



August 2019

Worker Freedom in the States: The *Janus* Impact

Public sector labor reforms have swept across several states over the last decade. For example, Wisconsin, Michigan, Indiana, West Virginia, and Kentucky all became right-to-work states.¹ The courts have dismissed lawsuits against these reforms and right-to-work states now outnumber forced-union states 27 to 23. At the same time, legislative reforms have taken root in state legislatures.

*However, labor issue activity has burst the year following the 2018 *Janus v. AFSCME* ruling, which ruled fair share fees imposed on nonmembers were unconstitutional. According to Ballotpedia, over 100 *Janus*-related state bills have been introduced and seven enacted in 2019.² New union-backed legislation represents an effort to codify union privileges that may have simply been negotiated at the contract level before, shore up the scope of collective bargaining, and unionize new groups of government employees, generally outpacing efforts from *Janus* supporters to build upon the ruling.*

Non-right-to-work states push pro-union legislation

Post-*Janus*, government unions and their allies have capitalized on legislative majorities, political weaknesses, and vague labor law in the 23 non-right-to-work states to create statutory protections for public sector unions.

- **Counteracting *Janus* and instituting fair share fee alternatives.**
 - Washington House Bill 1575 declares government unions are not liable for refunding fair share fees collected before *Janus*. California’s Senate Bill 846, passed in September 2018, does the same.
 - Oregon leads the states with 10 new labor bills in 2019. With House Bill 3009, public safety unions maintained a form of agency fees by replacing them with “reasonable fees and costs for representation that are unrelated to the negotiation of a collective bargaining agreement.”³
 - Legislation to apply this agency fee workaround to all public sector employees and institute voluntary non-member fees failed to pass the

¹ Missouri passed right-to-work in 2017, only to have it overturned in an August 2018 ballot initiative.

² Ballotpedia, “Number of Relevant Bills by Current Legislative Status,” Aug. 9, 2019, https://ballotpedia.org/Public-sector_union_policy_in_the_United_States,_2018-present.

³ Section 1(5), “House Bill 3009 – Enrolled,” Oregon Legislative Assembly – 2019 Regular Session, <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB3009/Enrolled>

- 2019 session,⁴ as did New Hampshire’s Senate Bill 18 proposing voluntary union payments⁵ and a Massachusetts bill for work-around fees.⁶
- Rhode Island passed a more measured law permitting unions to levy fees on public school teachers and municipal workers who, as non-members, request arbitration and/or grievance services.⁷
 - **Expanding union privileges.**
 - Union “release time” gives union officials paid time off to conduct union business during the work day without loss of compensation, seniority, or leave accrual.
 - While sometimes negotiated into contracts, the Oregon legislature passed House Bill 2016 codifying “release time” in statute.⁸
 - California previously granted to local and state union representatives release time. With the passage of Senate Bill 1085 in 2018, most government employees can now “serve as stewards or officers of the exclusive representative.”
 - Meanwhile a Florida bill to *prohibit* release time failed in committee.⁹
 - In 2019, Illinois¹⁰ and New Mexico¹¹ banned local right-to-work provisions for private sector workers.
 - **Easing unionization.**
 - Though unions enjoy access to public employee information, new legislation attempts to disclose private employee information as well, such as cell phone numbers and personal e-mail addresses.
 - Oregon’s HB 2016 requires government employers to disclose to unions employees’ private information.
 - On Aug. 2, Massachusetts Gov. Charlie Baker vetoed an omnibus government union bill, H3854, citing concerns over union access to private employee details. (The bill would also allow unions to charge non-members fees for grievance proceedings.)¹² A veto override is possible in the legislature’s next session.
 - In Pennsylvania, labor leaders have twice attempted to institute “card check” legislation, which replaces a secret ballot unionization vote with publicly signed authorization cards. Reintroduced House Bill 1178 would also provide union leaders access to workers’ private information, including home addresses.¹³

⁴ Oregon State Legislature, “House Bill 2643,” 2019, <https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/HB2643> and “House Bill 2726,” 2019, <https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/HB2726>.

⁵ General Court of New Hampshire, “Senate Bill 18,” 2019, http://gencourt.state.nh.us/bill_status/bill_status.aspx?lsr=1009&sy=2019&sortoption=&txtsessionyear=2019&txbillnumber=SB18.

