
NATIONAL RIGHT TO WORK COMMITTEE

OBAMA ADMINISTRATION PERSONNEL ALERT

Harold Craig Becker

AFL-CIO Associate General Counsel

President-Elect Obama Organizing Transition Committee: U.S. Department of Labor

President Obama Administration: U.S. Department of Labor

Nominated Position: **National Labor Relations Board Member**

Harold Craig Becker, another Ivy League Obama Appointee who relates to everyday struggles?

Craig Becker's World Views

Undemocratic Secret Ballot

Secret ballot “elections **are profoundly undemocratic.**”

Socialist Countries Better

“Unlike citizens in a democratic state and unlike employees in other industrial countries **where workplace representation is mandatory** (for example, Germany), American workers must first petition the NLRB and then cast an affirmative vote” to award a union exclusive representation.

Worker Choices Should Be Limited

“**At first blush it might seem fair to give workers the choice** to remain unrepresented. But, in providing workers this” non-representation “option, US labor law grants employers a powerful incentive.”

Craig Becker, *New Labor Forum Fall/Winter 1998*

No Choice – Workers Must Have A Union

“To try to justify his extremist position, Mr. Becker, associate general counsel for the Service Employees International Union (SEIU) and the AFL-CIO, borrowed an extraordinary analogy: “Just as U.S. citizens cannot opt against having a congressman, he contended, **workers should not be able to choose against having a union as their monopoly-bargaining agent.**”

“‘Employees' only choice, explained Mr. Becker, should be over which set of union officials get ‘exclusive’ power to negotiate their wages, benefits, and work rules.’”

National Right to Work Newsletter – [May 2009](#)

Card-Check agreements a scheme for more taxpayer funds?

“We can envision a meeting of **employers and unions in the industry in which they agree that they should act cooperatively to increase government funding** and to avoid the waste of scarce resources on bitter election campaigns by **permitting employees to decide whether to be represented by a union through a card check, knowing exactly what it will mean if they do**, and without employer opposition. We can envision **a no-strike guarantee** that goes into

effect immediately upon the majority choosing to be represented when the terms of the prenegotiated, but conditional contract becomes effective ...

“We can envision this rational approach to labor-management relations that truly advances the friendly adjustment of disputes, but only if the current Board does not misread and extend Majestic Weaving.” **[Emphasis added]**

Jonathan Hiatt & Craig Becker, *At Age 70, Should the Wagner Act Be Retired? A Response to Professor Dannin* (*Berkley Journal of Employment & Labor Law*, 2005)

More Federal Funding Of Leftist Attorneys

Even though there are numerous *pro bono* volunteers, left leaning attorneys argue for millions as legal fees. In 1981, the Reagan Administration considered eliminating the financing of activist attorneys via the Federal Legal Services Program. Part of the Administration’s argument was that taxpayers are funding frivolous and costly lawsuits that often force taxpayers to fund more costs. (The Obama Administration’s 2010 Budget provides [\\$435 million](#) for the Legal Services Corporation – an increase of \$45 million. Most of the proposed budget, \$410.4 million, will provide for liberal lawyers’ fees.)

Becker Provides Effective Arguments Against Funding

“Supporters of the Administration plan [to eliminate federal funding of the Legal Services Corporation] ... see it as a way of striking a blow against activist lawyers who, in their view, stir up unnecessary trouble. Mr. Reagan and other critics, from time to time, have accused legal aid attorneys of being too quick to pursue their own vision of the public interest. Under the guise of helping the poor, these taxpayer-funded social engineers have promoted militant extremism, graduated state income tax, student protests, racial quotas in employment and education, increased government welfare programs, Indian land claims, homosexual demands, rent strikes and boycotts of private businesses . . . [The program's] purpose and its impact is to change and, in effect, to make law. No other face can be put on it.”

Becker Not So Effective In His Argument For Funds

Becker states that “Public interest lawyers **made important contributions to civil liberties, civil rights, environmental, and consumer protection laws.** In the late 1970s and early 1980s, however, the fragility of public interest practice became startlingly apparent. The growth of public interest practice virtually ceased, financial support began to falter, and the critics of public interest law became increasingly strident. Adversaries directed many of their attacks at the methods used by public interest lawyers.”

Becker’s List of Legal Successes: “Public interest lawyers have been involved in many recent landmark cases. See, e.g., *Roe v. Wade*, 410 U.S. 113 (1973) (abortion statutes unconstitutional); *Furman v. Georgia*, 408 U.S. 238 (1972) (per curiam) (death penalty statutes unconstitutional); *Shapiro v. Thompson*, 394 U.S. 618 (1969) (one-year welfare residency requirement unconstitutional); *Miranda v. Arizona*, 384 U.S. 436 (1966) (establishing new police interrogation procedures); *Brown v. Board of Educ.*, 347 U.S. 483 (1954) (de jure school desegregation unconstitutional).” [Note: Becker writing in 1981 attempted to justify the hundreds of millions of dollars taxpayers spent; however, his most recent case listed was 8 years old. His argument seems to agree that spending millions funding his fellow leftist attorneys was unjustified.]

