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Fitch: WV Strike Shows Janus May Have Little Impact on US Locals.

Fitch Ratings-New York-05 March 2018: The ongoing work stoppage by teachers in West Virginia indicates that local governments may not gain much expenditure flexibility should the U.S. Supreme Court make a decision that would loosen collective bargaining requirements in the case of Janus v. American Federation of State, County and Municipal Employees, Fitch Ratings says. At issue in the Janus case is whether public-sector workers should be able to opt out of required fees related to negotiating and enforcing union contracts, effectively conferring right-to-work status on all states.

Salaries and benefits comprise the majority of spending for most local governments, making the ability to adjust these costs, if needed, an important element of Fitch's evaluation of expenditure flexibility. We include a workforce evaluation in all local government rating analyses that considers both the formal bargaining relationship between labor and management and the practical ability to adjust spending. The inflexibility of pension contributions, which can be a sizable component of labor spending, makes the ability to adjust headcount, salaries and current benefits the primary focus of the analysis.

Currently, 28 states have right-to-work laws, which prohibit compulsory union dues by non-union members. Federal law prohibits compulsory union membership. Right-to-work laws do not control union membership or union negotiation and enforcement of labor contracts.

West Virginia adopted a right-to-work law in 2016 but it was stalled by litigation and did not go into effect until late 2017. A work stoppage by teachers and other West Virginia school employees is in its second week. Governor Jim Justice's proposal for a 5% pay raise beginning in July, instead of the previously-proposed 2%, was passed by the House of Delegates on Feb. 28. The senate approved a smaller 4% increase on March 3 that was not adopted by the House. Even if the raise were approved, issues regarding health care insurance costs remain unresolved. News reports indicate that teachers in Oklahoma, another right-to-work state, are considering a work stoppage.

The West Virginia state Attorney General has asserted that the work stoppage was unlawful, but did not indicate that any action will be taken against striking employees. This demonstrates that the legal framework governing the labor-management relationship is not the only indicator of labor-related spending pressure. An outcome of the Janus case that loosens collective bargaining requirements would therefore not yield an automatic improvement in local governments' levels of expenditure flexibility, a key consideration in Fitch's rating criteria.

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