

## Election 2014: Labor Unions Routed (Mostly)

*...but not everywhere, as unions see some glimmers of hope for better days*

By John Gizzi

**Summary:** Overall, 2014 was a bad year for unions, at least in terms of political power. They lost most of their highest-priority races, including gubernatorial races in Wisconsin and Michigan and the U.S. Senate race in Kentucky. But not everything went wrong for unions in this year's elections, with key victories in Pennsylvania, Colorado, Connecticut, and in referenda on the "minimum wage."

Voters nationwide gave Republicans an across-the-board boost in the mid-term elections in November. Pundits and politicians have concluded that it was also one of the most disastrous routs in memory for one of the Democratic Party's most reliable allies: organized labor.

Republicans captured the U.S. Senate with their largest majority in two decades—54 seats, to 46 for Democrats (counting two independents who caucus with Democrats). In the U.S. House of Representatives, Republicans now hold the most seats since 1928 (247, to 188 for Democrats). As a result, the ranks of union allies in Congress have been sorely diminished.

To put the House of Representatives election in perspective, keep in mind that Democrats held 292 seats after the 1976 election. Since then, they have lost almost 36 percent of their seats. In addition, labor-backed Democrats lost races for governor in such historically union-friendly states as Illinois, Maryland, Massachusetts, Michigan, and Ohio. These defeats for organized labor for governorships were coupled with setbacks at the state legislative level that are unprecedented in modern times.

In Massachusetts, Republican Charlie Baker won the governorship over Democratic nominee and State Attorney General Martha



From the victories of Susana Martinez (New Mexico) and Mia Love (Utah), to Bill Cassidy (Louisiana) and Tim Scott (South Carolina), to Scott Walker (Wisconsin)—unions' bad year.

Coakley. But their contest took a back seat to an initiative on the fall ballot that would block the Bay State's recent three-cents-per-gallon gasoline tax increase from rising higher without a vote from legislators. Buried within the language of the \$500 million tax package enacted by the legislature was language saying the gas tax would be linked to inflation—meaning the gas tax could simply rise with inflation without further vote of the legislature. Baker eagerly embraced the initiative, while Coakley tried to keep it off the ballot.

Unions were firmly in Coakley's camp and backed the "no" forces on the initiative: The Building Trades Union sent \$5,000, the Iron Workers \$50,000, the AFL-CIO \$6,000. "And that doesn't reflect what unions spent independently to defeat us," veteran GOP consultant Holly Robichaud, the premier force behind the gas tax initiative, told us. "Overall they spent \$2.7 million and we spent about \$91,000. We won with 53% of the vote and Charlie Baker won with 51%."

In Maine, Republican Gov. Paul LePage was a leading target of organized labor. "Unsurprisingly," reported Steve Robinson of Maine Wire, Democratic opponent and Rep. Michael Michaud "has received strong financial support from labor unions, the teachers' union, the state workers' union and other typical Democratic donors."

By the beginning of 2014, Michaud had raised more than \$1 million and was far ahead of the governor in fund-raising. In November, LePage narrowly won in a three-candidate race.

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Perhaps the most embarrassing result for unions was in Maryland, where Democratic Lieutenant Governor Anthony Brown appeared a shoo-in for governor in a state which has only elected Republican governors twice in the last half-century. In late October, as Republican businessman Larry Hogan's anti-tax and pro-small business began resonating, America's Families First, a union-backed political action committee, began launching anti-Hogan salvos on television. Two years earlier, the same PAC had spent \$6 million nationwide attacking Republicans and \$400,000 against Maryland's GOP Rep. Andy Harris. An increasingly nervous Brown signed a \$500,000 loan from the Laborer's International Union and agreed to repay it by Election Day. He lost to Hogan by a margin of 53% to 47%, and it was reported two weeks after the election that he hadn't yet made a single payment on that loan.

State legislative chambers now stand at 68 controlled by Republicans, 30 by Democrats, and one unicameral legislature that's officially nonpartisan (but unofficially, mainly Republican). "When it comes to races for the state legislatures that held partisan elections, the Republican Party exceeded all expectations on Tuesday night," according to Tim Storey, legislative elections expert for the non-partisan National Council of State Legislatures. "Democrats are at their lowest point at the state legislative level in more than 150 years."