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To What Ends? Exploitation

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H. Craig Becker, *In Defense of an Embattled Mode of Advocacy: An Analysis and Justification of Public Interest Practice* (May 1981)

Becker Admits Forced Unionism is at Odds With Individual Liberty

“‘Unionism is in its very essence a lawless thing,’ wrote the labor economist Robert Hoxie in 1923. Law is ‘[i]n spirit ... individualistic, [and] makes freedom and sacredness of individual contract the touchstone of absolute justice.’ In contrast, he explained, unions are ‘formed to escape the evils of individualism and individual competition and contract;’ their actions necessarily involve ‘coercion.’ Therefore, he reasoned, ‘the law cannot help being in spirit inimical to unionism.’ The antagonism between the common law principles of individual liberty and the collective character of labor organization frames Christopher L. Tomlins’ provocative study of *The State and the Unions*.”

In Becker’s World, All Public Employees Should Be Propaganda Ministers

Becker argues a major part of democracy is civil servants performing jobs for the public not outsourcing services to more efficient cost saving contracts. No, he argues, part of what your democratic government needs is government employees telling you how wonderful it is that you are to be taxed to pay for their job.

“Beyond performing assigned tasks, the role of civil servants entails participating in and informing public discussion about the goals of public policy and the practical means of achieving them. According to Justice Felix Frankfurter, restraints on public employees' rights are ‘not merely unjustifiable restraints on individuals,’ they produce ‘an atmosphere of repression uncongenial to the spiritual vitality of a democratic society.’ Such inhibitions, Frankfurter maintained, ‘are hostile to the best conditions for a minded and high-spirited public service.’”

Government Should NOT be an Impartial Judge

“Finally, Weiss's discussion of the denial of state support to employees thrown out of work as a consequence of strikes sheds light on the problem of the state's ‘neutrality’ in labor disputes (p. 763). The same problem is raised in the United States both by the federal government's recent disqualification of strikers and their families from receiving food stamps (Lyng, 108 S. Ct. 1184 [1988]) and by a host of state statutes depriving strikers of unemployment compensation (D.C. Code Section 46-111[f]).”

“The limits set on entitlement programs expose how the state's exercise of authority outside the bounds of direct regulation of the employment relation necessarily compromises its putative role as a neutral in administering the labor relations system.”

“The exercise of such authority and its effect on labor-management relations is even more obvious, of course, in the state's protection of private property. Weiss argues that the system of law itself may predispose state actors against the interests of organized labor. He contends that the West German civil law has an ‘individualistic structure’ and therefore that current attempts to ‘reintegrate’ labor law into the civil law have grave implications for collective action (p. 770).”

“Similar arguments have recently been made with respect to the common law tradition in the United States (Tomlins, 1985). These arguments suggest that neutrality is ‘an empty concept.’”

Yalie Becker Brings Unions to Harvard Drive (1990)

“The success of the Harvard union stands as a landmark in the drive of university clerical workers to organize. Blue-collar workers at Harvard and other schools have been organized for decades but clerical and technical employees only recently. In 1983 clerical workers in the University of California system voted to be represented by AFSCME, at Columbia they joined the United Automobile Workers and at Yale the Hotel Employees and Restaurant Employees. In 1984 clerical workers at state universities in Iowa joined AFSCME. And in 1988 clerical workers at Adelphi, Cincinnati and Bridgeport universities voted for union representation. Almost 40 percent of the clerical work force is organized at public universities and a quarter of it at”

Becker, SEIU put pressure on State budgets

“WASHINGTON, DC - Today, lead counsel for The Service Employees International Union, the nation's largest healthcare union, joined a home care worker and disability community advocates to testify before Congress in support of legislation that would close a loophole that denies home care workers overtime and minimum wage protections. The Fair Home Health Care Act, introduced by Sen. Tom Harkin CD-Iowa) in the Senate and Rep. Lynn Woolsey CD-Calif.) in the House, was inspired by the plight of 73 year-old home care worker Evelyn Coke.”

“After more than 20 years of work that sometimes entailed four 24-hour days a week, sleeping at a client's home, and rarely receiving time-and-a-half compensation for the overtime work hours, Ms. Coke sued her employer. In June of this year, the U.S. Supreme Court ruled that Coke, and one million caregivers like her, could be denied overtime pay and minimum wage under the ‘companionship exemption’ of the Fair Labor Standards Act (FLSA), which categorizes home care workers as casual helpers, like babysitters.”

