

## **LABOR'S LEGISLATIVE RECORD -- WINS ON WIDE ISSUES, LOSSES ON OTHER SPECIFICS**

**By Mark Gruenberg**

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WASHINGTON (PAI)—Unions and their allies entered the Democratic-run 111th Congress in 2009 with high hopes for their legislative agenda. They didn't work out.

As the lawmakers staggered to a busy conclusion in ending their lame-duck session on Dec. 22 – after a 63-seat GOP gain on Nov. 4 gave Republicans control of the House next year – labor's record can be summed up in two contrasting phrases.

On issues such as the stimulus law and the Lilly Ledbetter equal pay law, where labor was part of larger coalitions, unions for the most part won what they sought, from extended jobless benefits to saving teachers' jobs.

But on labor-specific issues, the record was more mixed. With the Employee Free Choice Act heading the list, workers lost more than they won.

There were several causes for that record. The biggest one was the persistent and successful Senate GOP filibusters against virtually everything. Labor could break through only when Senate Majority Leader Harry Reid, D-Nev., and House Speaker Nancy Pelosi, D-Calif. – and sometimes Democratic President Barack Obama -- created coalitions to overcome that roadblock.

And even then, workers did not get all that they wanted – or that their unions lobbied for. And the deeper Congress went into 2010, the tougher labor's road got.

For example, the first \$858 billion stimulus law had \$125 billion for infrastructure projects and millions more to save the jobs of teachers, Fire Fighters, police officers and other public workers in the depths of the Great Recession in 2009. AFSCME, the Fire Fighters and the Teachers campaigned particularly hard for that section of the stimulus.

But a second attempt, in summer 2010, to keep public workers' jobs funded -- a \$100 billion package pushed by AFSCME and House Education and Labor Committee Chairman George Miller, D-Calif. – lost. Eventually, lawmakers approved \$10 billion.

Some, but not all, of the other results included:

WINS

TARP. The much-hated "bank bailout" law wound up costing the government very little – and it saved at least 1 million jobs in the auto industry. The Obama administration decided to use the law, in turn with structured bankruptcies, to provide loan guarantees to the "Detroit 3" auto companies. Two of them, GM and Chrysler, took the guarantees, and the UAW agreed, with conditions. The results were a

2-tier pay system, with new hires earning half of what veteran workers get, with fewer benefits. GM went through bankruptcy, Chrysler was sold to Fiat and Ford – in better financial shape – refused the guarantees, but workers at all three, though far fewer than a decade before, kept their jobs.

The stimulus law. The stimulus law "saved or created" up to 3 million jobs, according to non-partisan sources. But most – including the teachers, Fire Fighters, police, social workers and local government workers – were saved. The \$125 billion in infrastructure funds produced thousands of construction jobs, and saved unemployment in the industry from skyrocketing even higher than its present one in five. But the stimulus funds are running out and those workers, public and private, are getting cut.

Unemployment benefits. Congress repeatedly extended federal jobless benefits, as high unemployment dragged on. It started in 2010 at 10% and was 9.8% in November. With more than 40% of the 15 million jobless having exhausted their 26 weeks of state benefits, Congress added federal benefits – but not before GOP filibusters halted the federal benefits several times. The final price for the latest extension, which runs through the end of 2011, was extending the Bush tax cuts.

The Lilly Ledbetter law. The first law Obama signed in 2009 restored the right of women, minorities and other victims of pay discrimination on the job to sue for back pay at any time.

The law was named for Lilly Ledbetter, a gentle grandmother from Gadsden, Ala., who had discovered her employer, Goodyear, discriminated against her in pay for 19 years. She sued and won in lower courts, but lost in the Supreme Court in 2007. The court said Ledbetter, and anyone else, had only 180 days from being hired to sue.

The law overturned that ruling. Ironically, Ledbetter suffered the discrimination because she was a supervisor and not covered by labor law. Rank-and-file workers at the Goodyear plant, she told Press Associates, don't suffer as much discrimination: They're covered by their Steel Workers contract.

