

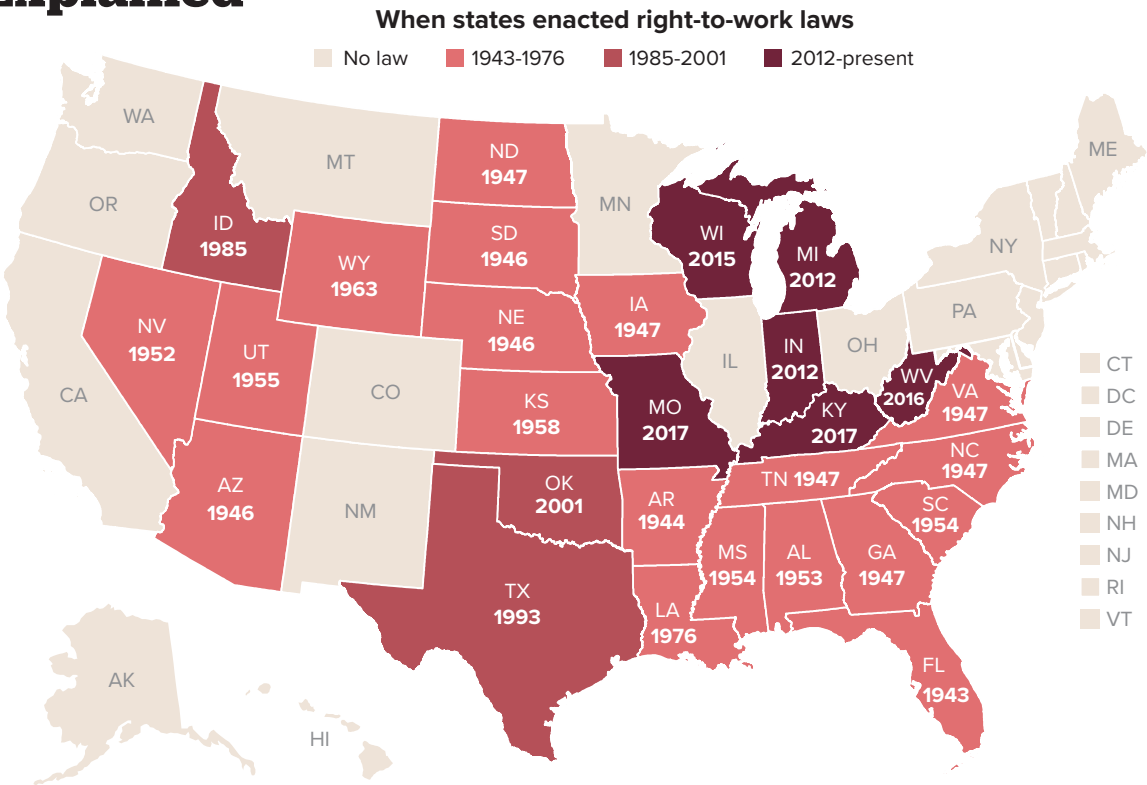
Feb. 20, 2018

Right-to-Work Laws Explained

Since their sweeping electoral victories in 2010, Republican state legislators in six states have successfully passed “right-to-work” laws — policies that limit the ability of labor unions to charge non-members fees in exchange for negotiating contracts on their behalf.

Conservatives argue these laws preserve employees’ rights by allowing them to work without supporting a union, and that states with right-to-work laws are more attractive to businesses and investors. Critics say these laws cripple unions’ ability to function and encourage free-riding by non-members.

A recent study published by the National Bureau of Economic Research suggests that right-to-work laws hamper unions’ political activities by forcing them to shift resources into member recruitment and retention.