“‘Excluding these workers from the minimum standards contained in the FLSA is both unsound labor and employment policy and unsound long term care policy as we face a growing shortage of workers willing and able to perform these essential services,’ testified Craig Becker, SEIU lead counsel in Ms. Coke's Supreme Court case. ‘Today's home care workers can no longer be compared to the neighborhood teenager who baby sits on Friday night.’” [Becker knows that these positions are independent contractor positions, not employer-employee positions; yet he pushes to increase taxpayer burden to increase SEIU revenue.]

(SEIU Press Release, 10/25/2007)

Forced Union Dues Buying Off Politicians?

“The unionization campaign was unusual not only in its size, but also in its length -- it took more than 11 years and required the Service Employees Union to persuade the California Legislature to enact a law letting these workers unionize.”

“Soon after the organizing drive began in 1987, state courts ruled that the home-care aides were independent contractors without the right to unionize. Although their salaries were paid by a combination of Federal, state and county funds, the courts ruled that neither the state nor the county was the employer for these workers. Instead, the courts said the individual clients were the employers, making the workers and union recognize that if they were to negotiate better wages and benefits, they would need to bargain with large entities.”

“A decade ago people thought we were crazy to try to organize California's 180,000 home-care workers once the courts said they were independent contractors,” said Andrew Stern, president of the Service Employees International Union. “We said, ‘if we can't organize the fastest growing occupation in America, then what does that say about the labor movement?’”

(Steven Greenhouse, [NY Times](#), 2/26/1999)

SEIU's Green Organizing

SEIU paid over \$500,000 to Gray Davis in one year. Plus, numerous other contributions to other Democrats to create a new state employee description. One that is an employee for dues collection purposes only – not one that the state pays a salary, nor any benefits, nor covers with civil service liability protection, nor one whose time as a state homecare worker can be counted towards service years should this “state healthcare worker” get a real state job.

These independent contractors were not and are not real employees; they are nothing more than cash machines for SEIU union bosses like Tyrone Freeman. And, Craig Becker has actively participated in this charade and, as *NLRB Member Becker*, he can create all sorts of similar mischief in every state.

SEIU Local Founder and ACORN Creater, Wade Rathke

Becker is “a **big win no matter how you shake and bake it**: Craig Becker being nominated for a seat on the National Labor Relations Board (NLRB)! This is not to say that we do not need labor law reform desperately, but having crossed paths **with Craig for more than 20 years**, finally we have a situation where a brilliant, effective, and pro-worker/pro-union lawyer will be on the NLRB.

“For my money [the source of Rathke's money is not identified here] **Craig's** signal contribution has been his work in **crafting and executing the legal strategies** and protections which have allowed the effective **organization of informal workers**, and by this I mean home health care workers, under the protection of the National Labor Relations Act. The effective organization of informal workers — home health and home day care — has been the great, exceptional success story within the American labor movement for our generation, **leading to the membership of perhaps a half-million** such workers in unions like SEIU, AFSCME, CWA, and the AFT.

“Craig was the **key lawyer from the beginning** in the early 1980’s who was able to piece together the arguments and representation that allowed those of us involved in trying to organize home health care workers in Illinois, Massachusetts, and elsewhere to beat back the arguments that such workers should be denied NLRA coverage because they were either self-employed or tainted by a co-employer situation where they might be **quasi-public employees because they were directly reimbursed**. **His role was often behind the scenes devising the strategy with the organizer and lawyers**, writing the briefs for others to file, and putting all of the pieces together, but he was the go-to-guy on all of this. I can remember Keith Kelleher **negotiating the subsidy for SEIU Local 880** in Chicago and always making sure that there was the money for the organizers, but that SEIU was also still willing to allow access to Craig.”

“**Craig Becker will no longer be a secret weapon for workers at the NLRB**, particularly informal workers who desperately need protections under labor law, but at least with him sitting on the board, there will finally once again be a fair and *effective advocate and safeguard for workers*. *Thanks for a solid, President Obama!*”

Wade Rathke, ACORN Chief Organizer and Founder of SEIU 100 and SEIU 880

Becker Bio

Current: Associate General Counsel to the Service Employees International Union (SEIU) a member of the Change to Win Federation and the American Federation of Labor & Congress of Industrial Organizations ([link](#)).

Yale University, Undergraduate 1978; Yale University, Law School 1981, Editor of the Yale Law Journal; Clerk, Donald P. Lay, Chief Judge of the United States Court of Appeals for the Eighth Circuit, 1981-82; UCLA law professor (1989-1994); Associate Attorney at Kirschner, Weinberg & Dempsey, Washington, D.C., 1983-88, Partner 1988-89; Georgetown University Law School, Adjunct Professor, 1987-88; University of Chicago law professor

Obama’s transition team, U.S. DOL Agency Review Team, (Some believe Becker authored the January 31 Obama executive order, *Notification of Employee Rights Under Federal Labor Laws*.)

