Testimony of Service Employees International Union (SEIU), Local 668

Presented to the
Pennsylvania House Labor and Industry Committee
on Wednesday, September 5, 2018

Public hearing on House Bill 2571

By
Steve Catanese, President of SEIU Local 668

Good morning. Thank you, Chairman Kauffman, Chairman Galloway, and members of the House Labor and Industry Committee for the opportunity to testify at this hearing. My name is Steve Catanese, and I am the elected President of the Service Employees International Union, Local 668. SEIU Local 668, the Pennsylvania Social Services Union, represents over 19,000 workers. The majority of our members are women who work for public sector employers. They include Corrections and Vocational Rehabilitation Counselors, Adult and Juvenile Probation Officers, 911 Dispatchers, Children and Youth Caseworkers, and employees in many other occupations. They work and reside in every county of the state and span a range of ages, backgrounds and political affiliations.

Before I discuss the merits of House Representative Klunk's proposed legislation, House Bill 2571, some context is warranted. As Representative Klunk's co-sponsorship memo notes, this bill is designed to ensure public employee union compliance with the Supreme Court (SCOTUS) decision in *Janus v. AFSCME*. SCOTUS held that unions that represent public sector employees, such as our local, could no longer negotiate fee arrangements with employers for representational services to non-members of bargaining units.

Many in the press, as well as those organizations representing Mark Janus' interests, and even some members of the Pennsylvania State Legislature have referred to such arrangements as "compulsory" or "forced union dues" are what's known as "fair share fees." These fees are **not** union membership dues. Nonmember public employees covered by a collective bargaining agreement are legally entitled to the same representative services – contract negotiations,

arbitrations, and grievances – to which full dues-paying members are. These services are not cost-neutral for unions; they cost money to provide.

It is, therefore, remarkable that SCOTUS, whose current composition has been described by many pundits as pro-corporate has codified into law that certain individuals receive services from private organizations completely free of charge. Fair share fees provided an equitable compromise – one that did not forcibly redistribute the financial resources of some (member dues) and spread them to all (members and nonmembers). However, while the outcome baffled us, the decision is now law – law by which we have abided, and will continue to abide.

Prior to the decision being announced, we sent our employers a letter stating that in the event of an adverse decision in the *Janus* case, they should stop collecting fair share fees immediately. Following the decision, we sent another letter advising them to cease collecting fair share fees. Attached as an appendix is a copy of letters we sent to York County before and after the decision. Copies of other letters are available upon request.

Which brings us to HB2571. We have long complied with our obligation to ensure that non-members only paid their fair portion for representational services. The fee we charged nonmembers is not arbitrary. Every year we pay for independent auditors to assess what we spent on non-representational services during the past year. Every year, we recalculate a new fair share rate every year based on those findings. Those rates are both a matter of public record and evidence of our compliance with the law as it stood before June of this year. My understanding is that Pennsylvania's other public unions engage in this practice. If there were widespread

violations of this law before June of 2018, then the State Legislature could have enacted measures to ensure compliance. The Pennsylvania State Legislature has not because such evidence does not exist. There is no need to ensure that public employee unions comply with the decision (and consequently no need for HB2571), as there is no evidence that we did not comply with the previous law.

In the absence of such evidence, why is such preemptive action necessary at this time? Such action begs the question: what are the priorities of this body? Why are this much attention, time, and taxpayer-resources being paid to enact a bill that would create a new regulation on employers clearly intended to discourage employees from joining a union? And is similar time being invested in the regulation of bad employers who regularly seek to prevent hard-working taxpayers from exercising their legal right to organize and join public and private sector unions?

A simple search of past House and Senate Labor and Industry Committee hearings from the past decade would suggest not.

The onus to comply with the decision -- and this legislation -- falls as much, if not more so, on ***the employer***, rather than the union. It was incumbent upon the employer to stop deducting fair share fees as of June 27, 2018. However, this hearing is comprised of testifiers from a single employer organization, three organizations who represent the interests of the plaintiff in the *Janus v. AFSCME* case, and two public employee unions. Our local alone negotiates with more than 60 Pennsylvania public employers. None of their interests are represented here, nor is their compliance assured. It is remarkable that, with the exception of Mr. Knade from the PA School

Boards Association, those who would bear the lion's share of the responsibility for the implementation of House Bill 2571, including public colleges, county employers, and nonprofits, are not here today.

