



FACT SHEET

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Governors' Bi-Partisan Message to Congress: Don't Federalize Public-Safety Union Monopoly State Executives' Successful 2009 Vetoes of Big Labor Power Grabs Under Attack in U.S. Capitol

Two years ago this month, the U.S. House of Representatives rubber-stamped Congressman Dale Kildee's (D-Mich.) cynically mislabeled "Public Safety Employer-Employee Cooperation Act." This Big Labor-backed legislation would have established a new federal mandate imposing "exclusive representation," i.e. monopoly bargaining, over state and local police and firefighters and other public-safety employees nationwide. However, intense public opposition, mobilized primarily by the National Right to Work Committee, prevented the Kildee bill from passing the Senate during the 2007-2008 Congress.

It has long been a goal of government union officials to wield broad monopoly-bargaining power over state and local employees across the nation. Mr. Kildee's bill, which he has reintroduced in the current Congress as H.R. 413, would be a first step towards achieving this objective.

Hundreds of thousands of firemen, policemen and paramedics who up to now have been free under state law to negotiate on their own behalf would be stripped of that freedom by H.R. 413. It may accurately be labeled as the "Police/Fire Monopoly-Bargaining Bill." And, if the experience of states that have enacted similar public-sector monopoly-bargaining laws is any indication, H.R. 413 would lead to substantially heavier burdens for taxpayers.

Kildee Bill Proponents Deceitfully Purport They Want to Protect Public-Safety Employees' Right to Join a Union

As they rammed the Police/Fire Monopoly-Bargaining Bill through the House in July 2007, proponents falsely claimed it was designed to "protect" the right of police, firemen and EMT's "to join a union." The fact is, the right to join a union was then and remains today legally protected in every state.

Kildee bill proponents have also misleadingly implied, again and again, that the aim of this legislation is to uphold the right of union officials to bargain on behalf of their members. In reality, any state law or local ordinance authorizing union officials to bargain on behalf of their members only will

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get tossed in the scrapheap if H.R. 413 becomes law. The only policies acceptable under this measure are those that empower union bosses to bargain on behalf of police and firefighters who have refused to join the union and want nothing to do with it, as well as those who have voluntarily joined.¹

In addition to misrepresenting the provisions of the Police/Fire Monopoly-Bargaining Bill, proponents have falsely indicated that it would not change the current labor policies covering state and local public-safety officers in most states. The fact is, H.R. 413 would rewrite the public-sector labor laws of the vast majority of the 50 states to make them more pro-forced unionism.

In states that don't currently authorize public-safety monopoly bargaining, H.R. 413 would impose it, denying localities the option to refuse to grant a single union the power to speak for all front-line employees, including those who don't want to join. And in most states that already authorize union monopoly bargaining, H.R. 413 would widen its scope.

Firefighters Union Officials Also Lobbying For Monopoly-Bargaining Measures in State Capitals

At this writing, H.R. 413 has 122 cosponsors and is awaiting action in the House Committee on Education and Labor. It could be voted out of committee and sent to the House floor at any time.

Even as the International Association of Firefighters (IAFF) union hierarchy has led the charge for enactment of this legislation on Capitol Hill, it is simultaneously pushing for enactment of public-sector monopoly-bargaining legislation in a number of state capitals. This spring, IAFF and other union lobbyists came alarmingly close to ramming such forced-unionism measures into law in Colorado and Nevada. It took gubernatorial vetoes early last month finally to dispatch both bills.

In Colorado, IAFF General President Harold Schaitberger, his lieutenants, and the bosses of his union's statewide and local affiliates put their muscle behind S.B. 180, which in its original form would have forced local public officials in all but the smallest municipalities to consent to union monopoly bargaining over police and firefighters.

Under current Colorado law, local governments of all sizes have the option to sell out their independent-minded public-safety officers by agreeing to let the bosses of a union that they haven't joined, and don't want, speak for them as well as union members during contract negotiations. But S.B. 180 would have made matters far worse by denying localities the choice, which most currently exercise, to deal with employees individually.

