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Restoring Public Sector Workers' Resignation Rights

The U.S. Supreme Court decision in Janus v. AFSCME ruled public sector fair share fees unconstitutional. However, many public sector workers remain unaware of their new-found rights to reject union membership without paying a fee. Further, state law severely limits resignation opportunities—potentially trapping workers for years.

Need for Notification of Resignation Rights

- Pennsylvania's Act 84 of 1988 and Fair Share Fee Law Act 15 permit government unions to collect fees from nonmembers. While the *Janus* decision rules portions of these laws unconstitutional, they have not been formally amended or repealed.
 - Any government agency that continues to collect fees without express consent from a non-member could be sued.
- A **vast majority** of voters and union members agree with the *Janus* ruling, yet nearly 30 percent of government union members never heard about *Janus*. This means many of the nearly 330,000 Pennsylvanians impacted by the decision will be unaware of their right to not pay fair share fees.
- Government union leaders are working to make resignation more onerous, **instructing local affiliates**—and **successfully lobbying lawmakers**—to trap workers and counteract the *Janus* decision.
 - In Pennsylvania, Rep. Maureen Madden and Rep. Tom Mehaffie plan to introduce **legislation** giving unions captive-audience meetings with new public employees and stripping workers of their secret ballot union election rights.
- In the wake of *Janus*, Pennsylvania workers **are suing** their employers and union leaders for greater rights. This includes a plaintiff who was fraudulently told he *had* to join the union.

How Maintenance of Membership Traps Members

- Employees governed under the Public Employee Relations Act 195 (PERA) “maintenance of membership” provision can only resign union membership during a 15-day window prior to the expiration of their contracts. Individual contracts can modify the resignation date.
- Public sector unions require members to submit a resignation letter by certified mail to a specific address within the time frame, yet unions face no requirement to notify workers of their upcoming resignation window.
 - This leaves many workers unaware of their specific resignation date and could force workers to maintain unwanted union membership.
- Resignation restrictions have been deemed unconstitutional in other states, and Pennsylvania lawsuits are challenging existing resignation restrictions.
 - After Michigan outlawed forced fees in 2012, the Michigan Supreme Court **affirmed** public school teachers can resign at any time.

- Public employees across the nation have successfully demanded to **immediately resign** their membership and stop paying dues, instead of waiting weeks or months.

Solution: Removing Union Membership Restrictions

- Rep. Kate Klunk reintroduced **HB 785** to protect the rights of public employees who are not—or do not want to be—union members. This legislation:
 - Amends PERA,
 - mandating government employers to annually notify *nonunion members* that union payments are voluntary, require their consent, and are not a condition of employment;
 - requiring government employers to notify *new applicants* that union membership is not a condition of employment and nonmembers are not obligated to make union payments;
 - Repeals Act 84 of 1988 and the Fair Share Fee Law, which authorize fair share fees in violation of the *Janus* ruling.
- Sen. Scott Martin introduced similar legislation, **SB 371**, but requires government employers to notify *all* public employees and new hires biannually.
- Rep. Fred Keller introduced **HB 624** to inform members of their resignation window.
 - The bill requires unions to notify members of their resignation rights every January and during the 10-day period before the resignation window.
 - The bill also expands the resignation period from 15 days to 45 days.
- Rep. Greg Rothman introduced **HB 506**, which amends PERA to prohibit union bargaining agreements from restricting when members can resign.

Given union leaders long-standing and renewed attempts to maintain membership regardless of public employees' preferences, legislative action is necessary to ensure government proactively notifies public employees of their membership rights, and allow them to exercise those rights at *any* time.