



Written by [Jack Kenny](#) on February 10, 2015

Illinois Governor Orders End to “Unfair Share” Union Dues

Illinois Governor Bruce Rauner (shown on left) announced an executive order Monday barring unions from requiring non-union state workers to pay the equivalence of dues, called “fair share” fees. Calling the compulsory fees a “critical cog in the corrupt bargain that is crushing taxpayers,” Rauner also claimed they violate the U.S. Constitution.

“Government union bargaining and government union political activity are inextricably linked,” Rauner said. “As a result, an employee who is forced to pay unfair share dues is being forced to fund political activity with which they disagree. That is a clear violation of First Amendment rights and something that, as governor, I am duty-bound to correct.”



Rauner, 57, is a Republican who was head of a capital investment firm and a private equity fund before he defeated incumbent Pat Quinn last November. He has often been a critic of public employee unions, arguing that taxpayers are burdened with salaries for state employees that are higher than those of their counterparts in other states, as well as in the private sector. Anticipating a legal challenge, he filed a pre-emptive federal lawsuit in Chicago, asking the court to declare his executive order legal. Union officials, who were quick to declare the order an illegal abuse of power, are sure to file lawsuits of their own. The order might also be overruled by the Democratic majority in the state’s legislature.

The executive action does not affect private-sector unions or state employees who choose to be in unions. About 6,500 of the 42,000 state employees represented by unions are non-members, who pay the fees in lieu of union dues. Unions have always argued they are entitled to the fees since non-union workers under a collective bargaining agreement receive wages and benefits negotiated by the unions. Bob Bruno, director of the labor education program at the University of Illinois at Urbana-Champaign, questioned the legal justification for the governor’s order, calling it “an assault on the institutional existence of the union in the public sector.” At the same time, he noted the practical effect will be small.

“In principle, it’s a pretty serious assault,” Bruno [told the New York Times](#). “In terms of impact, it remains to be seen because it’s a relatively small percentage of the population that’s chosen fair share.” The move was vigorously denounced by the American Federation of State, County and Municipal Employees, which is set to begin negotiations for a new contract with the state. The current contract expires July 1.

“Bruce Rauner’s scheme to strip the rights of state workers and weaken their unions by executive order is a blatantly illegal abuse of power,” said Roberta Lynch, executive director of AFSCME Council 31, one of many unions that supported Rauner’s Democratic opponent last year. “It is crystal clear by this action that the governor’s supposed concern for balancing the state budget is a paper-thin excuse that



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can't hide his real agenda: silencing working people and their unions who stand up for the middle class."

Rauner is also being panned in the liberal and left-wing press. Robert Creamer on the Huffington Post blog called the governor the "poster boy for the War on the Middle Class."

"That's right," wrote Creamer, "a guy who last year made \$25,000 an hour speculating and flying around on a corporate jet, is furious that someone who works 40 hours a week pouring concrete, laying hot asphalt and fixing potholes — serious physical work — makes as much all year as he does in two hours."

Senate President John Cullerton, a Democrat, said the senate's legal staff is looking into the governor's order, but added that both parties need to "search for common ground" in addressing the state's serious fiscal problems.

"I'd like to try and focus on the budget at this time and not have to have these type of squabbles," Representative Jay Hoffman, a Democrat and House labor chairman, [told the Chicago Tribune](#). The state faces a budget deficit of several billion dollars, a \$300-million shortfall in its Child Care Assistance Program, and a \$100-billion pension crisis.

"The task ahead of us is daunting and we have no time to waste," Rauner said in last week's State of the State address, later calling it "make or break time for the Land of Lincoln."

Rauner also called for a ban on campaign contributions from public employee unions to "the public officials they are lobbying" and who ultimately approve the wages and benefits provided in union contracts. He is also promoting what he calls "empowerment zones," where voters could decide if workers in their communities should be forced to join a union or pay related dues. The idea represents a local version of right-to-work laws in states that permit neither compulsory union membership, known as a "closed shop," nor a fee requirement for non-union members

"We'd like to see Illinois become a right-to-work state," said Patrick Semmens, a spokesman for the National Right to Work Committee. "Obviously, you need more than just the governor to get that done."

Rauner's move to curb the power of public employee unions follows a trend among Republican governors in the heavily unionized Midwest, including Mitch Daniels of Indiana, Scott Walker of Wisconsin, and Rick Snyder of Michigan. Daniels and Snyder both signed right-to-work legislation in 2012, making Indiana and Michigan the 23rd and 24th right to work states.

Rauner's constitutional argument against the fair share fee is based on a U.S. Supreme Court ruling in an Illinois case last year, in which a 5-4 majority ruling of a year ago, holding that home healthcare workers, represented by the Service Employees International Union, were not really state employees and that requiring them to pay union fees violated their First Amendment rights. The justices did not, however, decide the broader question of whether that applied to all workers in the public sector

A 1977 Supreme Court case involving Detroit school employees held that compulsory union dues for non-members did not violate the Constitution if the money was not used for political activities. Writing in last year's home healthcare case, Justice Samuel Alito took note of changing conditions since the Detroit case was decided 27 years earlier. "In the years since," wrote Alito, "as state and local expenditures on employee wages and benefits have mushroomed, the importance of the difference between bargaining in the public and private sectors has been driven home."

The suit Rauner filed Monday offers reflects Alito's argument, contending that "the significant impact



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that Illinois public sector labor costs have imposed and will continue to impose on the state's financial condition clearly demonstrates the degree to which Illinois state employee collective bargaining is an inherently political activity."



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