⁶ 191st General Court of the Commonwealth of Massachusetts, “Bill S.1043,” 2019, <https://malegislature.gov/Bills/191/S1043>.

⁷ Rhode Island State Legislature, “House Bill 5259,” 2019 Regular Session, <https://legiscan.com/RI/text/H5259/2019>.

⁸ Section 3(1), “House Bill 2016 Enrolled,” Oregon State Legislature, <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2016/Enrolled>.

⁹ The Florida Senate, “House Bill 13,” 2019, <http://www.flsenate.gov/Session/Bill/2019/13>.

¹⁰ Section 5, “Full Text of SB1474,” 101st General Assembly, Illinois, <http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=108&GA=101&DocTypeId=SB&DocNum=1474&GAID=15&LegID=118327&SpecSess=&Session=>

¹¹ Section 1(D), HB 85, <https://www.nmlegis.gov/Sessions/19%20Regular/final/HB0085.pdf>.

¹² Shira Schoenberg, “Gov. Charlie Baker Vetoes Pro-Union Bill for Second Time,” MassLive.com, Aug. 2, 2019, <https://www.masslive.com/news/2019/08/gov-charlie-baker-vetoes-pro-union-bill-for-second-time.html>.

¹³ Pennsylvania General Assembly, “House Bill 1178,” 2019, <https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2017&sind=0&body=H&type=B&bn=1178>. House Bill 2606 failed to pass in 2018.

Expanding collective bargaining

Even in right-to-work states, efforts to expand collective bargaining—both to new classes of employees and the scope of what can be bargained—has made headway.

- Following the 2018 midterm elections creating a union-friendly Democratic trifecta, right-to-work Nevada passed Senate Bill 135 in June 2019, which allows about 20,000 state employees to collectively bargain for the first time.¹⁴
- Delaware passed Senate Bill 8 of 2019 mandating compensation as a bargaining topic.¹⁵
- In Maryland, lawmakers are attempting to expand collective bargaining to higher education employees,¹⁶ with similar expansion bills introduced in Arizona, California, Michigan, Minnesota, and Washington.¹⁷
- There have even been ambitious, if so far unsuccessful, attempts to roll back right-to-work laws in Arizona, Indiana, and Virginia—and successful prohibition on local governments instituting private sector right-to-work in Illinois and New Mexico.¹⁸

Right-to-work states slow to build upon *Janus*

Compared to more union-friendly states, right-to-work states are less active in building upon the *Janus* ruling, but have focused on the following reforms.

- **Eliminating opt-out windows and establishing union elections.**
 - In May 2018, in anticipation of the *Janus* ruling, Oklahoma passed a law that allows union members to resign outside previous “opt-out” windows.¹⁹
 - In Pennsylvania, pending legislation requires public employers to notify employees that nonmember fees aren’t required.²⁰
 - A bill with a similar notification provision was vetoed in New Hampshire because it gave unions greater access to employees;²¹ Connecticut is considering notification legislation.²²
 - In March 2018, Florida passed a law requiring unions with fewer than 50% of eligible employees as members to apply for recertification.²³ By 2019, two teachers’ unions in Florida faced decertification as a result of the new law.

¹⁴ Nevada Legislative Assembly, “HB 135 – Enrolled,” 80th (2019) Session, <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6159/Text>; Wall Street Journal, “Nevada Embraces Public Unions,” June 20, 2019, <https://www.wsj.com/articles/nevada-embraces-public-unions-11561070430>.

¹⁵ Delaware General Assembly, “Senate Bill 8,” 2019, <https://legis.delaware.gov/BillDetail?LegislationId=37098>.

¹⁶ Legiscan, “Maryland House Bill 1143” and “Maryland House Bill 766,” 2019 Regular Session, <https://legiscan.com/MD>.

¹⁷ Arizona Senate Bill 1433, California Assembly Bills 969 and 378, Michigan House Bill 4034, Minnesota SF 1244, Washington House Bills 2017 and 1452.

¹⁸ Ballotpedia, “Legislation Related to Public-Sector Employee Unions, 2019,” https://ballotpedia.org/Public-sector_union_policy_in_the_United_States,_2018-present.

¹⁹ Negotiation Between School Employees and Districts, Okla. Stat. tit. 70 §5-139, <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=89888>.