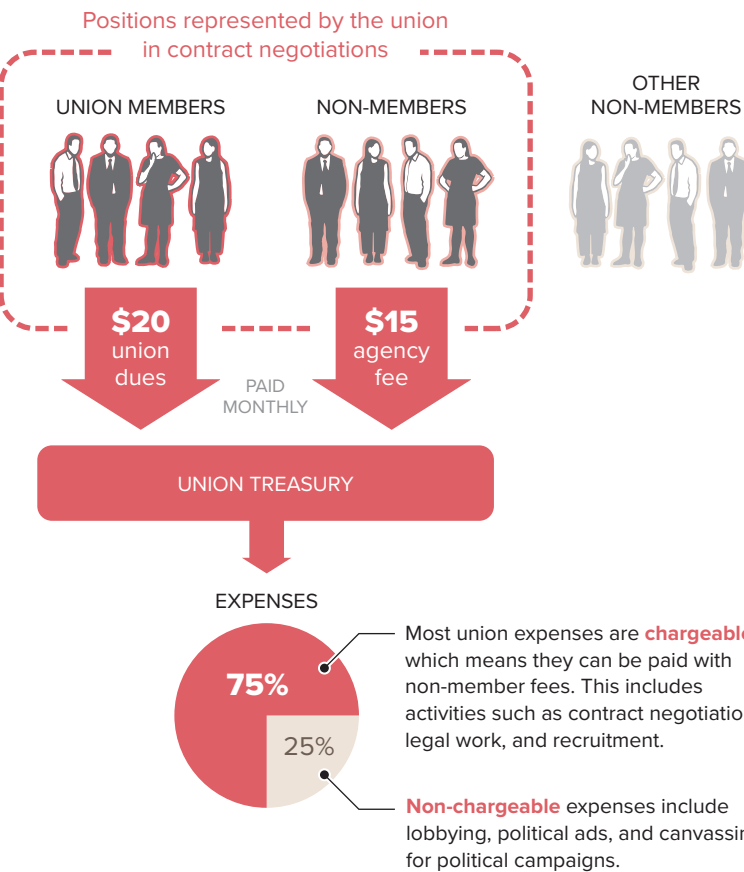


Before Right-to-Work

In states without right-to-work laws, a union can negotiate a contract with their employer to form an “agency shop.” In addition to collecting dues from their full members, the union can collect fees from non-members whose contracts are affected by union negotiations. In exchange, non-members receive many of the benefits that union members receive.

In most circumstances, the agency fees paid by non-members are less than the dues paid by full members. Unions cannot charge non-members fees for some union activities, such as political lobbying.

Hypothetical union dues and fees, without right-to-work

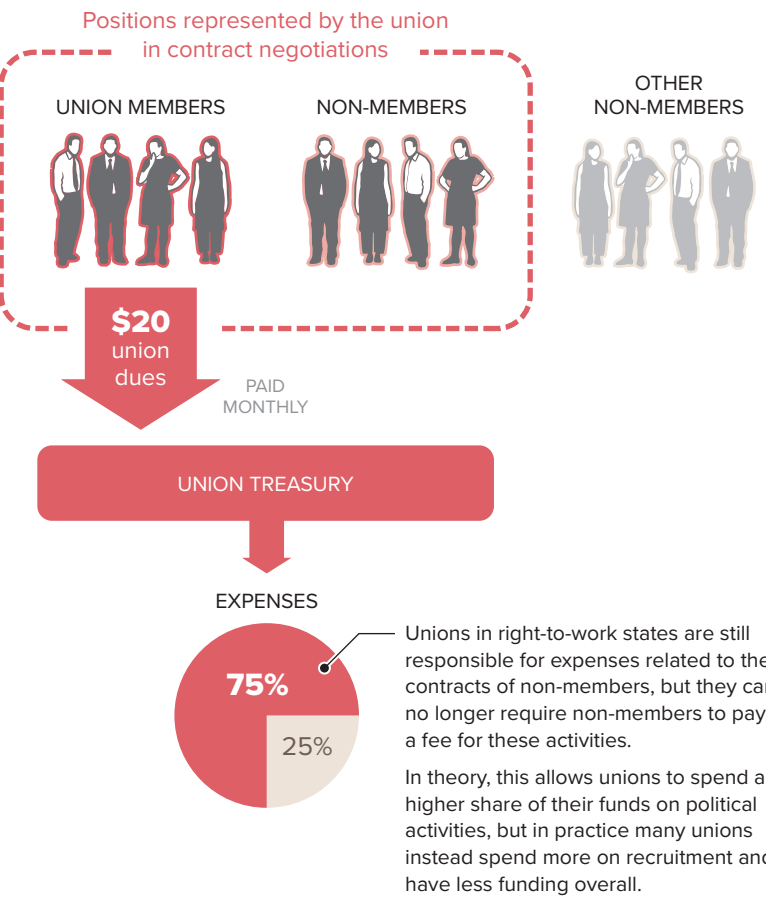


After Right-to-Work

In states with right-to-work laws, unions are prohibited from forming agency shops. Non-members cannot be charged mandatory fees as a condition of their employment even if the union negotiates their contract. However, unions are generally still required to provide benefits to these employees as they would in an agency shop.