In terms of policy, the outlook for labor unions and their agenda in the U.S. Capitol and state capitols is, to say the least, bleak. Such items cherished and long pursued by

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organized labor as an increase in the federal minimum wage and "card check"—the controversial technique that permits unionization without secret ballot elections—are considered out of the question in the 114th Congress. And the vastly-enhanced Republican muscle at the state level portends more legislation that unions have found threatening in the past and have worked hard to thwart.

For examples of what Republicans can do when they have "the trifecta" (the governorship and control of the state House and Senate, an arrangement that now exists in 23 states) recall how Michigan's Gov. Rick Snyder signed the historic state right-to-work law of 2012, or the way Wisconsin's Gov. Scott Walker reformed the pension and healthcare plans of many state employees. Walker's reforms led to the much-watched attempt to recall him in 2012. That effort failed, but Walker's re-election in 2014 did not.

Still, no observer of U.S. politics should conclude that 2014 marks the beginning of the end of organized labor as a political force. For all the losses unions experienced in races for office, labor bosses nonetheless demonstrated that they still have the resources and manpower to be a force in future elections. The best example of union's power is the triumph of ballot initiatives to raise the "minimum wage" in five states. Similarly, the heavy lifting that union groups like the AFL-CIO did in the Senate helped secure passage of the "comprehensive immigration reform" legislation that President Obama then called on the House to pass until he took action with his executive orders in November.

More than a few on the Republican side fear that, if Obama's executive action remains on the books, the path is paved for five million illegal aliens to become U.S. citizens and voters. Obviously aware of this, the AFL-CIO became involved in a very big way with the cause of legitimizing the presence of those who are in the U.S. illegally. This largest union group put a strong emphasis in organizing supporters in states where the political climate is not normally simpatico to unions—Texas, notably. Such an unusual emphasis signaled that AFL-CIO president Rich Trumka and his allies are thinking in the long term, to elections years beyond 2014.

## Taking a beating at the polls

Days after the November elections, American Federation of Teachers president Randi Weingarten told reporters her union spent over \$20 million on behalf of candidates favorable to their agenda. The other major teachers' union, the National Education Association (NEA), spent over \$60 million for that purpose during this two-year cycle.

The AFL-CIO and its most powerful member-unions were involved in varying degrees in all of the major contested U.S. Senate races. The only true victory in a competitive contest for which they could claim any credit was in Michigan, where Rep. Gary Peters, a reliable labor ally, handily won the seat of retiring Democratic Sen. Carl Levin. (Peters, the lone Democrat among 14 new senators elected in 2014, comes from a state that has a strong union population and has not sent a Republican to the Senate since 1994.)

Examples of unions' political weaknesses are the two Senate races in West Virginia. Secretary of State Natalie Tennant, Democratic nominee for the seat of retiring Sen. Jay Rockefeller (D.-W.Va.), had the strong backing of the AFL-CIO and the United Mine Workers of America, by far the biggest union in the Mountaineer State.

In announcing the unanimous endorsement of Tennant by UMWA's National Council of COMPAC (its political action committee), UMWA International President Cecil Robertson declared, "Natalie has been a strong supporter of active and retired UMWA members throughout her entire career, and was an especially strong supporter of our members and their families during last year's battle to preserve jobs, pensions, and retiree health care when Patriot Coal declared bankruptcy."

Tennant lost by a 3-to-2 margin to Rep. Shelly Moore Capito, who became West Virginia's first Republican senator since 1958. Republicans and many political pundits attribute Capito's historic, landslide victory in part to union members who crossed over to her as a sign of protest against the Obama Administration's new regulations on carbon dioxide and other carbon emissions, which treat CO2 as "carbon pollution." Capito and her supporters denounced the measure as a "war on coal." Tennant "also denounced the

carbon emissions plan, but folks here saw her as someone identified with Obama and that they would send Shelly to send Obama a message,” said Lynn Staton, Berkley County (W.Va.) GOP chairman.