In order to soften public opposition to S.B. 180 sufficiently to get it through the Colorado Legislature, in April proponents decided to exempt police departments from its coverage. With this change, S.B. 180 was narrowly adopted by the Big Labor Democrat-controlled Colorado House and Senate and went to Democratic Gov. Bill Ritter's desk in early May.²

¹ Go to <http://thomas.loc.gov/> and type in the bill number under "Legislation in Current Congress" to obtain a copy of H.R. 413. See esp. Sec. 4(b)(1), stating that every state law must explicitly authorize the formation of state and local public-safety unions that are, or seek to be, "recognized as the exclusive bargaining representative of . . . employees," including members and nonmembers alike.

² Go to <http://www.leg.state.co.us/clics/clics2009a/csl.nsf/StatusAll?OpenFrameset> on the Colorado General Assembly web site and select the range Senate Bills 151-200 to find a copy of S.B. 180 in its final form.

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As a Democratic governor from a non-Right to Work state that voted for Barack Obama last year, and as a politician who gratefully accepted Big Labor support for his successful 2006 campaign to become Colorado's chief executive, Mr. Ritter might have been expected to sign S.B. 180.

After all, this is the same governor who in November 2007 signed an executive order whose clear aim was to pave the way for government union bosses to acquire “exclusive” bargaining power over more than 21,000 state employees.³ This is the same Colorado governor who just last year pleased union bosses by helping them browbeat a number of weak-kneed Big Business representatives into coming out in opposition to and providing major funding against a fall ballot initiative that would have made Colorado a Right to Work state.

However, sometimes a national recession “concentrates” the mind of elected officials “wonderfully,” as Samuel Johnson famously said of a prisoner’s prospect of execution. With local budgets across the state straitened by the recession, albeit not as severely as in government union strongholds like California, Colorado mayors of otherwise disparate political stripes banded together to lobby hard against S.B. 180.

Along with Centennial State members and supporters of the National Right to Work Committee, the Colorado Municipal League (CML) vocally opposed S.B. 180 from the outset. Currently, 265 of Colorado’s 271 municipalities, representing more than 99% of the state’s population, are CML members, according to the organization’s web site.

On June 4, Mr. Ritter heeded Right to Work supporters and the CML by vetoing S.B. 180. Both because supporters were far short of the votes to override this veto in either Colorado chamber, and because the Legislature had in any event already gone home, Mr. Ritter’s action killed the measure. At the news conference announcing the veto, Mr. Ritter was joined by the mayors of three mid-sized, north-central Colorado cities: Greenwood Village, Littleton and Westminster. These three cities are located in three adjoining counties that the Obama-Biden ticket collectively carried last year by a landslide 55.4% to 42.9% margin.⁴ All three mayors, Greenwood Village’s Nancy Sharpe, Littleton’s Doug Clark, and Westminster’s Nancy McNally, had publicly called on Mr. Ritter to veto S.B. 180.⁵

Colorado, Nevada Power Grabs Probably Not Extreme Enough to Meet ‘Minimum Standards’ of Kildee Scheme

In his veto message, Mr. Ritter pointed out that the aim of S.B. 180 was to “overturn the will of the voters in communities” that have rejected bids by public-safety union officials to secure monopoly-bargaining power over firefighters. The bill would “effectively and inappropriately override . . . local votes” against union monopoly bargaining,” the governor concluded.⁶

It must have especially galled firefighters union bosses that these comments of Mr. Ritter’s closely resembled the accurate charges against S.B. 180 made in Committee mailings to Colorado and by the CML. And the well-deserved condemnation of S.B. 180 in Mr. Ritter’s veto message is deserved to

³ See Ben DeGrow, “Labor in Colorado,” *Denver Post*, April 30, 2008, for an assessment of the impact of the Ritter executive order six months after it was issued.

⁴ The 2008 presidential vote breakdowns in Adams, Arapahoe and Jefferson counties are available online at <http://uselectionatlas.org/> (Dave Leip’s Atlas of U.S. Presidential Elections).

⁵ See “Gov. Ritter Statement on Senate Bill 180 Veto,” a June 4, 2009 press release from Mr. Ritter’s office.

⁶ *Ibid.*

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an even greater degree by H.R. 413, the federal Police/Fire Monopoly-Bargaining Bill now before Congress.

