

# COMMONWEALTH SENSE

November-December 2019

A BIMONTHLY PUBLICATION OF THE COMMONWEALTH FOUNDATION FOR PUBLIC POLICY ALTERNATIVES, PENNSYLVANIA'S FREE-MARKET THINK TANK.



## «« EXPANDING »» WORKERS' RIGHTS AND DEFENDING AGAINST ATTACKS

## NOTE FROM THE TEAM

We are pleased to welcome three new members to the Commonwealth Foundation team this fall. Kevin Mooney joins as our senior investigative journalist, a new position and one whose work is certain to grace future issues. Abbey Haslam and Rachel Shambaugh are our new senior communications officer and director of development, respectively. Both Abbey and Rachel bring experience from working with the legislature.

And that's not the only way our team is growing. This year has seen one new CF baby, another on the way in early 2020, and an engagement. We love celebrating these milestones as a work family.

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## THE FOUR POLICY PILLARS



Children thrive in learning environments suited to their needs, not dictated by their ZIP codes. We have expanded education options for hundreds of children and are spearheading the movement to allow parents to fully customize their child's education.



People enjoy the highest quality of life when they can earn their own success and provide for their families. We have crafted policies that are now law, empowering vulnerable Pennsylvanians to move from dependency to self-sufficiency.



Families, business owners, and job-seekers plant roots in states that foster economic growth. We have defeated billions of dollars in tax hikes and pushed public pension reform across the goal line. Because of our work, Pennsylvania is primed to unleash prosperity for all.

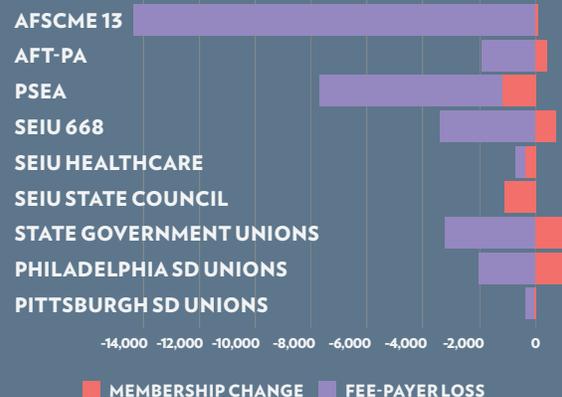


Pennsylvanians deserve a fair political and economic playing field. We have exposed and weakened special interests' unfair privileges and are leading the charge to eliminate favoritism for government union leaders and end corporate welfare.

## CHART OF THE MONTH



### PA PUBLIC SECTOR UNION MEMBERSHIP POST-JANUS



SOURCE: DEPARTMENT OF LABOR, OLMS DATABASE, FORM LM2; RIGHT-TO-KNOW REQUESTS. NOTE: CHANGES IN MEMBERSHIP CAN INCLUDE EMPLOYMENT CHANGES FOR CURRENT WORKERS, NEW EMPLOYEE HIRES, AND UNIONIZATION OF ADDITIONAL BARGAINING UNITS.

# HOW MY UNION TRAPPED AND DECEIVED ME

By John Kabler

Being a clerk in one of Pennsylvania's state-owned Fine Wine & Good Spirits shops is an enjoyable job. I have great co-workers, great customers, and sell great products. But the job came with baggage I didn't expect: union officials who misled me and took my hard-earned money.

For the sake of both those currently working for the commonwealth and future state employees, it's worth shining light on how my union officials do business and exposing the obstacles they put between me and my constitutional rights.

During mandatory job orientation, I had the displeasure of meeting a union representative who delivered "an offer I couldn't refuse." She spoke about her belief in the perceived virtues of solidarity and the value of belonging to the union, the United Food and Commercial Workers, Local 1776. I was given a membership form that had already been filled out with my information.

When I expressed my anger with being forced to join, she made it clear I had two options. Sign the form to join the union—or find another job.

In addition to the union representative's direction, I received another message from the higher-ups—this time in writing. UFCW Local 1776 President Wendell Young, IV, sent me a letter that could not have been clearer. "It is a condition of employment with this company that you become a member in good standing with Local 1776," he wrote.