An even more dramatic loss for unions last year occurred in Kentucky, where Senate Republican Leader Mitch McConnell (R-Ky.) was re-elected with 55 per cent of the vote. The AFL-CIO’s “superPAC,” Workers’ Voice, spent roughly \$1.08 million trying to defeat McConnell, considered a sworn enemy of the unions for several reasons. The five-term senator is a down-the-line supporter of Right to Work laws (which are currently allowed on a state-by-state basis) and has introduced legislation that would extend Right to Work nationwide. McConnell is also married to former Secretary of Labor Elaine Chao. During her eight years in President George W. Bush’s Cabinet, unions viewed Chao as hostile to their agenda.

McConnell’s re-election over well-heeled union opposition carried with it a dual legacy that could be disastrous for labor leaders: fueling the movement to make the Bluegrass State the 25th in the nation to adopt a state Right to Work law. With union membership rolls dropping by tens of thousands over the last four years after Indiana and Michigan became RTW states, adoption of such a law in Kentucky (which has about 194,000 union members) could deal a serious blow to what *Politico*’s Mike Elk dubbed “a rare pro-union outpost in the anti-union South.”

“Republicans hold a majority in the Kentucky state Senate; the Kentucky House is controlled by Democrats, 54-46,” Elk reported days before the voting, “Should the Kentucky House go Republican, state Senate Majority Leader Damon Thayer has already said that his first priority will be to pass a Right to Work bill.”

The House did not go Republican and in fact maintained the same 54-46-seat Democratic advantage it had before the election. Democratic Gov. Steve Brashear is a Right to Work foe and would veto any RTW legislature, but, in Kentucky, a simple majority in the legislature is sufficient to override a gubernatorial veto. Therefore, RTW could become law in the state, possibly sparking RTW moves in other states.

### **If you ever hear of a movement forming to stop X, put your money on X**

For all of his status as a target of unions, Sen. McConnell was not Public Enemy Number One—or even Public Enemy Number Two—for organized labor. In 2014, those positions belonged to two other politicians.

During a Washington, D.C. breakfast hosted by the *Christian Science Monitor* in August 2013, this reporter asked AFL-CIO President Rich Trumka—inarguably the nation’s most powerful figure in organized labor—whether he would continue in the tradition of his legendary predecessor George Meany and use the AFL-CIO’s considerable resources to target and defeat Republican opponents in 2014.

“We are still are going to hold everyone accountable—in both parties,” Trumka replied without hesitation. Asked whether that included Republican Govs. Rick Snyder of Michigan and Scott Walker of Wisconsin—both of whom oversaw enactment of measures strongly opposed by unions—the AFL-CIO chieftain shot back that there will be “heightened focus on the names you mention and several others hostile toward working people.”

There was little doubt that Walker would be Public Enemy Number One for Trumka and his allies in the labor movement in 2014. Two years before, Walker made worldwide headlines when he was forced into a recall election after he oversaw enactment of a measure that required some state government employees to put a small part of their salaries into their retirement and health insurance plans and that ended collective bargaining for government employees.

After tens of millions of dollars were spent on each side, Walker in June 2012 became the first governor in U.S. history to survive a recall election (see *Labor Watch* July 2012).

Walker and allied groups spent about \$58.7 million to \$21.9 million spent on behalf of Democratic opponent Tom Barrett. We Are Wisconsin Political Fund, a corporation funded by national labor unions like the American Federation of State, County, and Municipal Employees (AFSCME), the AFL-CIO, and the NEA, spent \$3.6 million. That includes about \$3 million in the governor’s race and \$576,929 in recalls against four state senators and Lieutenant

Governor Rebecca Clayish, according to figures compiled by the Wisconsin Democracy Campaign watchdog group.

Organized labor took another crack at Walker in 2014 as he sought re-election—and made it clear it had not forgiven him for the reform measures he had shepherded into law. “We have a score to settle with Scott Walker,” the president of AFSCME, Lee Saunders, told the *Washington Post* in September 2014. “He took collective bargaining away from us.”