If Congress rubber-stamps H.R. 413, it will not simply foist on mayors like Nancy Sharpe, Doug Clark, and Nancy McNally the very monopoly-bargaining system from which they worked hard to shield their cities by pressing Mr. Ritter to veto S.B. 180. The Kildee scheme is actually so radical that, had Mr. Ritter signed S.B. 180 into law, Colorado's public-safety labor policy would still probably not be sufficiently pro-forced unionism to satisfy the federal measure's mandates! And this is true not merely because S.B.180, in its final version, did not corral police officers into unions.

As part of their efforts to make S.B. 180 somewhat less unpalatable to the public and thus passable by the Colorado Legislature, Big Labor Sen. Lois Tochtrop (D-Thornton) and other sponsors included a provision that would have, in the case of a bargaining impasse between a local government and public-safety union bosses, required "a vote of the qualified electors of the public employer at a special election."

In practice, allowing the people of a jurisdiction to vote on public-safety union contract provisions, but only in the case of a bargaining impasse, would likely have reduced monopoly bargaining's harm to taxpayers only slightly. But this provision alone would have, had S.B. 180 become law, put Colorado in apparent conflict with Section 4(b)(3) of H.R. 413.

Section 4(b)(3) indicates that the state public-safety monopoly-bargaining laws mandated by the statute as a whole must include "an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures." Since it is highly unlikely that the federal bureaucrats who would be enforcing H.R. 413 would regard a vote of the people of a public-safety jurisdiction as "comparable" to mediation or arbitration, S.B. 180 was probably insufficiently pro-forced unionism to meet the federal bill's "minimum standards."

The same is also very likely true of A.B. 395, public-sector monopoly-bargaining legislation that was rubber-stamped by the Nevada Legislature this spring, but killed by a gubernatorial veto on June 4, the same day that Bill Ritter vetoed S.B. 180 in Colorado. A.B. 395 would have foisted union monopoly bargaining on Nevada's state government employees, including state police and firefighters, for the first time. It would thus have denied independent-minded employees the freedom to bargain directly with their employer over their contract terms.⁷

After riding on the coattails of the Obama-Biden ticket's surprisingly wide 55% to 43% general election victory in Nevada last fall, this year Big Labor is firmly in control of both chambers of the Silver State Legislature. Nevertheless, public opinion in this Right to Work state remains hostile to union monopoly bargaining. Therefore, to ensure the support of "swing" district legislators who might otherwise have been persuaded by their freedom-loving constituents to oppose A.B. 395, the bill's drafters restricted its scope to management of workplace relations and issues, excluding wages and other economic matters.

⁷ See <http://leg.state.nv.us/75th2009/Reports/history.cfm?ID=780> for links to the text of A.B. 395 as it was originally introduced and as it was subsequently enrolled.

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Congressional Republicans Do Dirty Work Shunned by Big Labor Democrat Legislative Leaders in Colorado, Nevada

Government union bosses in Nevada were willing to acquiesce to this one limited check on their monopoly power only because they had to in order to pass their scheme. But if the federal Police/Fire Monopoly-Bargaining Bill becomes law, it will guarantee far wider monopoly-bargaining privileges for Nevada's public-safety union bosses by federal fiat.

H.R. 413 mandates that all 50 states adopt monopoly-bargaining laws covering all state public-safety employees and, except in the smallest jurisdictions, all local public-safety employees as well. If any state refuses to adopt such a law, federal bureaucrats will directly impose union monopoly bargaining on its public-safety employees and the state and local agencies in which they work.

And under Section 4(b)(3) of H.R. 413, states and localities must agree to hand public-safety union officials monopoly power to negotiate "hours, wages, and [other] terms and conditions of employment . . .," including other economic and noneconomic issues. Therefore, A.B. 395 in Nevada, just like S.B. 180 in Colorado, was in all probability not sufficiently pro-forced unionism to meet H.R. 413's "minimum standards."

