

Beltway Buzz, March 10, 2023

Article By:

James J. Plunkett

House of Representatives: Standing Room Only. On March 7, 2023, Jennifer McClellan (D-VA) was sworn in as a member of the U.S. House of Representatives after winning a special election last month to fill a seat that had been left vacant with the passing of Representative Donald McEachin, the late congressman from Virginia's Fourth Congressional District, which encompasses the city of Richmond. McClellan is the first Black woman to represent Virginia in the U.S. Congress. This is the first time since September 2019 that the House has had its full complement of 435 members (222 Republicans and 213 Democrats).

POTUS Releases 2024 Budget. On March 9, 2023, President Biden released his [budget request for fiscal year 2024](#)—the first step in the annual appropriations dance that will play out over the coming months. With a divided Congress, it is unlikely that any final spending bill will meet the president's demands, but the budget signals Democrats' priorities for policy debates going forward. For example, the president's budget calls for paid family and medical leave (up to twelve weeks) and paid sick leave (seven job-protected days)—proposals that are likely to be the subjects of various legislative efforts in the future. One other point about the budget: Republicans' slim majority in the House, coupled with the turmoil surrounding Representative Kevin McCarthy's ascendancy to Speaker of the House, increases the chances of a government shutdown after the current fiscal year closes on September 30, 2023.

FTC Extends Comment Deadline for Noncompete Ban Proposal. This week, the Federal Trade Commission (FTC) [announced](#) that it would extend the public comment period for its proposal to ban noncompete agreements between employers and workers. Comments were originally due by March 20, 2023, but they will now be due by April 19, 2023. In concurring with the decision to extend the comment deadline, departing Republican commissioner Christine Wilson [wrote](#), "Given that the proposed rule is a departure from hundreds of years of precedent and would prohibit conduct that 47 states allow, I would have supported extending the public comment by 60 days."

Senate Committee Hearing Pushes PRO Act. On March 8, 2023, the U.S. Senate Committee on Health, Education, Labor and Pensions (HELP) held a [hearing](#) entitled, "Defending the Right of Workers to Organize Unions Free from Illegal Corporate Union-Busting." The sometimes fiery hearing featured testimony from big labor presidents Liz Shuler (AFL-CIO), Mary Kay Henry (Service Employees International Union), and Sean O'Brien (International Brotherhood of Teamsters). Former National Labor Relations Board (NLRB) Chairman John Ring and Mark Mix, who is president of both

the National Right to Work Committee and the National Right to Work Legal Defense Foundation, also appeared as witnesses.

The union witnesses and their political allies spent much of the hearing criticizing employers and characterizing lawful employer conduct as “union busting.” The same witnesses called for passage of the Protecting the Right to Organize (PRO) Act, a higher minimum wage, federal contractor blacklisting, and a sweeping joint-employer standard. In response, Ring argued in his written testimony that the PRO Act would “detrimentally affect employee free choice and stifle basic democratic rights to a secret ballot and free debate, impose collective bargaining agreements on parties, wholly change how employers structure their business operations, and incentivize more strikes, picketing and secondary boycotts.”

Republican Senator Seeks Answers From NLRB. While this week’s HELP Committee hearing focused on potential legislative efforts in the area of traditional labor relations, the committee’s ranking member, Senator Bill Cassidy (R-LA), sent a letter to NLRB Chair Lauren McFerran and NLRB General Counsel Jennifer Abruzzo raising concerns related to “possible misconduct and lack of neutrality in litigation against prominent employers.” Specifically, the letter asked the NLRB chair and general counsel about actions they are taking to address “allegations of Board employee misconduct or interference in representation elections” that may have influenced election outcomes in favor of labor unions. Cassidy also expressed concern that “through a series of decisions and initiatives from the general counsel’s office, the Board has weaponized its enforcement powers to target prominent employers.”

NLRB and CFPB: A Marriage Made in ... D.C. On March 7, 2023, the NLRB and the Consumer Financial Protection Bureau (CFPB) [announced](#) an [information sharing agreement](#) and partnership between the two agencies “to address practices that harm workers in the ‘gig economy’ and other labor markets.” According to the CFPB, the agency partnership will focus on “employer driven debt” that allegedly results from employee expenses related to “employer-mandated training or equipment,” as well as potential Fair Credit Reporting Act violations related to worker productivity monitoring. As the *Buzz* has previously reported, General Counsel Abruzzo has entered into similar partnerships with the [U.S. Equal Employment Opportunity Commission](#), the [U.S. Department of Labor](#), the [Internal Revenue Service](#), the [U.S. Department of Justice’s Antitrust Division](#), and the [Federal Trade Commission](#).

RIP, Judy Heumann. Civil rights pioneer and disability advocate Judy Heumann passed away on March 4, 2023, at the age of 75. Heumann, who was afflicted with polio as an infant, used a wheelchair for most of her life. As a child growing up in New York City in the 1950s, Heumann was prohibited from attending the local public school, which claimed that her use of a wheelchair created a fire hazard. After successfully fighting to attend high school in person, Heumann went on to earn a bachelor’s degree in speech and theater and a master’s degree in public health. In 1970, the New York Board of Education denied Heumann a teaching license, again claiming that her use of a wheelchair created a safety issue in the schools. Heumann challenged the denial in *Heumann v. Board of Education of the City of New York*, a case that she won, and she became the first teacher to use a wheelchair in New York City’s public schools. Heumann subsequently founded Disabled in Action, was the deputy director of the Center for Independent Living, and was instrumental in the passage of the Rehabilitation Act and the promulgation of regulations implementing Section 504 of the act. Heumann served as assistant secretary of education for special education and rehabilitative services during the Clinton administration, as the World Bank’s first advisor on disability and development, and as special advisor on international disability rights for the U.S. Department of State during the Obama administration.

National Law Review, Volume XIII, Number 69

Source URL: <https://natlawreview.com/article/beltway-buzz-march-10-2023>