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Labor Watch

The Anti-Chao:
Hilda Solis Goes to Bat for Big Labor

By W. James Antle III

Summary: *When Elaine Chao took over the Labor Department in 2001, her team was told not to badmouth their predecessors. However, as American Spectator Associate Editor W. James Antle III discovered, new Labor Secretary Hilda Solis's team has operated under no such restraints. They are determined to undermine the significant labor reforms of the Bush years and to to so with all deliberate haste. Here we give readers at a look at what is going on in President Barack Obama's Labor Department, including the reforms that are being rescinded and the cast of characters determined to set labor policy back to the Clinton Era.*

Left to right: President Obama's Labor Secretary Hilda Solis, President Bush's Labor Secretary Elaine Chao

Call it a tale of two labor secretaries: one a committed conservative who spent eight years assembling a reform-minded team and trying to change the way the Department of Labor did business; the other a staunch liberal who, having has spent her entire political career serving labor unions, wants to go back to business as usual.

Elaine Chao, secretary of labor under President George W. Bush, made the Frances Perkins Building an unlikely home for people who valued market-based competition and weren't afraid to ruffle union feathers. Her successor, Labor Secretary Hilda Solis, is the anti-Chao -- in some cases, quite literally.

Before President Barack Obama tapped her to run the Department of Labor, Solis sat on the board of directors for the union advocacy group American Rights at Work, which operated the "Shame on Elaine" website. According to the website, "Under Elaine's questionable 'leadership' the Department of Labor has turned into an agency that screws America's workers and enables corporate giveaways."

Chao, as business reporter Whitney Blake once put it in the Weekly Standard, "saw herself as an ambassador for working people, not just unionized workers." Chao specifically eliminated the AFL-CIO's role as a filter for labor concerns in favor of any "open door policy" toward any union that wanted to discuss an issue with the department. Solis, grumbles one former high-ranking official in the Bush Labor Department, "thinks she's running the Department of Organized Labor."

Union Enthusiasm

Lest that seem like sour grapes from the previous administration, consider what the president and the labor secretary themselves have to say about the department's relationship with labor unions. When Solis accepted President Obama's nomination, she explicitly promised to bolster unions: "As secretary of labor, I'll work to strengthen

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our unions and support every American in our workforce."

President Obama emphasized that Solis was to be the anti-Chao. "For the past eight years, the Department of Labor has not lived up to its role either as an advocate for hardworking families or as an arbiter of fairness in relations between labor and management," Obama claimed as he announced Solis' nomination. "That will change when Hilda Solis is secretary of labor. Under her leadership, I am confident that the Department of Labor will once again stand up for working families."

Organized labor was, as described by at least one union leader, equally "thrilled" by the Solis nomination. "Hilda Solis is an outstanding choice," Retail, Wholesale and Department Store Union President Stuart Applebaum said in a statement late last year. "She has demonstrated a life-long commitment to working people and, like President-elect Obama himself, knows first-hand how unions can lift poverty wage workers into the middle class."

"We're confident that she will return to the Labor Department one of its core missions -- to defend workers' basic rights in our nation's workplaces," said AFL-CIO President John Sweeney, implying that this "core mission" went unperformed under Chao. "The daughter of two immigrant workers and union members... she will be a secretary of labor working men and women can finally count on to stand up and fight for them," echoed Andy Stern, president of the Service Employees International Union.

Enforcement Freeze

It is perhaps not surprising then that the very first Chao-era Labor Department reforms that Solis is trying to roll back concerns oversight of the labor unions. Under Chao, care was taken to provide more adequate funding and staff for the Office of Labor Management Standards (OLMS), the main body in the federal government that regulates union activity the way many other offices regulate business. Between 2001 and 2008, OLMS increased its audits of unions by more than 200 percent, from 238 to 791. In the process, they uncovered a lot of union fraud: over the same time period, OLMS won 1,004 indictments and 929 convictions of corrupt union officials.

Rank-and-file union members benefited handsomely, however. By auditing the unions, investigating irregularities, and pursuing court cases when illegal activity was uncovered, OLMS helped dues-paying union workers recover $93 million. Labor leaders nevertheless described such scrutiny as "anti-union," which is why OLMS is likely to play a smaller role in a Solis-run Labor Department.

"On day one there was the standard memo to freeze every regulation that hadn't gone into effect," says Nathan Paul Mehrens, a former Labor Department official who was involved in the regulatory process. "Most of them were on the union front. These were not midnight regs by any means." The Obama administration moved quickly to block changes to the L-M2 union disclosure form.