Health care for 9/11 workers. In the lame-duck session, a multi-year effort finally succeeded in legislation to pay health care bills for more than 71,000 workers – some now dead – who suffer from their work on the ruins of the World Trade Center. The workers are ill with emphysema, rare cancers, mental problems and other problems due to their exposure to asbestos, toxic gases, particulates and

more. But the program is only for five years, it's restricted to certain ailments, and less than \$5 billion was approved.

The 9/11 measure was one of two top causes the Fire Fighters pushed, since their members – along with Laborers, Operating Engineers, CWA members, Sheet Metal Workers and other unionists – toiled on "The Pile" for months, seeking remains and removing the debris.

Airline issues. AFA-CWA won when lawmakers ordered the airlines to provide anti-terrorist training for airline cabin crews. It also won when senators defeated a GOP attempt to overturn new union recognition election rules at airlines and railroads. AFA and the Transportation Trades Department had presented evidence to the National Mediation Board – which runs union-management relations at airlines and railroads – calling for the new "majority of those voting" rules. NMB adopted the rules.

Mexican trucks. Congress and the Obama administration sided with the Teamsters and stopped unsafe Mexican trucks from rolling over every road nationwide, as NAFTA – the jobs-losing trade treaty – calls for. But the ban may be temporary, applying only until Sept. 30. And a key backer, House Transportation Committee Chairman James Oberstar, D-Minn., lost his seat in the GOP landslide.

Transportation officers' bargaining rights. The Obama administration, in late 2010, reversed a GOP Bush ban on organizing and unionizing airport screeners. Radical Right Sen. James DeMint, R-S.C. tried to stop the drive by inserting the union ban into a money bill, and lost. But in Dec. 2009, De-Mint forced Obama to pull a Transportation Security Administration nominee who would not ban unions.

Financial reform. Labor led a broad coalition to tighten federal regulation on the big banks and other financiers whose shenanigans and frauds plunged the U.S. and the world into the Great Recession. The ensuing law includes a new consumer financial protection agency, rules on how to wind down big banks, measures guarding against "too big to fail," and a host of other measures tightening regulation.

The big disappointment for unionists was that many felt the legislation did not go far enough in going after Wall Street's crooks, locking them up, limiting their pay and perks and breaking up their institutions. And late in 2010, the GOP filibuster threat killed "earmarks" in spending bills – including one for \$35 million in legal aid to homeowners facing foreclosures by the big banks. A stimulus law program to help the homeowners stay in their residences is so hedged in with restrictions that it isn't working.

Air Traffic Controllers bargaining. The Air Traffic Controllers finally got a new contract, thanks to the Obama administration. Congress did not act on legislation ordering FAA to settle on a new pact with NATCA, but new FAA administrator Randy Babbitt did. He junked the 8-year Bush FAA effort to impose a contract on the 14,000 air traffic controllers that cut or froze pay and made working

conditions worse. The new pact in 2009 undid many of the problems.

NATCA President Paul Rinaldi said the agency and the controllers are cooperating on other issues, starting with modernizing the air traffic control system, to make the skies safer. "We needed a contract in order to stabilize the workforce, stem the high attrition of experienced controllers and begin to rebuild the trust and morale essential to believing and sharing in the FAA's safety mission," he said. "Our contract is the framework and foundation upon which a formal collaborative relationship can be built."

China. Pushed by worries over migrating industrial jobs and strong Steelworkers lobbying, the House prodded the Obama Treasury Department to investigate if China's undervalued, manipulated currency is an unfair trade practice under world trade rules. The Senate did not agree. Obama is trying to pressure the Chinese. The administration won a trade case – constructed by the Steelworkers – against Chinese illegal trade subsidies on tires and just filed another case against "clean energy" breaks.

## MIXED

Health care. The Obama administration's health insurance overhaul was whittled down, from a health care overhaul, to get key Senate votes. In the process, government-run single-payer health care – supported by 21 unions and approved by the House Education and Labor Committee – was killed. Its weaker cousin, the "public option," was dumped to get key swing Sen. Joseph Lieberman, Ind.-Conn.