Here was my mistake: I believed them. I did not want to join the union, but based on what they said, I thought I had to join to keep my job.

What wasn't explained to me when I was handed that membership form was that for decades, it's been illegal to force employees to join a union as a condition of employment. What Young told me contradicted long-standing law.

Meanwhile, UFCW Local 1776 took in \$21 million in 2018, nearly all of it from dues and fees from workers like me.

As a part-time clerk, I often earn less than \$200 per week. Every hard-earned dollar means a great deal to me, but the union took money from my paycheck for years, even though I never wanted to join it. For a long time, it seemed impossible for me to stand against the union behemoth.

Then, in June of last year, I heard about a Supreme Court ruling that outlawed union "fair share" fees for nonunion public employees. The



*Janus v. AFSCME, Council 31* ruling meant that if I had not been coerced into joining the union, I wouldn't have had to pay UFCW Local 1776 one dime.

At that point, I decided to resign my union membership so that I no longer had to financially support a union that I never supported to begin with. Not surprisingly, the union saw things differently. Because Pennsylvania law has a "maintenance of membership" provision—which I believe is unconstitutional—the union and my employer can limit my resignation period to a 15-day escape window at the end of my multiyear contract.

After deceiving me to get me to join, they were now trapping me in my union membership.

With my back against the wall, I had no choice but to take legal action to protect my rights. The Fairness Center, a nonprofit law firm that represented me at no cost, helped me file a federal lawsuit in March. A union's ability to retain unwilling members is a topic that must be addressed by the courts. Nationwide, more than a dozen lawsuits have been filed to address these arguably unconstitutional statutes and contract provisions that limit employees from escaping unwanted union membership.

Public employees should get honest information about union membership from unions and their employers when they are hired. I wouldn't have had to file a lawsuit if the union hadn't misinformed me in the beginning.

At the end of the day, I want my rights to be respected. And I want to make sure this doesn't happen to my future colleagues. ■

*John Kabler is a state liquor store clerk from Cumberland County, Pennsylvania.*



Students attending Pennsylvania Free Enterprise Week

# EDUCATIONAL IMPROVEMENT TAX CREDITS PRODUCE FUTURE CEOS, BAROQUE PAINTERS

Dani is a natural leader with a head for numbers; she's a high school basketball player in Connellsville, Pennsylvania. In the summer of 2018, her ship came in: she became a CEO.

Mike hails from Allentown. His dream—to become a classically-trained oil painter—seemed more like a fantasy. That is, until he discovered that America's leading traditional figurative painter was teaching classes practically next door in Hamburg.

Both of these students—Pennsylvanians with a passion to learn—expanded the horizons of their education through the Educational Improvement Tax Credit (EITC) program. They enrolled in Educational Improvement Organizations (EIOs), Pennsylvania Free Enterprise Week (PFEW), and the Eric Armusik art studio.

The EITC program has opened the door to future success for over 50,000 students in our state. This school choice option has transformed lives by enabling low- and middle-income students to escape failing district schools, many in the inner city.

Best of all, 100% of EITC funding comes from tax-credited donations, incentivizing businesses and individuals to give back to their communities in the form of student scholarships. Estimates suggest that tax credit scholarships save taxpayers around 90% of educational costs per student.

But let's not forget the impact of EITC's extracurriculars. EIOs take a good education and make it great.

Educational Improvement Organizations like PFEW provide lessons and hands-on training that a typical school doesn't offer. PFEW is a summer business camp that gives students like Dani the chance to become CEOs of their own company for a week, leading a full team of "employees" made up of peers and mentors.

Dani was enthusiastic about her experience:

“From financial predictions to marketing strategy, the insight was phenomenal. It helped me to solidify a direction for my future career path.”



Over 2,000 Pennsylvania students get to experience this unique opportunity each year. And it's all thanks to Pennsylvania's EITC program, says President and CEO Karen Musante:

“The EITC program is a critical component to our success each year. Participating companies provide a substantial percentage of our support, and that support provides opportunities for PA's high school students to understand and celebrate our American private enterprise system. This is a win-win, because businesses receive a fantastic tax credit while providing students with an education they simply cannot get elsewhere.”

