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### Union-busting ball now back in Rauner's court

By Jim Broadway, Publisher, Illinois School News Service

As recently as the middle of January it appeared all but certain that the U.S. Supreme Court would overturn precedent yet again, that the 5-4 conservative majority would reject the verdict of the U.S. 9th Circuit Court of Appeals and, in effect, put public employee unions on a slow boat to oblivion.

It was our advice to Gov. Bruce Rauner at the time (see commentary [toward the bottom of this issue](#)) that he should just focus on governing Illinois, on negotiating a budget that meets the needs of the citizens and generates the revenue to pay the bills. He should leave union-busting to the nation's top court.

The case still before the court was brought by a few California teachers, who were not union members, who challenged a provision of their state's law requiring non-union employees who benefit from contracts that a union bargained for to pay their "fair share" of the union's costs for its bargaining efforts.

They wouldn't have to pay for any political contributions the union might make, but just a share of costs directly related to the task of getting the employers - school districts in this case - to accept the position that employees deserve adequate compensation and reasonable working conditions. Illinois law has a similar provision.

But the rebellious California teachers want a total free ride. They want to assume the role of what in times past was referred to as "scab labor." They want to take jobs otherwise held by dues-paying union members; they wanted to accept the pay and benefits negotiated by the union; but they *wanted to pay nothing*.

The case is Friedrichs vs. the State of California and the California Teachers Association. To side with the scabs, the justices would have to overturn the precedent [set by the U.S. Supreme Court back in 1977](#) that to require "fair share" payments from non-union members does not violate any of their rights.

The challenge is of paramount importance to teachers in Illinois, to members of all public employee unions at the state, county and municipal levels - if it can be assumed that, over time, increasing numbers of non-union employees who share in the benefits of a contract would stop paying anything at all if they could.

Would they stop paying? Of course they would. They're scabs.

Eventually that would weaken public employee unions and render them totally ineffectual. "Friedrichs" looked like a sure thing. The hearing was held. The justices had signaled their positions with arguments they posed against lawyers for the CTA. It was a done deal, another 5-4 vote against organized labor.

But the [death of Justice Antonin Scalia](#) has unraveled it. A vote on the case would be 4-4 now. And the Supreme Court may have only eight justices for quite a long time now that the Republican majority in the Senate has announced that it won't even take a vote to confirm or reject anyone appointed by President Obama.

What does it mean to the teachers and members of other public employee unions in Illinois? It seems to signal a reprieve, a new lease on life. But it also means they should hope for a victory in November by Hillary Clinton or Bernie Sanders. Any Republican President's appointee would give Friedrichs a 5-4 anti-union vote.

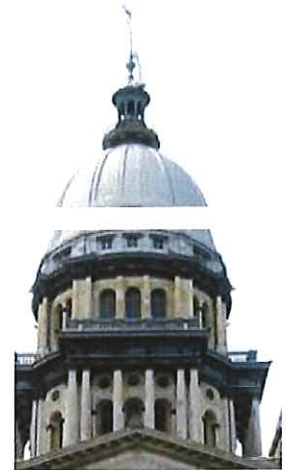
For Rauner, whose approach is to limit the kinds of issues that would be "bargainable" by public employee unions (and, by the way, wages is not one of them), it means the Supreme Court will provide no help this year. If his "Turnaround" is to be achieved, it will take policy enacted by the Illinois General Assembly.

Good luck with that one, Governor.

Rauner may dig in his heels. A ruling against the state and the teachers of California would have put the unions of Illinois on a path to nowhere. He then could have focused on his other policy priorities, which seem to be eliminating assistance to such constituencies as senior citizens; veterans; victims of abuse.

But now, the full weight of union-busting falls on his shoulders. You have to hand it to him though. Even that distraction did not keep him from [remembering Friday to veto SB 2043](#), the bill that would have delivered Monetary Award Program (MAP) grant funds to keep low-income students in community colleges and universities.

Yes, as promised, Rauner vetoed a bill that would have given the Comptroller the statutory authority to do what Rauner has insisted that he wants to do - fund the MAP grants, give low-income, mostly first-in-their-families college students a





chance to stay in school and graduate, a chance at a shred of upward mobility.

It wasn't the money that was objectionable, he said, it was that the legislative leaders - House Speaker Michael Madigan and Senate President John Cullerton - were "playing games." The sooner those guys agree with Rauner that the unions should be emasculated, the sooner Rauner will let them have a fully funded budget.

The scenario is now more than a year old.

**Even typically Republican voices are getting tired of it.** Crain's Chicago Business posted a commentary this week, topped with a cartoon suggesting Rauner's continual "turnaround" demands are like a dog chasing its tail. "There's no end in sight to this nonsense, even as unpaid bills mount, the pension shortfall deepens, the deficit climbs beyond the current estimate of \$6 billion and the social service safety net frays to the breaking point," the Crain's editorial writers said.

"By now you'd think someone would have stepped forward to take responsible action. But as Rauner showed with his 2016 budget plan and the 2015 plan before it, it's not going to be him," Crain's continued. "Until he gets his way on his agenda, he's content to let Illinois founder, never mind that his action points on tort and workers' comp reform and labor unions would do next to nothing to fill Illinois' deepening budget shortfall."

And, of course, typically not-Republican voices are also ready for sanity, or something at least close to it, to prevail upon the stage. The "In These Times" online publication carried analysis written February 17 by Marilyn Katz, a PR consultant and co-founded of a group called "[Chicago Women Take Action](#)."

Katz makes a compelling argument for the sad conclusion that Rauner's taken governance of a trouble state and, with his "1-Percent-Friendly Policies," [he's just making it worse](#). She called his Budget Address "a growth agenda for Illinois predicated on impoverishing the pocket books and lives of the state's working people."