Under Chao, the Labor Department revised the LM-2 disclosure forms to require unions with annual receipts of $250,000 or more -- about 20 percent of national labor organizations -- to itemize all spending over $5,000. The reports were made available online at a Labor Department website, so that surfing union members could see how their dues were being spent. Labor unions didn't like the revisions, saying that it would be too costly and too burdensome to comply. Some union leaders protested that compliance costs could exceed $1 billion.

But the disclosure requirements were hardly onerous. Unions must file their reports annually, not quarterly, and can use free software to do so if they like. They don't have to get an independent certified audit or even follow standard accounting procedures. By 2007, over 90 percent of unions were meeting their disclosure requirements under the Landrum-Griffin Act of 1959. The AFL-CIO, the largest of the national labor organizations, spent just $54,000 to bring themselves into compliance.

The last LM-2 revision by the Bush administration required union officials to account for all of their compensation benefits, not just their salaries. This information did not previously have to be disclosed. Despite the Obama administration's oft-stated commitment to "transparency," Solis's Labor Department is trying to go back to the days when compensation benefits did not have to be reported. A federal register notice has already been published signaling that the department wants to formally repeal this Bush-era regulation.

The Disclosure Difference

What difference does it make whether this information is disclosed? In May, the Washington Times reported that the president of a small maritime workers union received over $1.2 million in compensation in 2008, much of which he ultimately had to return. Richard J. Hughes Jr. of the International Longshoreman's Association -- which has been beset by declining membership and a federal racketeering lawsuit -- was paid $739,729 from the union's "retirement equalization plan." This was on top of the $494,635 he earned in salary and expenses last year, which according to the *Times* already qualified him as one of the top two dozen best-paid union officials outside of professional sports.

Hughes returned the $739,729 after reporters scrutinizing his union's federal disclosure forms questioned him about the figure. When he saw the payment and matched it against the finances of the union, he turned it back in," union spokesman Jim McNamara told the Times. "He was entitled to it, but he made a decision to turn it back in."

But outside labor analysts told the newspa-

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per that Hughes' compensation sounded unusual. "I'd be concerned if I were a member, because the president is making a straight salary of almost a half-million dollars," said Gary Chaison, professor of industrial relations at Clark University in Massachusetts. "That compensation seems very high."

"In all likelihood, he over-reported," says Mehrens. "He probably thought the new regulation was already in effect." Now because Solis and the Labor Department are not letting the new regulation take effect, no one may ever know about similar cases. Union officers like Hughes will be able to get by disclosing their salaries rather than the full value of their benefits packages, even though that may only tell union members a fraction of what their leaders are actually being paid.

"The AFL-CIO has a project called 'pay watch' where they monitor what people are being paid in the business community," says Don Todd, the former deputy assistant secretary in OLMS who is now a research director at Americans for Limited Government. "But don't disclose theirs! They don't want their members to know what they are getting paid and they want the regulations to make sure they can keep it that way."

That's not the only area where Solis is standing in the way of union transparency. "One of the things we tried to solve was the delinquency problem, allowing them to file a simplified form," Todd recalls. "If you didn't file, we would call you. If you still didn't file, we'd call you again." To give unions an added incentive to file their federal reports on time, OLMS began to require unions that were delinquent in filing simplified forms to file the more detailed LM-2 instead. "The Obama administration is rolling that back," says Todd.

The Bush administration also revised the LM-30 disclosure form to see when a worker's compensation was being paid into union coffers rather than an individual employee's account, or when people were paid to do union work on employer time. "We were looking for no-show jobs, where they pay somebody, usually relatives of union officials," says Todd. "They'll call them shop stewards, they'll pay them a salary and they'll never show up. We'll see unions threaten a strike to extort a company into putting these no-show jobs on the books."

But the Obama-Solis Labor Department won't require compliance with the revised LM-30 form, even though the Bush-era regulation has not yet been rescinded. Until it is repealed, the department will allow unions to file the pre-Bush or post-Bush forms, with predictable results. "It's a deterrent," says Todd. "If you are going to report it, you are not going to do it. But where there is a problem, non-reporting creates another violation." Earlier this year, Mehrens told the Washington Examiner, "This means certain information will not be disclosed and this is seriously unhelpful to the public."