SUMMARY

Becker is bad news for individual worker rights and freedom, “no matter how you shake and bake it.”

He does not see the secret ballot as a democratic process. He believes that workers should not be allowed the freedom self-determination rather workers should be forced to give an exclusive authority to negotiate working conditions. He believes the U.S. Government should not be neutral during organizing drives, Uncle Sam should help the union.

Becker helped force tens of thousands of workers into state dictated unions. For example, Los Angeles SEIU Local 6434’s 2007 LM-2 report revealed that almost 63,000 people rejected membership in the union but are still forced to dues. (See reports at [UnionReports.gov](#))

Becker must be stopped before he starts, **CONTACT YOUR SENATORS NOW** (202-224-3121) and tell them that **Becker is unfit for the NLRB!**

Supporting Document

'Choice to Remain Unrepresented' Under Attack

Candid Article by Obama NLRB Pick Points to What's at Stake Today

"At first blush it might seem fair to give workers the choice to remain unrepresented. But, in granting this option, U.S. labor law grants employers a powerful incentive to campaign for a vote of no representation."

With these blunt words, published in a "labor studies" journal article, radical union lawyer Craig Becker dismissed the notion that workers should have any say whatsoever, whether as individuals or collectively by secret ballot or "card check," over whether or not they are unionized.

To try to justify his extremist position, Mr. Becker, associate general counsel for the Service Employees International Union (SEIU) and the AFL-CIO, resorted to an extraordinary analogy:

Just as U.S. citizens cannot opt against having a congressman, he contended, workers should not be able to choose against having a union as their monopoly-bargaining agent.

Employees' only choice, explained Mr. Becker, should be over which set of union officials get "exclusive" power to negotiate their wages, benefits, and work rules.

"[N]early 90 percent" of private-sector workers "lack [union monopoly] representation because the law does not mandate [it]," he complained.

Since most union bosses and Big Labor politicians at least give lip service to the notion that employees should have the right to make a choice against unionization of their workplace, one might be tempted to dismiss the rantings of Mr. Becker, influential union attorney though he is, as crazy and unimportant.

However, since this April 24, it has been impossible to ignore Mr. Becker. On that day, President Barack Obama nominated him, along with fellow union lawyer Mark Pearce, to fill two of the three current vacancies on the powerful, five-member National Labor Relations Board (NLRB).

'Barack Obama and Craig Becker Know What They're Doing'

The NLRB interprets and administers federal labor laws covering over 90% of businesses and private-sector employees.



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Who does Barack Obama (shown next to "Change to Win" union honcho Anna Burger) want on the

NLRB? A man who would deny employees any say at all over whether or not their workplace is unionized.

This agency has for decades displayed a strong bias to expand Big Labor's power under federal law to force workers to pay union dues, or be fired. But even so, the NLRB is poised to take a dramatic turn for the worse during the Obama era.

The NLRB is already headed by former union lawyer Wilma Liebman, who once served as counsel for the notorious Teamster Union. Ms. Liebman, originally appointed during the Clinton Administration and subsequently reappointed during the Bush years, was designated as chairman by Mr. Obama in January.

If the Big Labor-controlled U.S. Senate confirms Mr. Becker and Mr. Pearce, as now appears likely, former union lawyers will hold three of the four seats on the board, with one vacancy.

On a four-member NLRB, only Bush appointee Peter Schaumber can be expected to offer any resistance whatsoever to union lawyers' efforts to expand Big Labor's monopoly privileges, and, based on his NLRB track record, his resistance will be weak and intermittent.

"Barack Obama and Craig Becker know what they're doing," commented National Right to Work Committee

President Mark Mix.

"Mr. Obama knows he has nominated to the NLRB a man who is on the record as believing that any employee or employer efforts to resist unionization of a workplace are unacceptable.

"And Mr. Becker, for his part, certainly is savvy enough to recognize that his desired policy of openly denying workers any say whatsoever in whether or not their workplace is unionized is not politically sellable. But there is no serious reason to doubt that effectively denying workers any say remains his goal."

Senate Appears Ready to Vote to Deny Workers 'Choice To Remain Unrepresented'

"Therefore," continued Mr. Mix, "Big Labor senators who vote to confirm Craig Becker to the NLRB when his nomination comes to the floor will actually be voting to deny workers the 'choice,' in Mr. Becker's words, 'to remain unrepresented.'"

"The fact that Mr. Becker's confirmation nevertheless appears likely illustrates just what Right to Work supporters are up against in the current Congress." 