While conceding the state floundered under poor leadership for many years, Katz noted that Illinois GDP grew by more than \$100 billion per year from 2007 to 2015. But "97.2% of all income growth - that's right, 97.2% - went to the top 1% of wage earners." Incomes of the richest grew 35%; everyone else flat-lined.

**The 2016 policy table has been set.** Bill filing deadlines have passed for both the House (February 11) and the Senate (February 19), so no new bills can be filed. For the biennium of the 99th General Assembly, the two chambers filed more than [9,700 bills](#). (Don't worry. Very few of them will become law.)

How many pending bills could potentially amend the School Code? About 210 such bills have been filed since September, most of them by far (as usual) in the House. Of those, only about 90 have identifiable potential impact as filed. The rest, about 120 bills, are empty shells, legislative vehicles waiting for amendments.

It's the bills that are substantive now (not the shells) that are the focus of attention. Here's an interesting bill, [SB 2975](#). It would permit school districts to apply for "agriculture education teacher grants," and create a program under which the state would cover part of the cost for a district to hire ag teachers.

Who's the sponsor of that bill, some legislator from the sticks? Nope, it's [Sen. Bill Cunningham](#), a Chicago Democrat. But he does chair the [Senate Agriculture Committee](#). (How'd that happen?) Will his bill pass? It may not matter, Rauner now proposes an Agriculture Education budget line item of *exactly zero dollars*.

**Some of the bills set up interesting confrontations.** For example, here's [SB 2859](#), which would add a *firearm* registration feature to current law requiring only that firearm *owners* identify themselves. The sponsor is [Sen. Ira Silverstein](#), a Chicago Democrat who is probably concerned about his city's high murder rate.

Filed just one day after Silverstein's bill is [SB 3008](#), which would just repeal the whole Firearm Owners Identification Card Act. The sponsor is [Sen. Wm. Sam McGann](#) (R-Jacksonville), who represents a swath of rural Illinois where folks are still, about 50 years later, angry that the FOID law was ever enacted in the first place.

Why is the School Code affected by these bills? There are provisions in school law requiring school personnel to notify law enforcement if anyone has brought a gun to a school facility. (Although it's been discussed, no bill has been filed to allow Illinois teachers to arm themselves as protection against such intruders.)

Silverstein's and McGann's bills seem almost orchestrated, having been filed on consecutive days. Could Silverstein be *trying to do McGann a favor* by giving him a mission of powerful political impact in his rural district? Why would Silverstein do that? Perhaps because [McGann is the only Republican to disobey Rauner](#).

Understanding motivation is a key to the legislative process.

**Here's a case of dueling School Code initiatives.** [Rep. Camille Lilly](#) (D-Chicago) filed [HB 4978](#) to require any school that "that maintains grade 7 or 8 to include in its curriculum a separate one-semester civics course of study with the goal of helping young people acquire and learn to use the skills, knowledge, and attitudes that will prepare them to be competent and responsible citizens throughout their lives." Yes, it's a curriculum mandate.

On the same day, February 8, [Rep. Thomas Morrison](#) (R-Palatine) filed [HB 4985](#), which describes conditions under which a school *may stop obeying curriculum mandates*. What are those conditions? They would obtain whenever "any payments from this State to a school district are delayed for at least one payment cycle."

Interesting floor debates are a-comin' you can tell that right away.

Here's a bill that reaches for an elusive goal. [HB 4424](#) would require "the State Board of Education to establish a reading initiative in all public elementary schools to ensure that all students [entering kindergarten in the 2016-17 school year and thereafter] are reading at or above grade level by the time they complete 3rd grade."

The sponsor, [Rep. Rita Mayfield](#) (D-Waukegan), is a very thoughtful legislator and very knowledgeable on education policy. But, as we've reported before, she's very serious about her goals. Administrators of schools that fail to reach the reading goal could find themselves "reassigned" under this bill.

**Some bills just make you wonder.** For example, [Rep. John Cabello](#) (R-Loves Park) thinks high school homecomings and proms are so important that he filed a bill, [HB 4575](#), to ensure that a school district will receive attendance-based funding for students who skip their classes so they can plan and prepare for those events.

[Rep. Don Moffitt](#) (R-Galesburg) included a similar provision in his [HB 4432](#), which would allow a school district to receive all the funding it would have received if students in fact attended school instead of being allowed to be absent "for the purpose of sounding 'Taps' at a military honors funeral ... for a deceased veteran."

The activities that would be privileged by Cabello's and Moffitt's bills are arguably worthwhile. But there must be dozens, perhaps hundreds, of potential school-skipping diversions just as meritorious. (Cue the slippery slope argument.)

[Rep. Mary Flowers](#) (D-Chicago) wants school districts to be *allowed* (mandates often begin as permissive policy) to teach "the history and literature of the Old Testament era and a course in the history and literature of the New Testament era." (How was her bill designated [HB 4666](#)? If that's a sign, I'm not sure it's a good one.)

Concussions suffered by scholar athletes continue to be addressed in School Code initiatives. Rep. [Emanuel Chris Welch](#) (D-Westchester) is sponsoring [HB 4365](#) to require the Illinois High School Association to [record every concussion](#) suffered at events it sponsors and to report the data annually to the General Assembly.

As they proclaim on their home page, neither the House nor the Senate will convene until March 1. By then I will have posted a listing and brief description of second-year School Code bills and I'll review the process by which you can track legislative proposals of most importance to you, personally and/or professionally. - Jim

**Your inputs - questions, comments, suggestions** - are valued. For twenty years ISNS has been guided by wisdom "from the field." To contribute in this way, just [click this link to our contact form](#).