Don't Go There

Former Bush-Chao Labor officials say that the refusal to monitor unions is also seriously unhelpful to one of the department's key constituencies: union members themselves. One recounts "talking to a UAW [United Auto Workers] dissident about millions going into a training fund, with the Big Three donating. But it doesn't make any difference who you go to whether you go to your shop steward or your shop foreman and ask what's going on with the money in this training fund: They'll tell you the same thing: 'Don't go there.'"

The point of the disclosure requirement is to let union workers see how their dues money is being spent and keep people from stealing from the unions. The Bush administration also sought to identify who was buying and selling union assets. Regulations required disclosure of cost and current book value in these transactions, but not the names of the parties. This enabled union officers to sell their union's assets at above-market rates for their benefit and also "to sell assets to their brother-in-law at below-market rates" with little outside scrutiny.

Although Bush-era OLMS investigations uncovered embezzlement and other crimes by union leaders against their members, organized labor fought new regulations every step of the way. They secured reductions in funding for OLMS once the Democrats took control of Congress -- as early as 2007, the agency's budget was cut from $47.8 million to $45.7 million, with then-Rep. Solis voting against a Republican amendment to restore the funding -- and battled in the courts. "They fought us for seven years, waiting for the cavalry to come," Todd quips. "Well, the cavalry has arrived." And it is being led by Hilda Solis.

Elaine Chao's admirers argue that her personnel decisions contributed to her effectiveness. "She has a great team of about 30 people who support the president and believe in what they're trying to accomplish," Heritage Foundation President Edwin J. Feulner said in a 2007 interview with the American Spectator. "Personnel make a difference in policy."

Chao's former deputy, Steven Law, said much the same thing at the time. "She was careful to pick people with enthusiasm for their subject matter," said Law. "Senior political appointees had passion, shared the philosophy of the president and the secretary, and were committed to staying around long enough to carry out the mission."

Starting Labor Lineup

Personnel is also likely to help determine policy content in the Obama administration. Looking at key nominees and appointees, it is similarly clear that the Labor Department will be staffed with people who share the philosophy of the current president and Secretary Solis. The result will be very different policies than the ones pursued by Chao's team.

Let's start at the very top. Chao was a veteran of the Heritage Foundation and the Reagan White House and is married to Senate Republican Leader Mitch McConnell. Hilda Solis' background is very different. She was first elected to Congress in 2000 by defeating an incumbent California Democrat who was deemed too conservative for his district. Solis credited organized labor with helping her win the election. "I wouldn't be here, were it not for my friends in the labor movement," she crowed in her victory speech.

The labor movement offered Solis more than friendship. According to the Center for Responsive Politics, she received $903,550 in financial contributions from unions -- more than she received from any other sector. To break it down, that includes $264,300 from building trade unions, $180,500 from industrial unions, $162,550 from public sector unions, and $153,500 from transportation unions. Unions also supplied the volunteers who staffed Solis' office, knocked on doors, and got out the vote on her behalf in the primary campaign that launched her congressional career.

During Solis's time in Congress, she voted with the AFL-CIO 97 percent of the time (she earned a 100 percent rating in 2007). Solis also earned a 100 percent rating from the American Federation of State, County and Municipal Employees (AFSCME) and a 100 percent from the Service Employees International Union (SEIU). Solis was also a co-sponsor and leading advocate for the Employee Free Choice Act (EFCA), which would effectively end secret ballot elections for union organizing in favor of "card check." So when she says she plans to use her tenure as secretary of labor to strengthen unions, there are good reasons to believe her.

Seth Harris serves as Solis's deputy secretary. While he lacks the paper trail of a congressional voting record, he too is a reliable friend of organized labor. Harris served on Bill Clinton's transition team in 1992 and became counselor to the secretary of labor. He stayed seven years at the Labor Department, advising both Robert Reich and Alexis Herman. Although he left the Clinton administration to join the faculty of New York Law School, he remained active in labor policy debates. He was an advocate for increasing the minimum wage for restaurant workers and in 2003 attacked the Bush administration's new labor regulations in an op-ed piece for the *Los Angeles Times*.

"[I]nstead of rewarding hard work, President Bush and the Republican congressional leadership are taking steps that would only compound workers' economic insecurity," Harris wrote. His description of the Bush years was dire: "More than 2.5 million jobs have disappeared since President Bush took office. Most workers' real wages have stagnated or declined. Families' retirement savings have shrunk with the stock market indexes. Deflation lurks."