Eight days after those comments, AFSCME dumped \$1.1 million into the Greater Wisconsin Political Fund, a liberal, tax-exempt outfit based in Madison that was “pummeling Walker with TV ads this year,” Daniel Bice of the *Milwaukee Journal Sentinel* reported.

According to Bice, who cited state records, Greater Wisconsin’s political action committee received just under \$1.3 million from the Wisconsin Education Association Council—the state teachers’ union—in early August. That’s in addition to money from national unions.

Two union front groups, Greater Wisconsin Committee and We Are Wisconsin, spent a total of more than \$3.7 million in Big Labor’s latest attempt to defeat Walker. Among the so-called super PACs (which can receive and spend unlimited amounts of money and can wait until after the election to report their donations), Greater Wisconsin Committee PAC spent \$1,218,468 in the governor’s race and received \$1,298,000 from the Wisconsin Education Association Committee (WEAC). AFSCME generated \$2,370,000 to We Are Wisconsin Political Fund, and WEAC gave \$500,000 during the final reporting period, when We Are Wisconsin spent \$2,517,443 in the governor’s race.

Overall, labor union political outlets paid for a significant portion of the estimated \$8.2 million spent on broadcast commercials by Walker’s Democratic opponent, a Madison, Wisconsin school board member named Mary Burke. Walker countered with \$7.4 million on television salvos. He was re-elected by a margin of 53% to 45%.

“Big Labor put a lot of chips down on defeating Scott Walker, and he survived by a bigger margin than most polls predicted,” said veteran Wisconsin GOP consultant

Scott Becher. “So after the recall and the re-election and all that money that was spent against Gov. Walker, a lot of Republicans around the country think he’s bullet-proof. And that’s why the Walker-for-President talk is growing louder.”

Michigan’s Gov. Snyder also engaged in high-profile battles with labor in a union-strong state. He oversaw the taxing of pensions for retired state employees living in the state and, in what was by far his most controversial move, made union bastion Michigan the 24th Right to Work state.

A day after signing the legislation in December 2012 that made the payment of union dues voluntary, Snyder told this reporter: “It’s exciting. Not only is it about more and better jobs, but it’s also an important philosophical point. It’s pro-worker, giving workers the freedom to choose.” Snyder says he prefers the term “Freedom to Choose” over “Right to Work” to describe the law.

To no one’s surprise, unions throughout Michigan and their national offices in Washington, D.C., declared war on the governor. Campaign finance reports submitted to the Michigan secretary of state show that union contributions to Snyder’s Democratic opponent Mark Schauer exceeded \$630,000. The International Union of Painters and Allied Trades sent \$50,000 from its national headquarters. The International Brotherhood of Electrical Workers sent in \$44,500, the United Federation of Communications Workers gave \$44,300, and AFSCME gave \$34,000. Schauer received maximum contributions of \$68,000 each from the Michigan affiliates of the United Auto Workers and the Communications Workers of America, and \$60,381 from the Michigan Education Association.

It is always nearly impossible to put an exact figure on how much money is spent by a particular union, other type of organization, or individual. As noted, current election law permits super PACs to receive and spend unlimited amounts of money and to report their spending only after the election is over.

Jason Hart of Watchdog.org reported that “union superPACs sank more than \$2.6 million into unseating Snyder. NEA Advocacy Fund spent \$703,747, the Service

Employees International Union Community Alliance spent \$689,270, and the AFL-CIO’s Workers’ Voice spent \$632,459. Michigan For All spent \$644,617 in the governor’s race, fueled by donations of \$300,000 from the SEIU Community Alliance, over \$700,000 from AFSCME, and more than \$400,000 from the NEA Advocacy Fund.

But Snyder emerged triumphant, rolling up a margin of 51% to 47% statewide. In addition, Republicans won every statewide office on the ballot and maintained majorities in both houses of the state legislature.