Even with the modifications union lobbyists were forced to agree to for tactical reasons, A.B. 395 and S.B. 180 were bad news for taxpayers. In his message explaining his veto of A.B. 395, issued after the Nevada Legislature had already gone home, GOP Gov. Jim Gibbons justly charged that enactment of this bill would have inevitably led to "further increases in state spending" and "further tax increases to fund that spending."

Regardless of whether it concerns wages and benefits or putatively "noneconomic" matters, union monopoly bargaining leads to higher taxes and service cutbacks, because the counterproductive work rules on which union monopolists insist and the workplace strife they inevitably promote hinder public employees from doing their jobs efficiently and effectively.

Especially in today's recessionary economic climate, governors and state legislators of all political stripes obviously recognize that significant harm can result from policies subjecting hitherto union-free groups of public employees to union monopoly bargaining. That is why, in both Colorado and Nevada this year, Big Labor legislative leaders never even tried to pass state-level power grabs as radical as H.R. 413 is at the federal level.

One has to wonder, then, why dozens of members of Congress who purport to oppose compulsory unionism are current sponsors of H.R. 413 and/or supported nearly identical legislation in the 2007-2008 Congress. Without the support of elected officials, especially U.S. senators, who claim to back the Right to Work, at least for employees in their home state, H.R. 413 would face a steeply uphill battle in Congress this year.

It is also noteworthy that the vast majority of the self-styled Right to Work advocates who have backed and continue up to now to back the police/fire monopoly-bargaining power grab are Republicans. Effectively, such Republicans are doing dirty work for union power brokers that even union-label Democrat politicians in states like Colorado and Nevada have refused to do.

In the House, Congressman John Duncan (R-Tenn.) is the ringleader of putative Right to Work supporters who are trying to help Harold Schaitberger and Co. ram into law what IAFF union bosses call

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“one of the most far-reaching expansions” of Big Labor monopoly power that “Congress has considered in decades.”⁸

Significantly, Mr. Duncan’s native Tennessee is one of the states whose legislators have most recently debated and ultimately rejected legislation that would have mandated union monopoly bargaining over local firefighters. In May 2006, H.B. 2035, the Firefighter Monopoly-Bargaining Bill, passed the Tennessee House, but quickly died in the state Senate due to intense public opposition mobilized by the National Right to Work Committee.⁹

Do Congressmen Like John Duncan Calculate They Can Avoid Blame For State and Local Fiscal Train Wrecks?

It is possible that Mr. Duncan and other federal politicians who continue to sell themselves to constituents as Right to Work advocates while backing H.R. 413 calculate that they will not be held accountable for the many future state and local fiscal train wrecks that would be sure to ensue as a consequence of this legislation’s enactment.

The average state-and-local tax burden for the seven states that already have 60% or more of public employees under union monopoly control is nearly 22% higher, as a share of their income, than is the burden for residents of states with below-average public-sector unionization.¹⁰ This year, states with pervasive public-sector unionization like California and New York raised their taxes even higher, and still they are unable to pay their bills.

Enactment of H.R. 413 would put states that currently have relatively little public-sector unionization, and are so far weathering the recession better, on the road to becoming new Californias. But by the time this happens, the spotlight could plausibly be on governors, legislators, and local officials in the suddenly troubled states, rather than on the federal politicians who instigated the problem.

On the other hand, if politicians who up to now have seen the Police/Fire Monopoly-Bargaining Bill as a bone they could throw to Big Labor, without offending their other constituencies too much, begin to sense that this measure is being publicly exposed as a radical power grab, they may decide it’s time to distance themselves from it.

In that case, the vetoes of public-sector monopoly-bargaining bills last month by the Democratic governor of Colorado and the Republican governor of Nevada may one day be seen as the turning point in the battle over H.R. 413 in the 2009-2010 Congress.

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Nothing here is to be construed as an attempt to aid or hinder the passage of any bill before Congress or any state legislature.

⁸ November 1, 2001 IAFF union press release.

⁹ See “Congress to Take Away Volunteer Staters’ Choice?” in the May 2009 edition of the *National Right to Work Newsletter* (page 6) for more information.

¹⁰ For more information, see the April 2009 National Institute for Labor Relations Research fact sheet, “Will Big Labor Congress Prime the Pump For More State and Local Tax Hikes?”