Harris joined the Obama campaign, advising the future president on labor issues. Union-friendly liberals celebrated the news that he was to become Solis's right-hand man. "Seth Harris's nomination demonstrates President Obama's will to return labor department policy back to the working people it was designed to serve," Rep. Bill Pascrell (D-N.J.) said in a statement. The work of the anti-Chao's continued.

T. Michael Kerr, the Labor Department's top administrator as assistant secretary for administration and management, came directly from organized labor. Kerr served as assistant to the secretary-treasurer of the Change to Win Coalition, an umbrella organization that coordinated union support for the Obama campaign in 2008. Kerr oversaw finance and administration at the Service Employees International Union (SEIU). He was previously a political and legislative aide to the American Federation of State, County and Municipal Employees (AFSCME). Kerr also served in the Clinton Labor Department under both Reich and Herman.

Mary Beth Maxwell serves as a senior adviser to the Labor Department, a position that does not require Senate confirmation. Maxwell is the founding director of the pro-union, anti-Chao American Rights at Work. She was previously the national field director for labor organization Jobs with Justice, where she has been credited with quadrupling the number of local affiliates. Maxwell's liberal advocacy is not limited to labor issues. She has also served as deputy national field director for NARAL Pro-Choice America.

Maxwell was on Obama's short list to become secretary of labor. The *Wall Street Journal* reported that she had the backing of David Bonior, a former member of the Democratic congressional leadership who is now active in organized labor circles, as well as some leaders from both the AFL-CIO and the SEIU-led Change to Win.

Deborah Greenfield is Solis's director of the executive secretariat, which handles all incoming controlled correspondence with the secretary. She came to the Labor Department from the AFL-CIO, where she was deputy general counsel. In that capacity, Greenfield was involved in the labor federation's lawsuit to block the Bush administration's revised LM-30 disclosure requirements. She was reportedly a voice for diluting these requirements while serving on the Obama transition team. "At least as much as Secretary Solis' extensive union support during her years as a Southern California congresswoman," wrote Carl Horowitz of the National Legal and Policy Center, "Greenfield's presence in the department speaks volumes about its priorities."

Coming Soon

That's just the team that Obama and Solis already have in place. Additional Labor Department nominees who have yet to be confirmed could further empower unions and other politically congenial groups. **M. Patricia "Trisha" Smith** has been nominated for solicitor of labor; **Lorlei Boylan** is the nominee for administrator of the Wage and Hour Division.

If confirmed, Smith would hold the third-ranking position in the Labor Department with a decisive say on all legal matters. Boylan would have broad enforcement powers.

Both women come from the New York State Department of Labor, where Smith is commissioner and Boylan director of strategic enforcement. On May 7, Smith told the Senate Committee on Health, Education, Labor, and Pensions that she favored "proactive enforcement balanced with compliance assistance" when it comes to labor law. But the record she and Boylan have compiled in New York suggests that this is a gross understatement.

Smith conceived and Boylan runs a controversial enforcement program called "Wage Watch." This initiative essentially deputizes private entities to do enforcement work by entering into "formal partnerships" throughout the state and reporting wage and hours violations. "We are enforcing the law

Is time running out on Elaine Chao's reforms?

as creatively and aggressively as we can," said a press release announcing the launch of Wage Watch, but the government cannot do it alone."

Consequently, Smith and Boylan have brought in members of unions and union-connected community activists groups like the Association of Community Organizations for Reform Now (ACORN) to enforce the law. The possibility that these quasi-enforcement powers could be abused to pressure non-union businesses to unionize -- a former Labor Department official says, "The one that is a unionizing target could get a lot of notice, the one next door that isn't a union target could be having all kinds of wage and hours violation and they don't get noticed," -- is as obvious as the potential for vigilantism.

The New York Post editorialized, "One needn't have lived in New York very long to understand where that presently will lead: kangaroo-court proceedings against companies that refuse to buckle under to activist pressure." The Post continued, "No reasonable person objects to state efforts to fairly, fully enforce the law. But empowering interest groups between the state and the citizen can quickly distort the law's purpose. After all, the organizations the Labor Department has teamed up with are hardly disinterested parties."

In the positions for which they have been nominated, Smith and Boylan would have the ability to replicate Wage Watch's dubious practices nationwide.

Who Is John Lund?

The final blow against the Bush-Chao union transparency reforms may come from **John Lund**, the new deputy assistant secretary overseeing OLMS. As a professor at the University of Wisconsin's School for Workers, he was a consistent source for arguments that the new financial disclosure regulations were too burdensome for unions. His academic work and filings on behalf of the AFL-CIO indicate that he opposed the L-M2 revisions.

