



June 2020

Public-Sector Unions Two Years After *Janus v. AFSCME*

On June 27, 2018, the Supreme Court ruled in *Janus v. AFSCME* that all workers are entitled to their First Amendment rights—whether they choose to belong to a public sector union or not. The ruling freed workers from paying fees to a union to which they don't belong. Two years later, public sector workers are still fighting for greater protection.

While some Pennsylvania unions have begun amending their contracts in response to worker demands, state leaders must choose people over politics and continue restoring workers' free speech and free association rights by passing comprehensive public-sector union reform.

Union Membership Declines

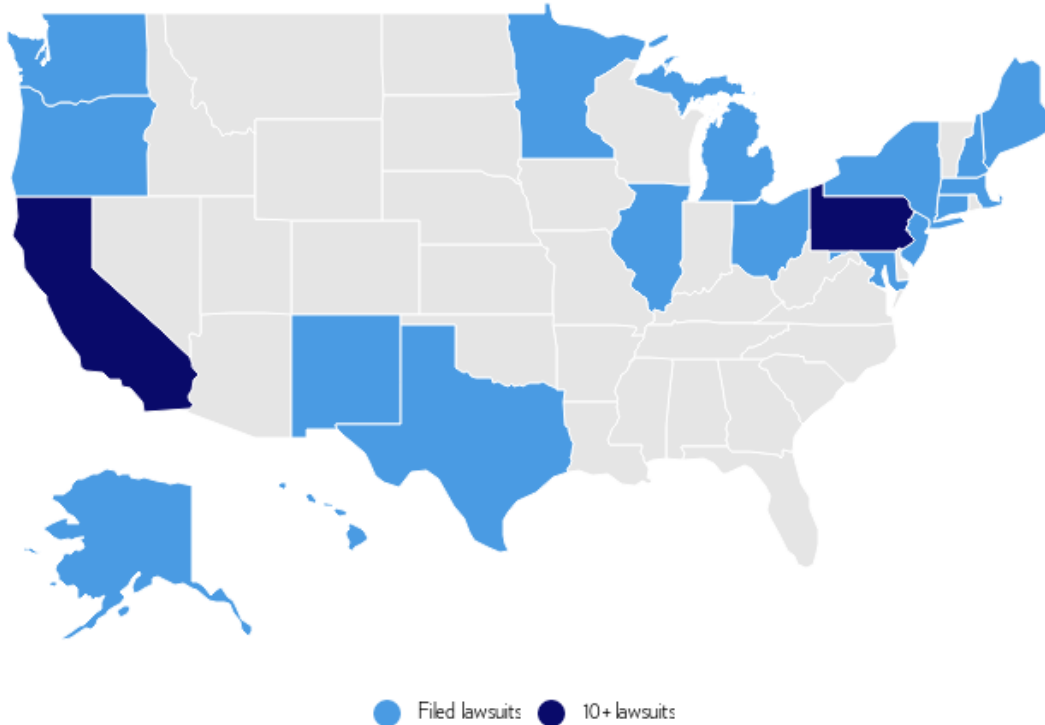
- *Janus* immediately freed over 30,000 fee-payers in Pennsylvania from paying forced union fees. Since then, and [despite union and legal roadblocks](#), the membership rate has declined.
- The [Bureau of Labor Statistics](#) union membership data for 2019, the first full reporting year since *Janus*, shows the public sector national membership rate *declined 0.3%*—or about 100,000 less workers—to the lowest rate since reporting began in 1983.
- Pennsylvania gained union members due to increased government employment. However, the [unionization rate](#) dropped 0.4%.

Public Employee Lawsuits Instigate Contract Changes

- Workers continue suing for more rights with [over 90 lawsuits](#) filed in state and federal courts since the *Janus* decision, and these cases are starting to have policy implications.
 - Many lawsuits challenge maintenance of membership, a provision in statute and union contracts limiting when members can resign. Unions use these provisions to continue taking dues from members after they resign.
 - A recent example is a June 2020 lawsuit from [Elizabeth McKeon](#). A Pennsylvania hospital clerk typist, she resigned from the union AFSCME 13 last year, but they continued to take her wages for dues and political spending. She is suing for the right to resign and keep all of her paycheck.