The ability of the unions in Michigan to turn out voters at the polls fell far short of previous elections. As Dennis Lennox, a longtime conservative operative in the Wolverine State, observed: “Michigan Democrats, long reliant on trade unions for foot soldiers, simply failed to get out the vote and expand the traditional midterm electorate to the levels promised by [Democratic State Chairman] Lon Johnson, who was either drinking Kool-Aid or selling snake oil.”

In both the Michigan and Wisconsin gubernatorial races, the well-funded media salvos fueled by unions focused less on advocating the candidacies of Democrat candidates Schauer and Burke—both of whom were relatively obscure and ran only after better-known candidates abjured the race—and more on attacking the controversial incumbent governors.

Given the outcome, one thinks of Pat Buchanan’s recollection of Richard Nixon’s advice to him about a movement among Republicans to stop Barry Goldwater from becoming their presidential nominee in 1964: “Buchanan, if you ever hear of a movement forming up to ‘Stop X,’ put your money on ‘X.’”

#### **A few things to write home about**

Inarguably, 2014 was a very bad political year for organized labor, but as in all national elections, there are exceptions to the overall trend. For instance, labor unions clearly paid a starring role in the Colorado and Connecticut gubernatorial races, where embattled Democratic incumbents narrowly survived spirited Republican challenges.

In Colorado, Gov. John Hickenlooper won by a margin of 51% to 49% over the Republican, former U.S. Rep. Bob Beauprez. Hickenlooper is an opponent of Right to

Work, and he hailed the increase in the state “minimum wage” (which will now be adjusted annually for inflation and contained in the state constitution), while Beauprez championed Right To Work and, during a televised debate, appeared to question whether there should even be such a minimum.

In a state where the number of union members increased in 2013 to 171,000, compared to 169,000 in 2012 (according to the U.S. Bureau of Labor Statistics), Hickenlooper’s fervent support from organized labor has to be seen as one of the key factors in his nail-biting re-election. Among the prominent unions in the Centennial State are the United Food and Commercial Workers Union Local 7, AFSCME, the American Postal Workers Union, and the United Transportation Union.

Connecticut’s Gov. Dan Malloy, whose approval ratings sunk to record lows after he signed a record \$1.8 billion tax increase, nonetheless managed to eke out re-election over Republican Tom Foley, a millionaire investment banker and former U.S. ambassador to Ireland. Nutmeg State labor unions take credit for the narrow win of friend Malloy, who signed an order in his first term to promote the unionization of state home healthcare and home child-care workers. He also initiated the first state-wide raise in the “minimum wage” to \$10.10 and the first state-wide mandatory paid sick leave law.

“Most significant was the intensive door knocking campaign, which began in the beginning of the year,” crowed the *People’s World*, a Connecticut union publication. “The main focus was on the cities which had to turn out big if Malloy were to be re-elected. Unions took the lead in many suburban towns which vote more heavily Republican.”

*People’s World* reported that, at a pre-Thanksgiving celebration dinner for union campaigners for Malloy at the Operating Engineers Hall in Hamden, Connecticut, awards were given to “unions who met and exceeded their goals for involving members in door knocking, phone banks and work-site leafleting. . . . The top awards were to the Iron Workers who reached ten percent, the Painters who reached 15

percent and the Operating Engineers at 20 percent member involvement.”

Possibly the biggest trophy on the unions’ wall in the 2014 election was that of Pennsylvania’s Republican Gov. Tom Corbett. He became a major target of teachers’ unions after slashing education spending and fighting those unions over the Philadelphia school system. Corbett lost by a margin of 3-to-2 to Democrat Tom Wolf. However, political observers, even critics of Corbett within his own party, point out that the governor had many other obstacles aside from those that irked labor. Throughout his governorship, he was haunted by what many felt was his failure to take proper action as state attorney general when early reports appeared of the cover-up of sexual misconduct by Penn State University’s assistant athletic director Jerry Sandusky. That scandal brought down Penn State’s legendary coach Joe Paterno.

