



SPRINGFIELD, ILLINOIS

FILED
EX DEPARTMENT
JUN 28 2018
IN THE OFFICE OF
SECRETARY OF STATE
2018-09

EXECUTIVE ORDER

EXECUTIVE ORDER PROHIBITING THE WITHHOLDING OF AGENCY FEES

WHEREAS, on June 27, 2018, the United States Supreme Court ruled in *Janus v. AFSCME*, 585 U.S. ___ (2018) ("*Janus*") that Illinois' practice of withholding Agency Fees from State Employees' paychecks without their affirmative consent "violates the First Amendment and cannot continue," *Janus*, 585 U.S. ___ (2018), slip-op at 48; and

WHEREAS, on February 9, 2015, I issued Executive Order 2015-13, ordering State Agencies to cease enforcement of Agency Fee Agreements that require the State to withhold agency fees from the paychecks of State employees who choose to not be union members; and

WHEREAS, I issued Executive Order 2015-13 to protect public employees' rights to freedom of speech and political association under the First Amendment of the United States Constitution, to protect taxpayer dollars, and to uphold my oath as Governor to support the United States Constitution; and

WHEREAS, in *Janus*, the Supreme Court agreed with my First Amendment concerns, and once again "recognized that a 'significant impingement on First Amendment rights' occurs when public employees are required to provide financial support for a union," *id.* at 9 (quoting *Knox v. Service Employees*, 567 U.S. 298, 310-311 (2012)); and

WHEREAS, the Supreme Court confirmed that union speech in collective bargaining "is overwhelmingly of substantial public concern," *id.* at 31; and

WHEREAS, the Illinois Public Labor Relations Act ("IPLRA"), 3 ILCS 315/1 *et seq.*, authorizes the State to enter into Agency Fee or "Fair Share" Agreements with unions that require the State to withhold Agency Fees from the paychecks of non-union member employees without their affirmative consent and pay those amounts directly to the union; and

WHEREAS, the Supreme Court found that these "public-sector agency-shop arrangements violate the First Amendment" and have afforded public unions a "considerable windfall," *id.* at 33, 47; and

WHEREAS, *Janus* is unequivocally clear that under the United States Constitution, "States and public-sector unions may no longer extract agency fees from nonconsenting employees," *id.* at 48; and

WHEREAS, the American Federation of State, County, and Municipal Employees, Council 31 ("AFSCME"), which is the union that represents the vast majority of State bargaining unit employees, has also recognized that after *Janus*, public "employers must **immediately** cease deducting any fair share fees from the paychecks of employees who are not union members," (6/25/18 M. Newman Ltr. to J. Terranova (emphasis in original)); and

WHEREAS, the Governor has the responsibility, pursuant to Section 8 of Article V of the Illinois Constitution, to faithfully execute state and federal laws;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of my executive authority to enforce state and federal law vested in me by Section 8 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

I. DEFINITIONS

“Agency Fee” means any money deducted from a State Employee’s pay voucher to be paid to a Labor Organization without the State Employee’s affirmative consent, including all money deducted pursuant to a Fair Share Agreement as defined in Section 3(f) of the IPLRA, 5 ILCS 315/3.

“Agency Fee Agreement” means any agreement between a State Agency and a Labor Organization that requires bargaining unit members to pay an Agency Fee, including all “Fair Share Agreements” as defined in Section 3(f) of the IPLRA, 5 ILCS 315/3.

“Labor Organization” means any organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with a public employer concerning wages, hours, and other terms and conditions of employment, including the settlement of grievances.

“State Employee” means all officers, employees (including without limitation full-time, part-time, and contractual employees), appointees (including without limitation paid and unpaid appointees), and persons holding similar positions in the Executive Branch of the State of Illinois under the jurisdiction of the Governor.

“State Agency” means any office, department, agency, board, commission, or authority of the Executive Branch of the State of Illinois under the jurisdiction of the Governor.

II. PROHIBITION AGAINST WITHHOLDING AGENCY FEES

1. “Neither an agency fee nor any other payment to the union may be deducted from a nonmember’s wages, nor may any other attempt be made to collect such a payment” by any State Agency, “unless the employee affirmatively consents to pay” as “shown by ‘clear and compelling’ evidence.” *Janus*, 585 U.S. ___, slip-op at 48 (quoting *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 145 (1967)).
2. All State Agency payroll systems are directed to immediately cease withholding all Agency Fees from pay vouchers.
3. All State Agencies are prohibited from entering into any Agency Fee Agreements with Labor Organizations.

III. SAVINGS CLAUSE

In light of the Supreme Court’s decision in *Janus*, this Executive Order is consistent with the United States Constitution and nothing in this Executive Order should be construed to contravene any enforceable law.

IV. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any other prior Executive Order.

V. SEVERABILITY CLAUSE

If any part of this Executive Order or its application to any person or circumstance is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VI. FILINGS

This Executive Order shall be filed with the Secretary of State. A copy of this Executive Order shall be delivered to the Secretary of the Senate and to the Clerk of the House of Representatives and, for the purpose of preparing a revisory bill, to the Legislative Reference Bureau.

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VII. EFFECTIVE DATE

This Executive Order shall take effect immediately upon filing with the Secretary of State.



Bruce Rauner, Governor

Issued by Governor: June 28, 2018
Filed with Secretary of State: June 28, 2018

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