And at the end to help pay for the law, people who buy so-called "high cost" health insurance will be taxed on its value over a minimum sum, starting in 2018 for unionists and 2014 for everyone else. Union leaders – over screams from tens of thousands of members – backed that provision. The tax survived in the final law. Courts, now hearing GOP challenges, will decide if the law itself will survive.

Union leaders portrayed the health insurance law as a win. Workers "united in their commitment to bring the change our families, our communities and our country needs, earned this victory the old fashioned way: They worked for it," said Anna Burger, then Change To Win chair. "It is because of their passion and their steadfast belief in doing what's right, that Congress stood and delivered the change they demanded" that curbs the insurers' malpractice, 88,000 deaths due to denial of care and high profits.

Broadband. Enhanced broadband service was a particular cause for the Communications Workers' "Speed Matters" campaign. The Obama administration and House Speaker Nancy Pelosi, D-Calif., agreed. The stimulus law had \$500 million for broadband development. Efforts after that stalled.

"By building out high-speed Internet, the infrastructure of the 21st century, we'll

create quality jobs

and support economic growth," CWA President Larry Cohen said at a recent press conference. CWA lauded the Federal Communications Commission's Dec. 21st order stepping into broadband regulation.

## LOSSES

The Employee Free Choice Act. A multi-million-dollar business campaign and the planned Senate Republican filibuster doomed the Employee Free Choice Act.

The bill would have helped level the playing field between workers and bosses in organizing and bargaining by writing majority sign-up (a.k.a. card check) into law, increasing fines for labor law-breaking, making court injunctions easier to get against chronic violators and mandating first-contract arbitration if the two sides can't agree within 120 days of starting negotiations.

Senate Labor Committee Chairman Tom Harkin, D-Iowa, could never get the 60 votes needed to overcome the filibuster threat. After several months of negotiations in 2009, Harkin put the issue aside, in favor of health care. House Education and Labor Committee Chairman George Miller, D-Calif., waited for the Senate to act. Since it never did, Miller didn't bring EFCA up.

Public safety officers' collective bargaining rights. More than 20 states ban public safety officers from collective bargaining rights and one, North Carolina, bans public safety unions altogether. The Fire Fighters, who lost 343 members and their priest among the overall 3,000 people killed in the Sept. 11, 2001 al-Qaida attack, have made this a top cause ever since. The House has repeatedly approved the legislation, but the Senate GOP filibuster killed the bill – again – in the lame-duck session.

FedEx workers' union status. A decade ago, the Republican-run Congress declared that all workers for FedEx were "airline" workers subject to the tougher unionization rules and labor activity curbs of the law that covers rail and airline workers. By contrast, regular labor law covers workers for UPS, represented by the Teamsters. The union has lobbied to get the FedEx rule repealed, in the law covering the Federal Aviation Administration. Tennessee's two Republican senators threatened to filibuster the FAA bill unless the repeal was dropped. FedEx, whose management is very Republican and anti-union, is headquartered in Memphis. The senators' threat won.

Other equal pay laws. Two other equal pay laws, one to update a 1962 federal act and put teeth in it, the other which would make it easier for workers to get and share pay information, got hearings on both sides of Capitol Hill – but nothing more. Obama supported them, too.

"Women's rights are ultimately human rights, and the march for equality will not

end until full parity and equal opportunity are attained in every state and workplace across our nation," Obama said.

**Strengthening OSHA and MSHA.** After yet another coal mine disaster in West Virginia, where 29 miners died, lawmakers got to work on strengthening the Mine Safety and Health Act, again. Labor and its allies seized that opportunity to add legislation strengthening the Occupational Safety and Health Act, which has seen little change in 40 years. They wanted to increase fines, make it easier to pursue violators and make accidents that killed workers into felonies punishable by high fines and jail.

Miller's House Labor Committee approved the merged MSHA-OSHA bill, but the Democratic-run House didn't come close to the two-thirds majority needed under a special "fast-track" rule to pass it. The Senate never voted on the measure. In absence of legislation, the new OSHA administrator, Dr. David Michaels, is stepping up enforcement, especially against the "worst of the worst" in the worst industries.