In California’s race for superintendent of public instruction, union-favored incumbent Tom Torlakson edged out Marshall Tuck, past president of a charter schools group, by 52% to 48%. Both were Democrats, but where Torlakson favored more tax dollars for conventional public schools and opposed the use of student test scores to assess teachers, Tuck championed expansion of charter schools and greater accountability for teachers. More than \$30 million was spent on this down-ballot contest, with Torlakson relying heavily on unions and Tuck getting major donations from pro-charter school philanthropists ranging from the heirs to Wal-Mart founder Sam Walton to Laurene Powell Jobs, widow of Apple co-founder Steve Jobs.

Citing as major triumphs the election results from California, Colorado, Connecticut, and Pennsylvania—three of which states are strongly Democratic and friendly to labor—is not exactly evidence of a resurgence in union power at the polls.

If any results in 2014 can truly warm the hearts of union leaders, they are the comfortable passage of increases in the state “minimum wage” in four reliably Republican states: Alaska, Arkansas, Nebraska, and South Dakota. Labor organizers were on the ground early in all four and the victories there mean that beginning in 2015,

a majority of states will have minimums higher than the federal rate.

In the wake of these wins, *Business Week* reported, “labor organizers in Oregon are considering a ballot initiative for 2016 that would raise the state minimum to \$15 an hour, matching the leap taken this year by Seattle and San Francisco.”

### Uncertain future

Assessing the political clout and potential of the modern labor movement, historian David Pietrusza, author of three much-praised books on presidential election years, likened the movement’s performance in the present decade to its performance in the 1940s. “Much as today’s community activists scored spectacularly in 2008 and ’12,” said Pietrusza, “organized labor flexed its muscles in 1944, most spectacularly in the form of CIO leader Sidney Hillman’s newly-formed Political Action Committee (P.A.C.) which poured a then-princely \$1 million (as well as substantial manpower) into races in behalf of the Democratic Party. Hillman’s P.A.C. was widely touted as the most effective national political machine to date.

“But like its progressive heirs in 2014, labor tanked badly in 1946, as the GOP roared back in that year’s midterms on a tide of postwar-discontent, and the simple slogan, ‘Had Enough?’”

Pietrusza ends the analogy there. The Republican-ruled 80th Congress enacted the landmark Taft-Hartley Act over virulent union opposition in 1947, and the proposal had enough backing on the Democratic side of the aisle to override President Truman’s veto. Pietrusza does note, “Don’t look for any Democratic votes to override anything President Obama vetoes that comes from the 114th Congress.”

But as for pro-union legislation coming out of the next Congress, the chances are minimal to nonexistent. In the last Congress, union leaders were unable to have the “comprehensive immigration package” that passed the Senate even come to a vote in the House. The President’s recent executive action to secure some of the goals in the Senate immigration package was supported by labor leaders, but his decision was influenced by factors other than the desires of the unions.

An even more powerful example of diminished union clout involves the Keystone XL Pipeline, which is favored by most Republicans and by many union chieftains. Organized labor was not able to influence President Obama to support the pipeline and, in fact, could never mobilize enough Democratic votes in the Senate last year to bring the pipeline to a vote. (The vote to end the filibuster against Keystone mustered 59 votes, or one short of the 60 required, despite the desperate urgings of labor-backed Louisiana Democratic Sen. Mary Landrieu, who made support for Keystone a key plank in her struggle for re-election. She eventually went down to an ignominious defeat, losing by 12 percentage points in a run-off election.)

The unions helped the Democrats bounce back into the White House and recapture control of Congress in 1948. But that’s when a large chunk of the American workforce was unionized. Today, only 11.3 per cent of American workers (just under 15 million) belong to unions—down from 20 percent in 1984—and about half of union members work for the government.

As they demonstrated in 2014, unions still have the ability to raise major campaign dollars. Union-favored issues such as raising the “minimum wage” resonate with voters, even in states that are historically hostile to unions. The prospect of perhaps five million illegal aliens receiving protection under the President’s executive action heightens the hopes of a repository for future union members.

Unions took it on the chin in 2014, but they maintain a base of power in the private sector and, especially, the government. Will they make a political comeback, as they did the 1940s, or is 2014 an indication that their strength will fade over the long term? As they said at the end of chapters of movie serials back in the ’40s: “To Be Continued.”