Lund also argued that union workers will get a better picture of their labor organizations' finances from aggregated information rather than itemized data. That could mean a return to the days when thousands of dollars in expenditures could be reported on a disclosure form and then lumped together as "grants," without any elaboration. Sources close to the 2003 transparency reforms believe Lund's appointment is a sign that the Obama administration is seriously considering the AFL-CIO's recommendation of a top-down review of those regulations -- endangering the L-M2 revisions entirely.

Under Solis, the Labor Department is not just committed to radically different policies than those pursued by the previous administration. Top Labor officials seem interested in actively discrediting their predecessors wherever possible. For example, a "Report on the First 100 Days" posted on the department's website condemns "the rush of rules out the door at the end of the previous Administration," says Bush-era union financial reporting requirements were "not only overly burdensome but ineffectual," and boasts of "undoing past actions by the Bush Administration."

"We had explicit instructions not to blame anything on the previous administration," Don Todd says of the Bush Labor Department's posture toward the Clinton administration. "They haven't done anything but that."

Elaine Chao was the longest-serving labor secretary since World War II, second only to Frances Perkins. Hilda Solis is working overtime to make sure that Chao's policy impact is the shortest-lived.

Hilda Solis's team is working overtime to make that a reality.

W. James Antle III is associate editor of the American Spectator and a frequent contributor to Labor Watch.

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Many thanks,

Terrence Scanlon
President

LaborNotes

On July 7, after months of legal challenges over a close, disputed, and likely vote fraud-riddled election, former funnyman **Al Franken** was sworn in as the junior senator from Minnesota. That brings the count of Democratic senators up to 60, the threshold needed to end a filibuster and force a vote on controversial bills. Does that mean Democrats can now force through the Employee Free Choice Act (EFCA) and other priorities of union bosses?

It's likely to be a close run thing. Iowa Senator Tom Harkin, the chief negotiator for the bill, reportedly believes that new EFCA co-sponsor Franken is what he needs to move it forward. Others aren't so sure. If Republicans hold together, it will only take one Democratic vote to sustain a filibuster. Before he switched parties from Republican to Democrat, Pennsylvania Senator Arlen Specter, a previous EFCA cosponsor, came out against the bill. If Specter flips on the issue, there are plenty of other possible Democratic spoilers, including **Ben Nelson**, **Blanche Lincoln**, **Michael Bennett**, **Mary Landrieu**, and **Dianne Feinstein**.

The **New York Times Magazine** ran an 8,000-plus word piece on July 1 about the problems of California and… left something out. **Chris Reed**, an editorial writer for the **San Diego Union-Tribune**, wrote on that paper's website that the Times piece "never mentions…the power of public employees unions in Sacramento…and how they are unrelenting forces for ever-higher spending and against reform of government fraud, education, prisons, you name it. There is a reference to same-sex unions. There is a reference to **Gavin Newsom** dealing with the **SEIU** in San Francisco. But the CTA? The prison guards union? **AFSCME**? The SEIU's lobbying in Sacramento? All unmentioned." Bottom line: "Even by the rotten standards of the East Coast media, the New York Times has hit a new low."

How bad is the job market right now? Pretty bad, and a fast recovery is looking more and more like a pipe dream. In the latest Heritage Employment Report, **Rea Hederman** and **James Sherk** found that "While the unemployment rate showed only a slight increase, the number of lost jobs [in June] was higher than in May" and that the U.S. is within striking distance of 10 percent unemployment. "The employment situation," they wrote, "remains grim," which only "underscores how cautious economic analysts need to be in predicting the imminent end of this recession."

Last August, workers at **Stella D'Oro**, a cookie and biscuit manufacturer in the Bronx, walked off the job to protest their employer's demand of "givebacks" that amounted to 20 percent of their salaries. During the strike, they got by on $100 a week and unemployment benefits. After 11 months of heated negotiations, Brynwood Partners, the company that owns the factory, was ordered by an administrative law judge to reinstate the workers with two-months back pay. It was a victory but probably a pyrrhic one. The owner announced that the factory will close in 90 days, reported the **New York Daily News**.

But laid-off workers can always count on help from job retraining programs, right? According to the **New York Times**, "a little-noticed study the **Labor Department** released several months ago found that the benefits of the biggest federal job training program [the WIA Dislocated Worker Program] were 'small or nonexistent' for laid-off workers."