There are also internal contradictions within the bill that should be addressed. Section 402a of the proposed bill would mandate the employer provide repeated employee notification, even before their start date. This would constitute an Unfair Labor Practice under the Public Employee Relations Act of 1970, Article 7, Section 1201a. Repeated notification to an employee by an employer (26 times per year) that they do not have to join a union is the very definition of coercive activity and flies in the face of established law. Moreover, such notification undermines the very principle of freedom of association upon which Mark Janus hinged his arguments. If I, as a future public employee, am told that I do not have to join a union repeatedly from my employer - who is in a position of authority over me, then the coercive effect of that notification impairs my capacity to associate with the union freely. If I presume, rightly or wrongly, that ignoring the employer's notice about not joining a union will lead to disparate treatment, discipline, or otherwise retaliatory actions from the employer, then the law constitutes an impairment of my Constitutional right of freedom of association.

Perhaps in the near future we'll have an opportunity to testify on a bill that includes clear notification to employees in all workplaces about their legally protected right to engage in concerted activity and, if they so choose, to form their own union. Maybe then we'll also discuss legislation that would raise the wage for working Pennsylvanians, improve workplace healthcare

access, and ensure large corporations pay their fair share of taxes in our Commonwealth. But again, based on recent history, we doubt that'll be the case.

As a union, we invite employees to join us of their own free will. To do so, we have negotiated union orientations for new hires into some of our contracts. The same contracts include clear procedures for how individuals can join or disenroll from the union. Attendance at such orientations are completely **voluntary** and lack the coercive effects of HB2571. The proposed legislation creates a clear double standard. This bill would create a law that would statutorily force an employer to intimidate employees into not joining a union. How would this not impair individuals' First Amendment rights to free association? This bill, as it stands, is the definition of government overreach.

Amusingly enough, an op-ed published on Labor Day by Charles Mitchell, CEO of the Commonwealth Foundation, spoke favorably of HB2571, disingenuously stating that it would "require unions to tell new government employees and non-union members that membership and payments are now voluntary and won't affect their employment." Perhaps a way to get public opinion on the side of a "free market think-tank" like the Commonwealth Foundation is to publicly lie about what the bill actually states. Truly, this is not a regulation directly on the union, but a costly regulation on *public employers* that is ultimately passed onto taxpayers. It's also worth noting that Mitchell also sits on the board of Americans for Fair Treatment, a group that is not only testifying here today, but is also currently running an opt-out campaign, trying to encourage union members to drop out of our union.

Based on the timing and the merits of this bill, one can reasonably conclude that HB2571 is merely another effort by anti-union organizations and their legislative allies to undermine public workers and the labor movement – efforts that are occurring in statehouses across the country. These efforts are aligned with both blatantly partisan political interests, as well as efforts to weaken worker voices at the bargaining table. This bill, coupled with others filed by members of the House, collectively erode the voices of the working women and men who reside in your districts.

Women make up the majority of those employed in the public sector across the nation.[1] If public employee union density drops as a result of the SCOTUS decision, it is women's wages, healthcare, and working conditions that will disproportionately be affected. Roughly 2/3rds of my Local's members are women of all ages, races, and political affiliations. In many cases, they are the sole or primary breadwinners in their families. I've been told by some of our female members that the first time they earned the same pay as a man for the same work was through their first SEIU Local 668 union contract. Workplace equity is an incredible point of pride for us as a union.

We fight aggressively against the inconsistency and ambiguity in conventional employment contract language that gives rise to pay disparities and disparate treatment. Based on my union's membership alone, a bill like HB2571 could impair the efforts of over 10,000 hard-working, tax-paying Pennsylvania women to earn equal pay and workplace dignity. This is not good government.

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[1] Wolfe, J. and Schmidt, J. (2018). A Profile of Union Workers in State and Local Government. *Economic Policy Institute*. Retrieved from epi.org/148535.

Our members did not pursue careers in public service to become wealthy. With grueling caseloads and diminishing staff and budgetary resources - topics that this committee's time could be used on and positively impact, they certainly do not stay in public service for the compensation and benefits. They are public servants to **serve the public**. Children and Youth Caseworkers do not go into unfamiliar homes that, as Auditor General DePasquale attested to, police sometimes wouldn't go without backup -- with no weapons or protective gear, often unaccompanied -- to remove children from homes in which a felon or a sex offender may reside for the promise of a pension after 30 years. 911 operators do not deal with mandatory overtime, significant psychological abuse, and wages that often start at $11.00 an hour just because the health care options may be slightly better than those offered by Wal-Mart.

They do it to save lives. They do it because they are driven to help. Members continually discuss with me not only wages and salaries, but more often ways in which we can impress upon management -- generally county and nonprofit employers, but sometimes even state agencies -- how to improve operational processes in a manner that enhances public services and saves taxpayers money. We look at ourselves as important stakeholders with a vested interest to make government work. By trying to undermine our strength at the bargaining table, you are also potentially weakening our ability to improve the quality of public services Pennsylvanians receive, as well as the effective Stewardship of taxpayer dollars. This is not good government.