**The Dream Act.** Once comprehensive immigration reform died, the Obama administration, the Farm Workers, the Farm Labor Organizing Committee, and Hispanic groups pushed for the "Dream Act."

It would provide green cards to undocumented young people brought to the U.S. at an early age, who graduated high school and enlisted in the military or went to college. It fell victim to a Senate filibuster.

**Transit money.** The Transport Workers and the Amalgamated Transit Union joined together to campaign for letting federal transit aid, in metro areas of more than 200,000 people, go for operating expenses – paying workers – as well as capital expenses – such as buying buses. Their argument was simple: "Why buy buses if you can't pay anybody to drive them?" They tried to get that provision into money bills. It fell victim to the Senate's decision, again due to the filibuster threat, to abandon regular money bills funding virtually the entire government, in favor of a short-term funding bill through March 4.

**Green jobs.** The comprehensive energy-and-environment legislation that passed the House and stalled in the Senate included a large "green jobs" component. Unions calculated that federal support for such things as wind farms, hybrid cars, solar panels and more could create tens of thousands of high-paying factory jobs in the U.S. Other jobs would have been created by the legislation's loan guarantees for nuclear power plant construction, a key cause of the building trades. But the legislation died when the key Republican, Lindsay Graham, R-S.C., withdrew his support, for other reasons.

**Infrastructure.** Beyond the money from the stimulus law, infrastructure funding stalled in Congress, or was killed by planned Senate GOP filibusters. The Laborers

launched a large campaign in the fall election season to pressure senators – especially Republicans – to approve a massive highway-mass transit jobs bill, and the other construction unions agreed. But lawmakers turned, again, a deaf ear.

“In the construction industry – a key driver of our economy – nearly 1 in 5 workers, or 1.5 million men and women, are jobless,” Laborers President Terry O’Sullivan said after the GOP won the House on Nov. 3 and picked up six U.S. Senate seats. “While nations such as China invest nearly 10% of their gross domestic product in super-highways, bullet trains and other fundamental, critical infrastructure, U.S. investment has dropped below 2%.

“Throughout our history, investing in building America has been a bipartisan mission,” O’Sullivan added. “Our ability to compete is at stake while hundreds of thousands of workers who want to build our country sit idle. The best way for the next Congress to start to show America is their priority is to pass a fully-invested, 6-year surface transportation bill which would begin to put our nation back on competitive footing in the world, return millions of Americans to work and leave a lasting legacy.”

Postal funding. The U.S. Postal Service ended fiscal year 2010 on Sept. 30 with an \$8.5 billion deficit and retiring Postmaster General John Potter campaigning for cutting jobs, closing post offices and eliminating Saturday services. The Letter Carriers led the campaign against those ideas, pointing out Congress could virtually end the red ink by repealing a Bush law forcing the USPS, at a cost of \$5.5 billion yearly, to pre-fund all health benefits now for future retirees, and ending an accounting gimmick that cost USPS another \$2.5 billion in workers’ comp payments. Congress forgave that yearly health care payment in Sept. 2009, for fiscal 2010. NALC’s and the Postal Workers’ congressional allies tried to fix the problem in this year’s funding bill for all agencies, too, covering fiscal 2011, which began Oct. 1. The GOP filibuster killed the funding bill – thus forcing USPS to fork over the money.

Tax loophole. The Communications Workers campaigned hard to get Congress to close a particularly expensive – and harmful to workers – corporate tax loophole called the “Reverse Morris Trust.” Verizon is the most prominent of several big firms that took advantage of it. Verizon used the trust to unload landline phone networks and customers onto smaller firms. Verizon walked away with the profits, leaving the buyers heavily in debt and needing to cut service and lay off union workers to meet debt payments. Hearing from CWA and the Electrical Workers, the tax-writing House Ways and Means Committee voted to close the Reverse Morris Trust loophole. But the idea got no further, and CWA’s two top backers on the issue are leaving Congress.

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