This win-win dynamic carries over to EIOs like Eric Armusik's art studio in Hamburg, where Pennsylvania's investment in fine arts extends to the classes and workshops he teaches. He focuses on rigorous skills training and a no-nonsense business approach:

“What's lacking terribly in most community art programs is business instruction. I can't stress this enough! Teaching our future artists how to become independent businesspeople is the most beneficial thing a community can do for its future. So many students would like to know how to make art a viable and sustaining career. But there's precious little good advice—it's the only profession where 'do what feels good to you' is accepted.”

Armusik appreciates outside-the-box thinking about education—hence his support for EITC:

“The EITC scholarship program gives students an advantage they won't find in conventional education. There is nothing worse than a student with incredible

potential lacking the financial means to capitalize on that potential.”

Unfortunately, tax credit scholarships face constant attacks—like this summer, when Governor Tom Wolf vetoed an expansion that would have opened EITC to every student on the waiting list. While lawmakers pushed back and won a partial increase, tens of thousands of students are still having their opportunity denied.

Nevertheless, PFEW Vice President Scott Lee was optimistic:

“Despite receiving dramatically less than what was sought, we are gratified that the EITC program continues to grow—because it ultimately benefits our students, and that is priority number one.”

Tax credit scholarships will always be in demand because families want a choice in the quality of their children's education. When educational choice includes amazingly diverse options like a business camp and a classical painting studio, it's obvious why parents would want more than a one-size-fits-all education for their kids. Students across Pennsylvania are engaged and excited about learning that's different and forward thinking. It's imperative our education system reflects the same attitude. ■



Eric Armusik

# 50-STATE LABOR LAW COMPARISON: PENNSYLVANIA'S LOW GRADE LOOKING TO IMPROVE

After the Supreme Court's *Janus v. AFSCME* decision, a renewed battle for worker freedom has broken out across the country. The Commonwealth Foundation's brand-new *Worker Freedom in the States* report is an in-depth guide to the legislative battles raging in Pennsylvania and a grading of public labor laws nationwide.

Let's take a look at how our commonwealth stacks up.

In some states like Connecticut and New Jersey, new laws have been implemented handing unions access to state employees' contact details and streamlining unionization votes. California and Maryland have introduced and passed even more: forcibly unionizing new classes of employees, paying union administrators' salaries with taxpayer money, and preventing workers from recouping unconstitutional fair share fees.

The *Labor Report* has a grading scale, and Connecticut and New Jersey both received Ds. California and Maryland—Fs.

Pennsylvania received a D. That's fair, considering public-sector unions' domination of the legislature, but important progress is being made. Thanks in large part to Commonwealth Foundation and our allies, we've played tough defense, blocking union-endorsed bills to eliminate secret ballots in union votes. And we've advanced bills to ensure workers are notified of their new rights, make opting out of union membership easier, and eliminate fair share fees from state law. In a state with nearly 300,000 dues-paying union members, that's astounding progress.

Several government employees are hopeful about these new opportunities for workers. Jayme Hollenbach, a Berks County state hospital employee and former shop steward for SEIU 668, says he understands that he needs a union but would like it to be more accountable to its members. "SEIU is no longer a union," he says, "It's a collection agency." But without the flexibility for workers that labor reform legislation would provide, he's stuck. "SEIU is entrenched in our shop," Hollenbach explains.

Katy Phillips, a Pittsburgh math teacher and former Wall Street professional whom we've featured in *Commonwealth Sense* before, ran out of patience with her teacher's union, the PSEA. When she scored a private \$400,000 grant from the National Math and Science Initiative to help her students succeed, the PSEA barred her school from receiving funds.

The reason? Teachers were offered \$100 prizes when their students excelled as a result of grant programs. That created inequality among teachers, the union argued, so the grant would have to be refused. Phillips was frustrated at PSEA's behavior, remarking: "It's like the only union in the world that tries to prevent its members from earning money."