Despite legislative and grassroots efforts to undermine the capacity of our union, I am proud to say that the overwhelming majority of our members remain not only staunchly committed to our

union, but are more active, engaged, and aware than ever before. The importance of political elections has become even more apparent to them and from my conversations with them, the *Janus* decision has made them more cognizant of the legislative process and the role it plays in their work-lives as public servants. Our members have resoundingly told us that no court case is going to take away our union, and we are, in fact, signing up new members every week.

We believe that HB2571 is unnecessary and unsound, driven ultimately by corporate special interests to erode the rights of hard-working, tax-paying public servants. Ideologically, these efforts are driven by a long-term attempt to privatize public services, as well as undermine the collective voice of working people. We would strongly urge the Chair not to call this bill for a vote. However, if the bill is put up for a vote, we ask that the members of this body vote no on House Bill 2571.

Thank you.

SEIU 668

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PRESIDENT STEVE CATANESE • SECRETARY-TREASURER JOANNE P. SESSA

Via Email klbixler@yorkcountypa.gov

June 18, 2018

York Co., PA
Kristy Bixler, Executive Director
Department of Human Resources
28 E. Market Street
York, PA 17401

Dear Ms. Bixler:

By this letter, we wish to inform you of a case being heard by the United States Supreme Court this term, which may alter 40 years of public sector labor relations precedent governing nonmember fair share fee provisions in our collective bargaining agreement.

In the next few weeks, the Supreme Court will decide the case of Janus v. AFSCME Council 31. The case concerns fair share fees paid to support collective bargaining agreements that benefit both members and non-members. While we cannot predict what the Supreme Court will do, we are preparing for the possibility that the Court will limit or eliminate altogether fair share fee provisions like those in the agreements between SEIU Local 668 PSSU and York Co. ***The Janus case does not concern Union membership dues, nor our bargained provisions for remitting to the Union dues or COPE deducted from payroll pursuant to authorizations by our members.***

Since we cannot anticipate the actual date the decision will be issued, it is extremely important to proactively prepare for any potential changes. Working collaboratively, we can ensure that our systems are capable of maintaining an accurate list of union members in each bargaining unit and adapting promptly to any change of law.

Finally, you should continue deducting non-member fair share fees pursuant to our agreement unless and until the Supreme Court acts in Janus. Indeed, any change to fair share fee deductions at this time would violate that agreement. Following a decision from the Supreme Court, we will promptly contact you (or your designee) to implement any necessary changes to fair share fee deductions.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Steve Catanese
President

cc: Erik Strobl
Kieran Kenny, Esq., Staff Attorney
Claudia Lukert, Esq., Chief of Staff

SEIU 668
Stronger Together

Karen Klimaszewski <karen.klim@seiu668.org>

Read: US SUPREME COURT CASE

1 message

Bixler, Kristy L. <KLBixler@yorkcountypa.gov> Mon, Jun 18, 2018 at 3:50 PM
To: "karen.klim@seiu668.org" <karen.klim@seiu668.org>

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From: "Bixler, Kristy L." <KLBixler@yorkcountypa.gov>
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Cc:
Bcc:
Date: Mon, 18 Jun 2018 15:50:02 -0400
Subject: Read: US SUPREME COURT CASE

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PRESIDENT STEVE CATANESE • SECRETARY-TREASURER JOANNE P. SESSA

Via Email klbixler@yorkcountypa.gov

June 27, 2018

York Co., PA
Kristy Bixler, Executive Director
Department of Human Resources
28 E. Market Street
York, PA 17401

Dear Ms. Bixler:

By this letter, we wish to inform you that the Supreme Court has ruled in Janus v AFSCME Council 13. The Court has held public-sector employers may no longer deduct agency fees from non-consenting employees.

Therefore, **effective immediately**, please discontinue fair-share fee deductions.

The Court's decision has no effect on union membership dues nor our bargained-for provisions of remitting dues to the Union or for COPE deducted from payroll, pursuant to authorizations by our members.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Steve Catanese
President

cc: Erik Strobl
Kieran Kenny, Esq., Staff Attorney
Claudia Lukert, Esq., Chief of Staff

UEU Local 1: kk

SEIU 668
Stronger Together

Karen Klimaszewski <karen.klim@seiu668.org

Read: Janus v. AFSCME Council 13 ~ Supreme Court Decision

1 message

Bixler, Kristy L. <KLBixler@yorkcountypa.gov> Wed, Jun 27, 2018 at 7:14 PM
To: "karen.klim@seiu668.org" <karen.klim@seiu668.org>

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Cc:
Bcc:
Date: Wed, 27 Jun 2018 19:14:48 -0400
Subject: Read: Janus v. AFSCME Council 13 – Supreme Court Decision

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