*John Gizzi is chief political correspondent and White House correspondent for Newsmax.*

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# LaborNotes

**Westover Winery** in **Castro Valley, California**, had a going-out-of-business sale at the end of the year. The reason: The **California Department of Industrial Relations** had fined the business \$115,000 for following a common practice—using volunteers who help out while they learn about the wine business. The owner told the **Contra Costa Times**: “We’re a small winery, open only 10 hours a week. We really don’t need helpers; we were just educating people about wine.” One supposedly exploited volunteer, a home winemaker who dreamed of opening a winery, said volunteering “was an incredible opportunity for me.” The fine, issued without warning, amounted to more than 10 years of profit for Westover Winery.

The **National Labor Relations Board** has issued new rules that will set up quickie elections for unionizing businesses. As **Sean Higgins** noted in the **Washington Examiner**, “The changes, long sought by unions, will limit the ability of employers to persuade their workers against organizing by giving businesses very little time to do it.” Workplace elections typically take place weeks or months after a unionization petition is filed—the average is 38 days—but under the new rule elections may take place in as few as 10 days.

The NLRB’s new rule also requires employers to turn over employees’ contact information to unions. That includes private phone numbers and e-mail addresses, with or without employees’ authorization. The **National Association of Manufacturers** declared, “The damaging rule raises serious questions about whether the NLRB is advocating an outcome [that is, unionization] rather than acting as an impartial adjudicator.”

That criticism was echoed recently by **Arthur J. Schwab**, a federal district judge in **Pennsylvania**. During an investigation of the **University of Pittsburgh Medical Center**, based on an unfair-practices claim by the **Service Employees international Union (SEIU)**, the NLRB demanded personnel information that would help the SEIU unionize the workplace. Judge Schwab accused the NLRB of “serving as the litigation arm of the union and a co-participant” in the organizing campaign.

In previous issues of *Labor Watch*, we reported on the efforts of **Gina Raimondo**, **Rhode Island**’s treasurer, to reform the state pension system, and how she overcame the fierce opposition of government employee unions to be elected governor this year. She’s not the only **Democrat** to take such a stand. In November, Councilman **Sam Liccardo** was elected mayor of **San Jose**, California, after promising to continue the pension reforms of Mayor **Chuck Reed**, who endorsed him. As noted in the **Wall Street Journal**, “Employees can choose between paying up to 16% more of their salary for current benefits or enrolling in a more modest plan with a higher retirement age, smaller future accruals and a lower cost-of-living adjustment. . . . Public-safety officers are now retiring in their early 50s with an average pension of more than \$104,000, which can balloon to more than \$200,000 by the time retirees hit their 70s.” Fully implemented, the reforms could save the city \$50 million a year.

The **1964 Civil Rights Act** banned discrimination based on sex. It’s unlikely (well, impossible, given the attitudes of the times) that the sponsors intended the measure to cover sexual orientation and gender identity. But the **Equal Employment Opportunity Commission** ruled in 2012 that the Act covered those distinctions, and now the **Labor Department** has issued a related rule covering federal contractors and their employees.

The website **BuzzFeed** noted a problem with the new rule: “Among the unanswered questions advocates have raised are why the rule includes no guidance on how employers can avoid taking discriminatory actions when an employee transitions at work [shifting, for example, from male to female or vice versa], whether transition-related health care exclusions [e.g., not paying for extremely expensive sex-change operations] are still permitted under the rule, and how dress codes and sex-segregated facilities like restrooms and ‘dressing or sleeping areas’ are to be addressed in light of the rule. [The legal director for a gay-rights group asked:] ‘What we hope, going forward, is that [the federal office dealing with rules for government contractors] will provide clear guidance on all of these outstanding issues, including things like dress codes, appropriate use of facilities, and even some other nitty-gritty details—like, when you say you can’t discriminate against, for example, a trans person, that means that you have to respect people’s names and gender pronouns.’ That last part refers to an employee’s wish to be called, say, “him” or “her” or the neutral “hir.” How complicated will this be for employers? Consider that **Facebook** has 56 categories for “gender” alone.