

LEGAL ALERT
COSTELLO, COONEY & FEARON, PLLC

**U.S. SUPREME COURT INVALIDATES COMPELLED AGENCY SHOP FEES IN
JANUS V. AFSCME**

Today the U.S. Supreme Court released its widely-anticipated decision in the case of Janus v. AFSCME, which challenged an Illinois state law similar to New York’s Taylor Law that allowed unions representing public employees to compel non-member employees to pay “agency shop” fees to the union. By a 5-4 decision, the Court overruled its 1977 decision in Abood v. Detroit Bd. of Educ. and declared that “(s)tates and public sector unions may no longer extract agency fees from nonconsenting employees”, finding that the practice violates the First Amendment rights of nonmember employees. The ruling also makes union membership opt-in rather than opt-out. Justice Samuel Alito wrote the majority opinion with the court's conservatives joining him.

The most immediate impact of this decision for public employers is the invalidation of the practice of deducting agency fees from the pay of non-union member employees unless the employee “affirmatively consents” to pay such fees. The decision is likely to continue to produce ripple effects for public unions and employers.

A survey by the AFSCME — the union that Janus would have to pay into — found that if agency fees were no longer mandatory, 15 percent of employees would stop paying them, while 35 percent would continue to pay. The balance of workers were “on the fence.” As we have advised in previous alerts, however, numerous remedial measures have already been adopted in New York law to blunt the expected negative impact that Janus is expected to have upon the financial health of public sector unions. We will continue to keep you advised of all such developments.

Please contact any of the attorneys in our Labor and Employment practice group, listed below, should you need additional support or guidance in addressing these key changes or in responding to communications and requests from unions regarding same.

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