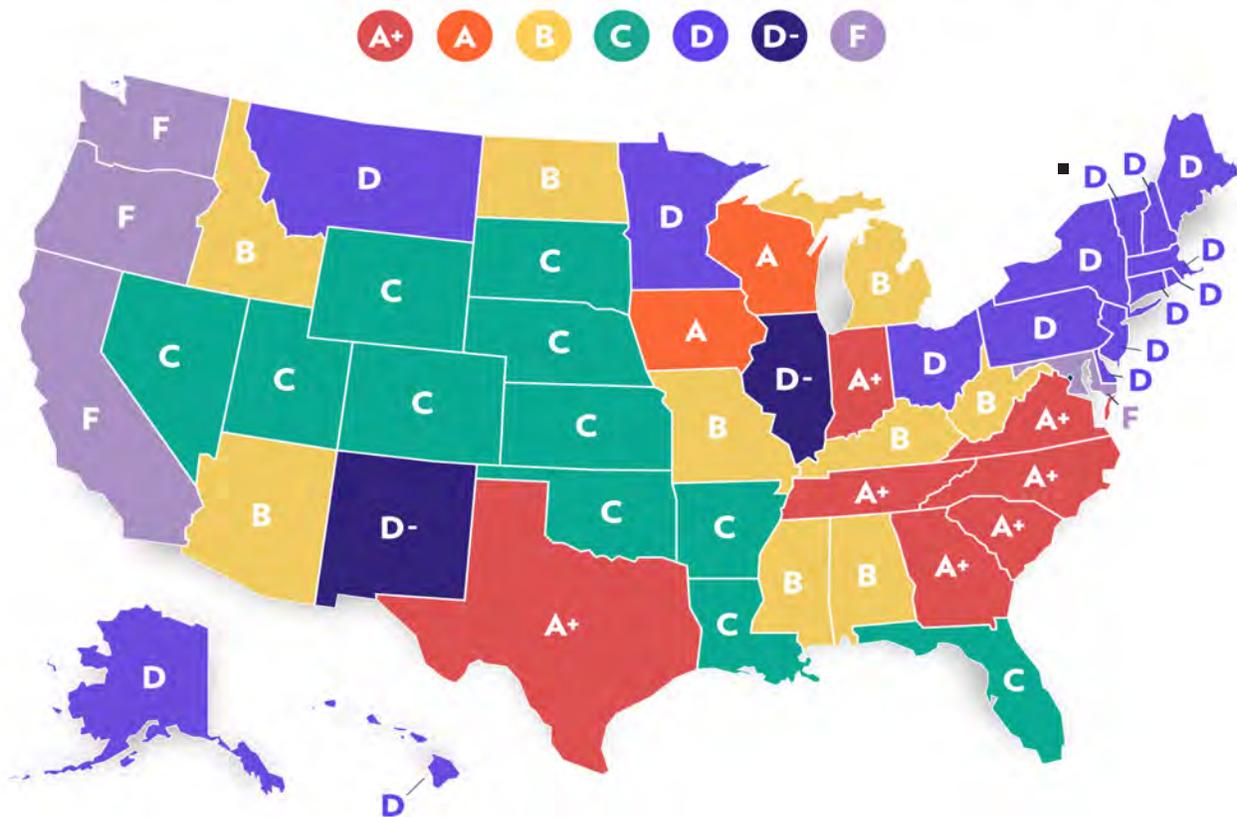
Commonsense legislative reforms like the Employee Rights Notification Act would offer workers a choice and a voice in their representation. Employee Rights Notification officially notifies workers that joining a union is their choice—a significant improvement to unions' current strategy of red tape and fine print.

But many workers want to go even further, so they've started fighting union coercion in the courts. Unions' internal procedures like "maintenance of membership," which can prevent members from resigning for years, violate both the spirit and the letter of the *Janus* decision.