Critics say that this arrangement disadvantages unions by encouraging free riding — some workers receive benefits but have little incentive to pay dues. Unions in right-to-work states make extra efforts to recruit members and educate employees about union benefits.

Hypothetical union dues and fees, with right-to-work



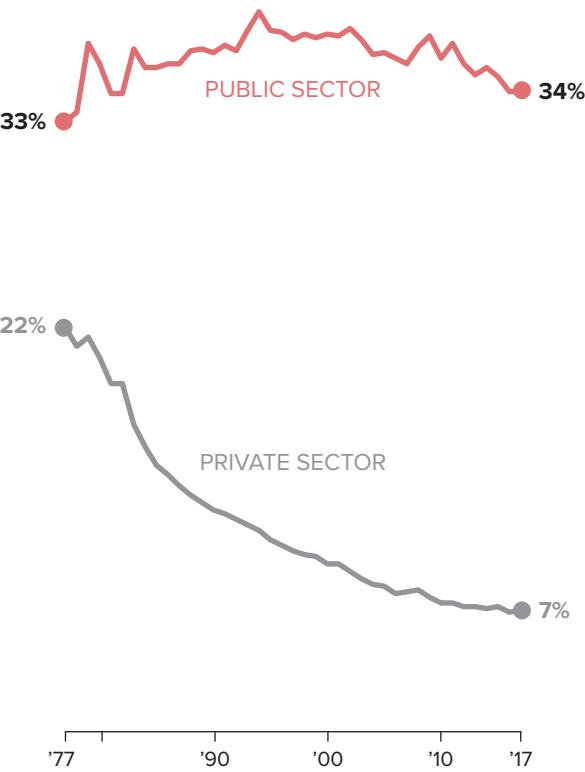
Supreme Court Case Could Bring Right-to-Work to the Public Sector

An upcoming Supreme Court case, *Janus v. American Federation of State, County, and Municipal Employees*, could effectively bring right-to-work policies to all government employees nationwide. The plaintiff, an Illinois state employee, alleges that agency shop arrangements with public employers violate non-members’ First Amendment rights because contract negotiations with government employers are arguably political activities.

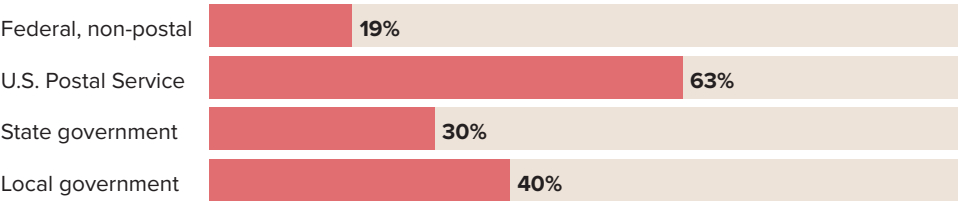
Unlike private-sector unions, which have seen steadily declining membership in recent decades, public-sector unions continue to represent a third of all public employees. More than half of all public K-12 teachers belong to a union, according to Census Bureau data.

The Supreme Court ruled in 1977 that agency fees are legal as long as the funds are not used for ideological or political purposes. However, some now expect the court to overturn that decision. Following the death of Justice Antonin Scalia, the Supreme Court heard a similar case, which resulted in a split 4-4 decision. Following the confirmation of Justice Neil Gorsuch in 2017, the court agreed to hear arguments for the *Janus* case. Justice Gorsuch is widely expected to rule against the union.

Share of workers with union membership



Share of public employees with union membership, 2017



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