Janus-Related Lawsuits from Public Sector Employees

Public sector employees have filed **over 90 lawsuits** across the nation, seeking to either recover union fees, end union membership and cease dues deduction, or challenge exclusive representation.



SOURCE: Liberty Justice Center, <https://libertyjusticecenter.org/cases/>; The Fairness Center, <https://www.fairnesscenter.org>; National Right to Work Foundation, <https://myjanusrights.org>; Law360.com; Freedom Foundation, <https://www.freedomfoundation.com/>.

NOTE: This table may not capture every lawsuit; includes lawsuits dismissed, settled, or appealed. Updated June 2020.

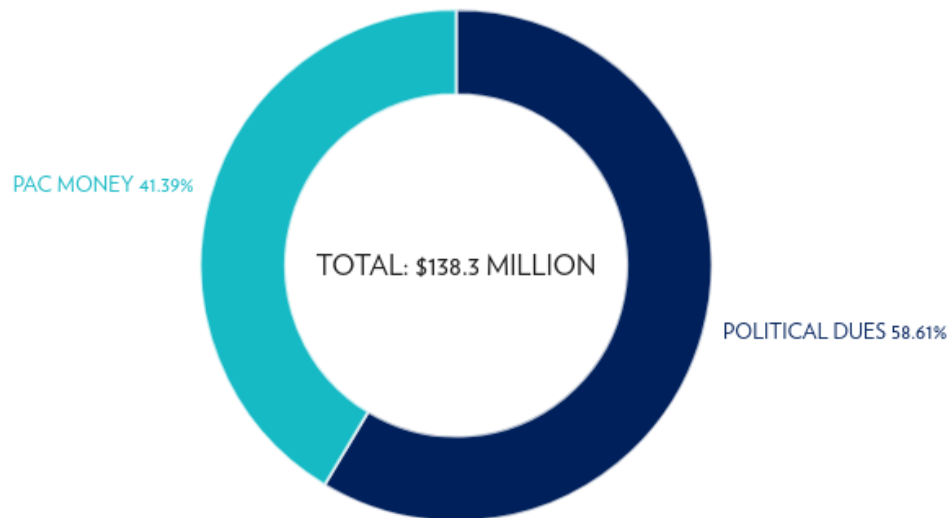


- Under pressure from employee lawsuits, **numerous state unions have removed maintenance of membership from their contracts, allowing more than 50,000 workers to resign union membership at will.**
 - In contrast, many **teacher contracts** continue to include not only maintenance of membership, but in some instances unconstitutional fair share fees.
 - **Seven state union contracts** are under negotiation this year, in addition to contracts that have already expired. Without state law changes, they could retain provisions other union leaders and workers deemed unacceptable.

Union Political Activities Continue

- Pennsylvania public-sector unions have maintained political dues and political action committee (PAC) spending. Since 2007, they have spent **\$138.3 million** on politics, including over \$81 million in dues spending on “political activities and lobbying.”
- This includes Pennsylvania expenditures from national unions such as the National Education Association, which organized [get out the vote activities for Joe Biden](#) in the March 17 primaries while simultaneously demanding the shutdown of all the nation’s schools to minimize social contact. Similarly, the Service Employees International Union [announced](#) in February \$150 million national spending in the 2020 election cycle, with Pennsylvania one of its eight top targets.

Pa. Government Union Political Spending, 2007-2020



Sources:

Dues spending comes from the U.S. Department of Labor, [Office of Labor-Management Standards](#). Total includes Pa.-only expenditures from national unions AFSCME and AFT and NEA. PAC spending comes from the [Campaign Finance Database](#) hosted by the Department of State.



Two years after *Janus*, public employees have fought to maintain and expand their *Janus* protections, with some victories at the state contract level. However, there is still more work to be done to ensure that workers maintain their constitutional rights and dignity in the workplace. This can be accomplished by passing legislation to notify members’ of their rights ([House Bill 785](#)), restore their freedom to resign at any time ([House Bill 506](#)), and [improve union accountability](#).