²⁰ Pennsylvania General Assembly, “House Bill 785,” Regular Session 2019-2020, <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&sInd=0&body=H&type=B&bn=0785>.

²¹ Legiscan, “New Hampshire Senate Bill 148,” 2019 Regular Session, <https://legiscan.com/NH/bill/SB148/2019>.

²² Connecticut General Assembly, “Proposed H.B. No. 5637,” Session Year 2019, https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2019&bill_num=5637.

²³ F.S. § 1012.2315(4)(c), http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1012/Sections/1012.2315.html.

- May 2019, Indiana Senate Bill 390 passed, providing for public hearings and testimony prior to school district contract negotiations, and public access to tentative contract agreements.²⁴
- **Missouri’s comprehensive reforms.**
 - Despite the loss of the state’s right-to-work status, Missouri’s 2018 public sector labor reforms included the most robust government union annual financial report requirement in the country,²⁵ and new requirements for every union officer to annually report financial or legal interests in a public body associated with the officer’s union.²⁶
 - Binding arbitration and release time are prohibition.²⁷
 - Contracts may not be extended indefinitely under so-called “evergreen” provisions: labor agreements must be negotiated every three years, and any change to a contract constitutes a new agreement.²⁸
 - Unions must now have annual authorization from employees to make union dues and political contribution deductions, and its absence “shall not be made a condition of employment or continued employment.” As such, employees may effectively resign when they wish and revoke payroll deductions without having to comply with a defined opt-out window.²⁹
 - In August 2018, Missouri passed a law requiring all previously certified unions to undergo a recertification within 12 months and then conduct an election by phone or online every three years after.³⁰

| Overview of Labor Laws since 2018 | | |
|---|-------------------------------------|---|
| Law | Enacted 2018-19 | Introduced Spring 2019 |
| 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. |

²⁴ Legiscan, Indiana Senate Bill 390, 2019 Regular Session, <https://legiscan.com/IN/votes/SB0390/2019>.

²⁵ Mo. Rev. Stat. §105.533 (2018), <https://law.justia.com/codes/missouri/2018/title-viii/chapter-105/section-105.533/>.

²⁶ Mo. Rev. Stat. §105.535 (2018), <https://law.justia.com/codes/missouri/2018/title-viii/chapter-105/section-105.535/>.

²⁷ Mo. Rev. Stat. §105.585(4) (2018), <https://law.justia.com/codes/missouri/2018/title-viii/chapter-105/section-105.585/>.

²⁸ Mo. Rev. Stat. §§105.580(6) and §105.580(8) (2018), <https://law.justia.com/codes/missouri/2018/title-viii/chapter-105/section-105.580/>.

²⁹ Mo. Rev. Stat. §105.505 (2018), <https://law.justia.com/codes/missouri/2018/title-viii/chapter-105/section-105.505/>.

³⁰ Mo. Rev. Stat. § 105.575(12) (2018), <https://law.justia.com/codes/missouri/2018/title-viii/chapter-105/section-105.575/>.

| | | |
|---|-------------------|---|
| 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: News reports, "Public-Sector Union Policy in the United States," 2018-Present, Ballotpedia, https://ballotpedia.org/Public-sector_union_policy_in_the_United_States,_2018-present . | | |

Federal changes favor *Janus* advocates

May 2019, a U.S. Department of Health and Human Services ruling prohibited “dues skimming” from the paychecks of some 3 million home care workers across America.³¹ Before this ruling, home care workers—for example, parents caring full-time for disabled children—had union dues deducted from their Medicaid subsidies in certain states.

Separately, the National Labor Relations Board (NLRB) appears to be changing its operations. In April 2019, the NLRB’s general counsel issued a memo informing the agency’s field offices that non-union member private sector workers no longer have to provide evidence when they challenge their union’s collective bargaining and other charges. The onus, rather, is on unions themselves to prove they are charging workers a defensible amount in agency fees.³²

National patterns

- Twenty-four states legally require government agencies to bargain collectively with labor unions. An additional 20 states permit collective bargaining.
- Twenty-seven states provide for binding arbitration, either mandatory or at unions’ request.

³¹ Federal Register, “Medicaid Program, Reassignment of Medicaid Provider Claims,” 84 FR 19718 (May 6, 2019): 19718-19728,

<https://www.federalregister.gov/documents/2019/05/06/2019-09118/medicaid-program-reassignment-of-medicaid-provider-claims>.

