



## **Worker Freedom in the States: The *Janus* Impact**

*Unprecedented labor issue activity has followed the 2018 Janus v. AFSCME ruling. In 2019, over 100 Janus-related state bills have been introduced and seven enacted, and public employees have filed dozens of lawsuits across the country. While pro-union forces have found more legislative success, Janus supporters have been more active in the courts.*

**Union-strong states such as Washington, Oregon, and California have successfully implemented legislation to counteract *Janus*.** This includes:

- Protecting unions from refunding fair share fees (Washington and California) and instituting a form of fair share fee alternatives (Oregon and Rhode Island).
- Codifying and expanding union privileges like paid “release time” for union officials to conduct union business during the work day (Oregon and California).
- Requiring government to disclose to unions employees’ private information, such as cell phone numbers and personal e-mail addresses (Oregon and Massachusetts), and even prohibiting local private sector right-to-work (Illinois and New Mexico).
- *Similar legislation has been introduced, even in right-to-work states.* This includes:
  - Attempting to roll back right-to-work laws (Arizona, Indiana, and Virginia) and replace secret ballot unionization votes with card check (Pennsylvania).
  - Expanding collective bargaining to new employees (successful in Nevada) or attempting to expand the scope of what can be bargained (Delaware, Maryland, Arizona, California, Michigan, Minnesota, and Washington).

***Janus* supporters, those less legislatively active, have pushed reforms.** This includes:

- Attempting to require *Janus* rights notification to public employees in Pennsylvania, New Hampshire, and Connecticut.
- Allowing workers to resign outside previous union “opt-out” windows (Oklahoma), requiring union recertification (Florida), and enhancing contract negotiation transparency (Indiana). Missouri was notably successful in instituting comprehensive reforms, including union financial reporting requirements, release time prohibition, recertification requirements, and annual dues authorization.

**Federal changes favor *Janus* advocates.** In May 2019, the Department of Health and Human Services prohibited the “skimming” of union dues from the Medicaid-funded paychecks of some 3 million home care workers. Similarly, the National Labor Relations Board appears to be changing its operations. For instance, an April 2019 memo [places the onus on unions](#) to prove they are charging non-union member private sector workers a defensible amount in agency fees.

**Workers and their allies filed dozens of lawsuits across the country.** While the 23 non-right-to-work states are following the *Janus* ruling, fair share fee provisions remain largely untouched in state statute. Public employee lawsuits tend to either seek a refund of fees paid pre-*Janus*, overturn opt-out windows, or challenge exclusive representation.

<b>Overview of Labor Laws since 2018</b>		
<b>Law</b>	<b>Enacted 2018-19</b>	<b>Introduced 2019</b>
Unionizes new classes of employees	Md., Nev.	Ariz., Calif., Md., Mich., Minn., Wash.
Expands the subject of collective bargaining	Del.	
Permits employees to represent themselves		Ill., Pa.
Gives unions access to existing and new employees' contact details and/or makes it easier to unionize	Conn., Md., N.J., Ore., R.I., Wash.	Conn., Ill., Maine, Mass., Nev., N.H., Pa., Vt.
Restricts employers from deterring or discouraging union membership	Calif.	
Institutes release time	Calif., Ore.	Calif., Fla.
Bans release time	Mo.	
Permits unions to refrain from representing non-members		Ill., Hawaii, Md., Mass., Ore.
Repeal state's right-to-work law		Ariz., Ind., Ky., Va.
Bans local government entities from instituting right-to-work for private sector workers	Ill., N.M.	
Allows easier opt-outs	Okla.	Kan., Pa.
Institutes opt-out	Hawaii	
Requires payroll deduction of union dues when requested	Wash., Ore., R.I.	Vt.
Paycheck protection or limits on dues deduction	Mo., Iowa	Kan., N.J., Okla.
Requires regular recertification of unions	Fla., Mo.	Okla., Pa.
Prevents lawsuits seeking repayment of fair share fees paid prior to <i>Janus</i>	Calif., Wash.	
Institutes fair share fee alternative	Ore., R.I.	Hawaii, Mass., N.H., Ore.
Statute prohibiting employers from requiring union membership or fees		CO, Maine, Md., Minn., Mont., Mo., N.H., N.M., Ore.
Removes fair share fees from statute	Wash.	Ill., Ore., Pa.
Requires notifying workers of right to join or not join a union		Conn., N.H., Pa.
Contract transparency measures	Ind., Mo.	Pa.

Source: Ballotpedia, [https://ballotpedia.org/Public-sector\\_union\\_policy\\_in\\_the\\_United\\_States,\\_2018-present](https://ballotpedia.org/Public-sector_union_policy_in_the_United_States,_2018-present).

<b>Snapshot of Post-Janus Lawsuits</b>		
Return of fees taken before <i>Janus</i> ruling and/or find state fee provisions unconstitutional	Calif., Minn., Conn., Ill., Md., N.H., N.Y., Ohio, Ore., Pa.	22
Return of fees taken before <i>Janus</i> ruling; honor union resignation and cease dues deduction	Alaska, Calif., N.J., N.Y., Ohio, Wash.	12
Honor union resignation and cease dues deduction	Calif., Hawaii, Ill., Minn., N.J., N.M., Ohio, Ore., Pa., Texas, Wash.	35
Challenge exclusive representation	Maine, Mass., Minn., Ohio	4

Sources: [Liberty Justice Center](#); [The Fairness Center](#); [National Right to Work Foundation](#); Law360.com. This table may not capture every lawsuit; includes lawsuits dismissed, settled, or appealed.