legend used the occasion to pillory wicked Wall Street types, dastardly Republican governors like **Scott Walker**, and indeed the public at large for the anti-union wave that has swept the country seemingly so suddenly. Sweeney also took pains to note that the Church has recently been a less reliable ally to organized labor than in the past. Overall, it was rather grim and glum speech from a man who seems to understand that the times when labor was an unprecedented force in American politics and society are slipping away, perhaps never to return.

No wonder Sweeney and other labor leaders are despondent: The legislature of even deep-blue Massachusetts has recently voted to restrict the collective bargaining power of public employee unions. As the *New York Times* summarizes, the new Massachusetts bill, “...would let local officials unilaterally set health insurance co-payments and deductibles for their employees after a monthlong discussion period with unions,” saving cash-strapped municipalities an estimated \$100 million in the coming fiscal year. “It’s hard for me to understand how my good friends in the Massachusetts House, that have told me they support collective bargaining, could do this,” lamented **Robert J. Haynes**, president of the Massachusetts AFL-CIO.

More drama in the **National Football League** (NFL) labor dispute between team owners and players: On May 9th, owners asked the U.S. Court of Appeals in St. Louis to reverse U.S. District Judge **Susan Richard Nelson**’s April 25th decision to end the lockout of the players. The owners claim that Judge Nelson had no jurisdiction to end the lockout, and that the matter should be handled by the **National Labor Relations Board** (NLRB). Under a lockout, the players cannot practice, be paid, or be signed or traded. Owners and players are at loggerheads over how to divide up the nearly \$9 billion in annual NFL revenue and the length of the playing season, among other issues. With both sides dug in, prospects for a full 2011-2012 football season look about as likely as a *Starsky & Hutch* reunion.

On April 11th, **Landmark Legal Foundation** filed a complaint with the **Internal Revenue Service** (IRS) regarding the finances of the **American Federation of State, County, and Municipal Employees** (AFSCME), claiming the union appears to have failed “...to pay federal income tax on millions in general revenue funds spent on political activities.” AFSCME was the largest outside campaign contributor in the 2010 election cycle, spending some \$87.5 million, largely to help elect Democrats. The full Landmark complaint can be read at <http://www.landmarklegal.org/uploads/AFSCME%20Complaint.pdf>.

In an outrageous assault on economic liberty, the National Labor Relations Board has ruled that **Boeing**’s planned \$1 billion 787 assembly plant in South Carolina constitutes an unlawful retaliation against Boeing’s unionized workforce in Washington State. South Carolina Gov. **Nikki Haley** pointed out the ominous implications of the NLRB’s overreach in an address to the **U.S. Chamber of Commerce**. “While Boeing may be the first company, you know, I don’t think this will be the last company,” to be told where and when they may or may not set up shop, Haley noted. Indeed, we are after all talking about an administration which thinks it’s constitutional to mandate private citizens to purchase health insurance, and punish them if they don’t. Say this for the Obama crew – they are thoroughly and disastrously consistent.