³² Robert Iafolla, “Challenges to Union Fees Made Easier by Top NLRB Lawyer,” Bloomberg Law, May 3, 2019, <https://news.bloomberglaw.com/daily-labor-report/nonmember-challenges-to-union-fees-made-easier-by-top-nlr-lawyer>.

- Two new states, Florida³³ and Missouri,³⁴ join Iowa and Wisconsin, now require incumbent government unions to go through a recertification election or process. Most government unions nationwide were certified in the 1960s or 1970s when public sector collective bargaining arose and have never faced an election.³⁵
- Only two states allow multiple unions to negotiate compensation and work conditions for public sector workers. In Missouri, employers largely determine whether teachers and police officers—who are covered by case law rather than state collective bargaining statute—may have multiple union representatives.³⁶ Tennessee awards unions that earn 15% or more of employees’ votes proportional representation at the bargaining table.³⁷ States overwhelmingly give a single union the designation of “exclusive bargaining representative” for all employees in a unit of similar workers.
- Ten states have some form of paycheck protection. Five states have a complete prohibition of the payroll deduction of union dues and political contributions: Wisconsin,³⁸ Iowa,³⁹ Michigan (for teachers and other public school employees),⁴⁰ Oklahoma (whose 2015 statute covers state employees),⁴¹ and Indiana (which banned dues deductions for state workers by executive order in 2005).⁴²
 - Alabama,⁴³ Idaho,⁴⁴ Kansas,⁴⁵ Tennessee,⁴⁶ and Utah⁴⁷ all prohibit unions from using taxpayer-funded government payroll systems to collect political contributions or funds to be used for political purposes. Additionally, Kentucky prohibits the automatic deduction of union dues and political contributions without authorization from members.⁴⁸

³³ State Library and Archives of Florida, “Committee Substitute for House Bill No. 7055,” 2018, <http://laws.flrules.org/2018/6>, p. 89. The law amends F.S. §447.307(2) and (3).

³⁴ Mo. Rev. Stat. §105.575, <http://revisor.mo.gov/main/OneSection.aspx?section=105.575&bid=34979&hl=>.

³⁵ For a detailed example of this, see the Hawaii Labor Relations Board’s April 2016 list of certified government unions. All but one gained certification in the 1970s: http://labor.hawaii.gov/hlrh/files/2013/05/2016-04-25-EMPLOYEE_ORGANIZATIONS-Public-Sector.pdf.

³⁶ *Independence-National Education Association v. Independence School District*, 223 S.W.3d 131 (2007) extended collective bargaining rights to public sector employees, effectively covering teachers and police. The 2012 cases *Coalition of Police v. Chesterfield*, 386 S.W.3d 755, and *American Federation of Teachers v. Ledbetter*, 387 S.W.3d 360, further established that government entities had a duty to bargain collectively. See also John Wright, “A Primer on Government Labor Relations in Missouri,” *Show-Me Institute*, April 1, 2015, http://showmeinstitute.org/sites/default/files/201503%20A%20Primer%20on%20Government%20Labor%20Relations%20in%20Missouri%20-%20Wright_0.pdf.

³⁷ Tenn. Code Ann. § 49-5-605, <https://www.lexisnexis.com/hottopics/tncode/>.

³⁸ Wis. Stat. § 111.70(3g), <http://docs.legis.wisconsin.gov/statutes/statutes/111/IV/70/3g>, Wis. Stat. § 111.845, <http://docs.legis.wisconsin.gov/statutes/statutes/111/V/845>.

³⁹ Iowa Code § 20.26, <https://coo.ice.legis.iowa.gov/Cool-ICE/default.asp?category=billinfo&service=IowaCode&ga=83&input=20.26>; Iowa Code § 731.5, <https://coo.ice.legis.iowa.gov/Cool-ICE/default.asp?category=billinfo&service=IowaCode&ga=83&input=731#731.5>.

⁴⁰ Mich. Comp. Laws § 423.210, [http://www.legislature.mi.gov/\(S\(4oyc3ho3dgv5mcbcf4yh4n\)\)/mileg.aspx?page=GetObject&objectname=mcl-423-210](http://www.legislature.mi.gov/(S(4oyc3ho3dgv5mcbcf4yh4n))/mileg.aspx?page=GetObject&objectname=mcl-423-210).