Several clients of the Fairness Center, a public-interest law firm allied with the Commonwealth Foundation, are standing up for transparency and resignation rights. One of their clients, William Neely, was featured in the *Wall Street Journal* last March when his healthcare workers' union, AFSCME Council 13, tried to trap him in membership. Thanks to a Fairness Center lawsuit, he escaped, but many others haven't been so lucky. But there's good news on that front: the Fairness Center has filed class-action cases impacting nearly 20,000 state employees.

It's true: Pennsylvania deserves a D for unions' mistreatment of public-sector workers thus far. But after the *Janus* decision, we're on the path to expanding worker freedom in the Keystone State.

# RANKING PUBLIC SECTOR LABOR LAWS



## LABOR REPORT HIGHLIGHTS

- 👍 Pennsylvania, New Hampshire, and Connecticut are attempting to pass *Janus* rights notification for public employees.
- 👍 Missouri gets first prize for new reforms, including union financial reporting requirements, release time prohibition, recertification requirements, and annual dues authorization.
- 🗣️ Washington and California have passed laws preventing the refunding of fair share fees.
- 🗣️ Oregon and Rhode Island have instituted fair share fee alternatives.
- 👍 73 *Janus*-related lawsuits are currently ongoing by the Fairness Center and other public-interest firms.
- 🗣️ Illinois and New Mexico have officially prohibited private-sector Right to Work laws.

WE STAND FOR  
FAIRNESS



COMMONWEALTH  
FOUNDATION

# 420 N. THIRD STREET: A NEW BEACHHEAD FOR FREEDOM

Picture a state legislator—briefcase in hand, flanked by the media and legislative staff—descending the Capitol steps. This setting looks the same in all 50 states.

Our legislator didn't look out and see his constituents—the people he was elected to serve. Instead, until now, he saw the towering headquarters of public-sector unions.

Teachers unions. AFL-CIO. SEIU. Teamsters. In Harrisburg and in capitols around the nation, the message is clear: We're here—we're watching you.

In Harrisburg, union executives with hundreds of millions of dollars to spend want politicians under their thumb, and their 84 lobbyists stalk the halls of the Capitol.

As the leading champions of fairness and the free market in Pennsylvania, the Commonwealth Foundation is not going to cede this ground to union officials anymore. We now occupy a new beachhead—420 N. 3rd Street, the closest building to Harrisburg's Capitol steps.

It used to belong to the AFL-CIO. Now it serves a better purpose.

Instead of union enforcers, the view from the Capitol steps will now be 17-foot windows that currently tout our policy pillars: Independence. Opportunity. Prosperity. Fairness.

Our message to lawmakers is clear: We're here—and we're watching out for Pennsylvanians.

Our investors have empowered Commonwealth Foundation and its allied organizations to become national leaders in the battle for free-market ideas. Consider this: in just under a decade, we've grown our resources by a factor of 50. We've gone from humble beginnings and a seemingly unwinnable fight to become the fastest-growing and most successful state policy organization in America.

Good thing—because Pennsylvania is the linchpin to defeating socialism and tyranny in this country. The founders

conceived our nation in liberty in Philadelphia, and we're fighting every day so that Pennsylvania can write a new chapter in America's story of freedom.

We've won tough school choice battles to provide an educational future to tens of thousands of kids. We've enacted pension reform that will save taxpayers billions. Pennsylvania is finally seeing commonsense restrictions on unions' special privileges, and those in poverty are benefiting from welfare reform. Despite having the most liberal governor in America, we've blocked 13 of his tax hikes. ■

All of this has happened because Commonwealth Foundation is growing exponentially. That's no coincidence. Ronald Reagan said it best—personnel is policy—and this year, we've scaled up our operation to include over a dozen new full-time employees, including our new Vice President, former state representative Steve Bloom.

We're outnumbered and outgunned by public-sector unions who oppose free-market policies to help our state prosper. That's why we've built a talent pool and pursued a strategy that has us punching above our weight.

And it's working. But we can't rest on our laurels—we have to grow or die. Right now is a crucial moment. Our opponents are clearly nervous about our work. Public-sector unions have even started an organization whose sole job is to cyberbully us around the clock.