⁴¹ Okla. Stat. tit. 62 § 34.70.1, <http://www.oscn.net/applications/OCISWeb/DeliverDocument.asp?CiteID=476351>.

⁴² State of Indiana, Executive Order 05-14, January 11, 2005, http://in.gov/governorhistory/mitchdaniels/files/EO_05-14_Complaint_State_Employees.pdf.

⁴³ Ala. Code 1975 § 17-17-5, <http://codes.findlaw.com/al/title-17-elections/al-code-sect-17-17-5.html>.

⁴⁴ Idaho Code Ann. § 44-2004, <https://legislature.idaho.gov/idstat/Title44/T44CH20SECT44-2004.htm>.

⁴⁵ Kan. Stat. Ann. § 44-808, http://www.ksrevisor.org/statutes/chapters/ch44/044_008_0008.html; Kan. Stat. Ann. § 75-4333, http://www.ksrevisor.org/statutes/chapters/ch75/075_043_0033.html.

⁴⁶ Tenn. Code Ann. § 49-5-608, <http://law.justia.com/codes/tennessee/2014/title-49/chapter-5/part-6/section-49-5-608>.

⁴⁷ Utah Code § 34-32-1.1.(2), https://le.utah.gov/xcode/Title34/Chapter32/34-32-S1.1.html?v=C34-32-S1.1_1800010118000101.

⁴⁸ KRS Chapter 336, <http://www.lrc.ky.gov/statutes/chapter.aspx?id=38883>; KRS Chapter 337 <http://www.lrc.ky.gov/statutes/chapter.aspx?id=38890>.

- In 2018, Missouri,⁴⁹ joined 12 others that require union contract negotiations to be open to the public. The others are Colorado (for public schools only),⁵⁰ Florida,⁵¹ Georgia,⁵² Kansas,⁵³ Minnesota,⁵⁴ Mississippi,⁵⁵ Montana,⁵⁶ Nebraska,⁵⁷ Nevada,⁵⁸ North Dakota,⁵⁹ Tennessee,⁶⁰ and Texas.⁶¹ In 2019, Indiana passed a bill requiring public hearings and testimony before school district negotiations and after tentative contracts are proposed.⁶²

Lawsuits

Labor law reforms—whether full passage of right-to-work or piecemeal reform—encounter resistance from public officials and union leaders. For instance, right-to-work efforts in 2017 were blocked in New Hampshire, despite the governor’s support and right-to-work opponents successfully enacted a two-year prohibition on the introduction of similar legislation.⁶³

Since *Janus v. AFSCME*, however, legal challenges have mainly come from workers and their allies, with dozens of lawsuits filed 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. The cases tend to either seek a refund of fees paid pre-*Janus* (and in some cases remove fair share fees from statute); overturn opt-out windows, which allow workers to resign union membership only during defined periods; or challenge exclusive representation.

- For example, Pennsylvania employees filed a class action lawsuit impacting 9,000 against their union SEIU Local 668 for not recognizing their resignations, which were lodged a year before the official 15-day opt-out window.⁶⁴ The case resulted in SEIU 668

⁴⁹ Mo. Rev. Stat. §105.583, <http://revisor.mo.gov/main/OneSection.aspx?section=105.583&bid=34981&hl=>.

⁵⁰ Colorado School Collective Bargaining Agreement Sunshine Act, C.R.S. 22-32-109.4 (2016) et seq., <http://www.lexisnexis.com/hottopics/Colorado/>.

⁵¹ Fla. Stat. § 447.605, <https://www.flsenate.gov/Laws/Statutes/2012/447.605>; Fla. Stat. § 286.011, http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0200-0299/0286/Sections/0286.011.html.

⁵² Ga. Code Ann. § 50-14-1, http://law.ga.gov/sites/law.ga.gov/files/imported/vgn/images/portal/cit_1210/62/49/186393706OMA_M_2012_A ct_correctly_formatted.pdf.

⁵³ Kan. Stat. Ann. §§ 75-4317—75-4320a, http://kslegislature.org/li_2012/b2011_12/statute/075_000_0000_chapter/075_043_0000_article/.

⁵⁴ Minn. Stat. § 13D.01, <https://www.revisor.mn.gov/statutes/?id=13D.01>.