That's not the sort of petty skirmish we're interested in engaging in. Instead, our new in-your-face office space is leveraged for impact, dramatically increasing the influence of every *Wall Street Journal* article and TV spot, every legislator meeting, and every entrepreneur we mobilize. It's more than a symbol: it's a tool, and we plan to steward it to the utmost.

Stay tuned as we approach the inaugural opening of this location this fall! ■



# HOW THREE WORKERS FOUGHT UNION COERCION—AND WON

By Keith Williams

It's not every day that ordinary Pennsylvanians willingly disrupt their lives to stand up for their constitutional rights. Even rarer is achieving an impact that affects thousands of people in just a few short months. But that's exactly what three Greensburg state employees accomplished this year.

Megan James, William Lester, and Angela Pease work for the Pennsylvania Department of Labor and Industry and, like nearly all state employees, are represented by a union. They had long been frustrated with the services provided by their union, SEIU Local 668, but had no choice but to pay up: dues or fees were mandatory for union members and nonmembers.

To stop paying the union, they'd have to quit their jobs.

Then, in June 2018, the U.S. Supreme Court ruled in *Janus v. AFSCME* that government workers could no longer be forced to pay a union. For most Americans, that's common sense—the First Amendment protects individuals from being forced to fund an ideological or political group against his or her will.

Soon after the court ruling, the trio sent in letters resigning their SEIU membership, thinking they were finally free from coercion. But union officials had other ideas. The SEIU rejected their resignations, saying the workers must remain members until their contract expired a year later.

According to the union, members could leave the union only during the 15-day window defined in their multiyear collective bargaining agreement. This rule, called “maintenance of membership,” is authorized in state law and appears in most public-sector employment contracts. It traps thousands of government workers in unions across Pennsylvania.

At this point, James, Lester, and Pease could have given in and paid hundreds of dollars in union dues for another year. Instead, they

stepped out of their comfort zones and fought for the rights the Supreme Court restored to them.

They contacted the Fairness Center and filed a class-action lawsuit in January on behalf of themselves and 9,000 other SEIU Local 668 members for the right to leave the union at any time. Though the wheels of justice turn slowly, they've already won a major victory. Because of pressure brought by the lawsuit, the union agreed in June to stop enforcing resignation restrictions.

The Greensburg workers succeeded in bringing the promise of the *Janus* decision home to thousands of their colleagues. But this newfound freedom applies to only one of Pennsylvania's many government unions. Tens of thousands of other workers remain trapped in unions, and many are still fighting to escape.

When I resigned, the union didn't fight to “maintain” my membership. Even after *Janus*, the major government unions in Pennsylvania and across the nation are clamping down and trapping workers into paying dues as long as possible, prompting lawsuits in Hawaii, California, New Mexico, Minnesota, Illinois, Ohio, New Jersey, Connecticut, and elsewhere.

If you ask government workers, they'll gladly tell you what they want from union membership—a focus on local issues, not the agenda of distant state and national union executives.

As three Greensburg workers proved, workers can band together, stand up to union coercion, and win. Union officials have a choice: adapt and survive or hold onto the past and see members and local unions slip through their fingers. Which will they choose? ■

*Keith Williams is the Pennsylvania director of Americans for Fair Treatment, a nonprofit organization helping public-sector workers exercise their constitutional rights.*

## CF INTERNS TOUR THE CAPITOL WITH STEVE BLOOM

Commonwealth Foundation interns don't just get any tour of the Capitol—they get a tour from CF VP Steve Bloom, who walked those same halls as a state representative for eight years. We're always thrilled to give our interns an unparalleled experience in state government, and Steve's tour every semester is just one example.

To learn more about our year-round, paid internship program, visit [commonwealthfoundation.org/intern](http://commonwealthfoundation.org/intern)



## COMMONWEALTH FOUNDATION EXPERTS IN ACTION

Vice President & COO Nathan Benefield and Manager of Policy Research Jessica Barnett provide testimony to the Pa. House Judiciary Committee this summer in regards to the Justice Reinvestment Initiative—an effort to improve public safety while savings taxpayer dollars.