⁵⁵ Miss. Code §§ 25-41-1—25-4-17, [http://www.ethics.state.ms.us/ethics/ethics.nsf/PageSection/A_meetings_meetings_law/\\$FILE/Open%20Meetings%20Act_3.29.16.htm?OpenElement](http://www.ethics.state.ms.us/ethics/ethics.nsf/PageSection/A_meetings_meetings_law/$FILE/Open%20Meetings%20Act_3.29.16.htm?OpenElement).

⁵⁶ Open Meetings, Mont. Code Ann. § 2-3-203, <http://leg.mt.gov/bills/mca/2/3/2-3-203.htm>; *Great Falls Tribune v. Great Falls Public Schools*, 841 P.2d 502 (S.C. MT 1992), <https://filenet.mt.gov/getContent?vsId=%7B79DADF40-5F6C-4432-A0F5-084DCD7F4262%7D&impersonate=true&objectType=document&objectStoreName=PROD%20OBJECT%20STORE>.

⁵⁷ Neb. Rev. Stat. §§ 84-1408, 84-1410, <http://nebraskalegislature.gov/laws/browse-chapters.php?chapter=84>.

⁵⁸ Nev. Rev. Stat. § 288.153, <https://www.leg.state.nv.us/nrs/NRS-288.html#NRS288Sec153>.

⁵⁹ N.D. Cent. Code § 44-04-19, <http://www.legis.nd.gov/cencode/t44c04.pdf>; *Dickinson Ed. Ass’n v. Dickinson Public School Dist. No. 1*, 252 N.W.2d 205 (N.D. 1977).

⁶⁰ Tenn. Code Ann. § 8-44-201, <http://law.justia.com/codes/tennessee/2010/title-8/chapter-44/part-2/8-44-201>.

⁶¹ Tex. Bus. & Com. Code § 174.108, <http://www.statutes.legis.state.tx.us/SOTWDocs/LG/htm/LG.174.htm>.

⁶² Legiscan, Indiana Senate Bill 390, 2019 Regular Session, <https://legiscan.com/IN/votes/SB0390/2019>.

⁶³ Kathleen Ronayne, “Right-to-work’ bill killed in New Hampshire,” *The Portland Press Herald*, February 16, 2017, <http://www.pressherald.com/2017/02/16/right-to-work-bill-killed-in-new-hampshire/>.

⁶⁴ The Fairness Center, “*James v. SEIU, Local 668*,” <https://www.fairnesscenter.org/cases/detail/james-v-seiu-668>.

officially agreeing in their new contract to allow all employees to resign whenever they wish.⁶⁵

- Lawsuits on issues such as opt-windows seek to clarify jurisprudence following the *Janus* ruling and could impact union contracts and conduct.

| Snapshot of Post-<i>Janus</i> Lawsuits | | |
|--|--|--------------|
| Lawsuit Type | States with Lawsuits | Total |
| Return of fees taken before <i>Janus</i> ruling; find state fee provisions unconstitutional | Ore. | 2 |
| Return of fees taken before <i>Janus</i> ruling | Calif., Minn., Conn., Ill., Md., N.H., N.Y., Ohio, Ore., Pa. | 20 |
| 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. | 34 |
| Honor union resignation and right to be informed of union options | Calif. | 1 |
| Challenge exclusive representation | Maine, Minn., Ohio | 3 |
| Challenge fair share fee statute and exclusive representation | Mass. | 1 |
| Sources: Liberty Justice Center, https://libertyjusticecenter.org/cases/ ; The Fairness Center, https://www.fairnesscenter.org ; National Right to Work Foundation, https://myjanusrights.org ; Law360.com. This table may not capture every lawsuit; includes lawsuits dismissed, settled, or appealed. Updated August 2019. | | |

Conclusion

From the above developments, we can see that pro-union states and lawmakers are pushing to gain new privileges via state law after the *Janus* loss. In contrast, pro-right-to-work states and groups appear to be more active through lawsuits and the executive branch. Were it not for an explosion of *Janus*-related lawsuits from workers and moves from the Trump administration to further the ruling's effect, the year after *Janus* might be characterized by a loss of worker freedom.

⁶⁵ Free to Serve, "SEIU 668 Agrees to Let State Workers Resign When They Wish," June 21, 2019, <https://freedomtoserve.org/seiu-668-agrees-to-let-state-workers-resign-when-they-wish/>.