

SENATE BILL 507

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F3

2004 Regular Session
(4r1568)

ENROLLED BILL
-- Finance/Ways and Means --

Introduced by **Senators Jimeno, Astle, DeGrange, and Giannetti**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 129

1 AN ACT concerning

2 **Anne Arundel County - Public School Employees - Service or**
3 **Representation Fee**

4 FOR the purpose of authorizing the Anne Arundel County Board of Education to
5 negotiate with a certain employee organization a reasonable service or
6 representation fee to be charged to nonmembers for representing them in
7 certain matters; requiring a certain employee organization to indemnify and
8 hold harmless the Board against certain claims, demands, suits, or other forms
9 of liability; requiring the Board to retain without charge to the Board the services
10 of certain counsel with regard to certain claims, demands, suits, or other forms of
11 liability; requiring a certain employee organization to submit a certain audit to
12 the Board annually; requiring the amount of the service or representation fee to
13 be based solely on certain expenses; prohibiting the financing of certain political
14 activities of the exclusive representative with the funds collected from the service
15 or representation fee; providing that certain employees are not required to pay
16 the service or representation fee, but instead shall pay an equivalent amount to
17 certain charities; requiring that certain negotiated agreements also contain a

1 certain provision ~~relating to a fee, that is not to exceed a certain amount, that is~~
2 ~~to be collected and committed to~~ to require that a certain percentage of the fees
3 collected be designated for professional development for certain educators;
4 making this Act applicable only to certain employees hired after a certain date;
5 and generally relating to service or representation fees for nonmembers of
6 certain employee organizations.

7 BY repealing and reenacting, with amendments,
8 Article - Education
9 Section 6-407
10 Annotated Code of Maryland
11 (2001 Replacement Volume and 2003 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Education**

15 6-407.

16 (a) An employee organization designated as an exclusive representative shall
17 be the negotiating agent of all public school employees in the unit in the county.

18 (b) (1) An employee organization designated as an exclusive representative
19 shall represent all employees in the unit fairly and without discrimination, whether
20 or not the employees are members of the employee organization.

21 (2) In addition, in Montgomery County the exclusive representative shall
22 represent fairly and without discrimination all persons actually employed as
23 substitute teachers without regard to whether they are included in § 6-401(d) of this
24 subtitle as public school employees.

25 (c) (1) In Montgomery County, Prince George's County, Baltimore County,
26 and Baltimore City, the public school employer may negotiate with the employee
27 organization designated as the exclusive representative for the public school
28 employees in a unit, a reasonable service or representation fee, to be charged
29 nonmembers for representing them in negotiations, contract administration,
30 including grievances, and other activities as are required under subsection (b) of this
31 section.

32 (2) The service or representation fee may not exceed the annual dues of
33 the members of the organization.

34 (3) An employee who is a substitute teacher and who works on a
35 short-term day-to-day basis is not required to pay a service or representation fee.

36 (4) An employee whose religious beliefs are opposed to joining or
37 financially supporting any collective bargaining organization is:

1 (i) Not required to pay a service or representation fee; and

2 (ii) Required to pay an amount of money as determined in
3 paragraph (2) of this subsection to a nonreligious, nonunion charity or to such other
4 charitable organization as may be mutually agreed upon by the employee and the
5 exclusive representative, and who furnishes to the public school employer and the
6 exclusive representative written proof of such payment.

7 (5) (i) In Baltimore County, the provisions of this subsection shall
8 apply only to employees who are hired on or after July 1, 1997.

9 (ii) The provisions of this paragraph apply if an agency or
10 representation fee is negotiated in Baltimore County.

11 (iii) 1. Subject to the provisions of sub-subparagraph 2 of this
12 subparagraph, the employee organization designated as the exclusive representative
13 for the public school employees shall indemnify and hold harmless the Board of
14 Education of Baltimore County against any and all claims, demands, suits, or any
15 other forms of liability that may arise out of, or by reason of, action taken by the
16 Board for the purpose of complying with any of the agency or representation fee
17 provisions of the negotiated agreement.

18 2. The Board shall retain without charge to the Board the
19 services of counsel that are designated by the exclusive representative with regard to
20 any claim, demand, suit, or any other liability that may arise out of, or by reason of,
21 action taken by the Board for the purpose of complying with any of the agency or
22 representation fee provisions of the negotiated agreement.

23 (iv) The employee organization designated as the exclusive
24 representative shall submit to the Board an annual audit from an external auditor
25 that reflects the operational expenses of the employee organization and explains how
26 the representation fee is calculated based on the audit.

27 (v) 1. The agency or representation fee shall be based only on
28 the expenses incurred by the employee organization in its representation in
29 negotiations, contract administration, including the handling of grievances, and other
30 activities, as required under this section.

31 2. Any political activities of the employee organization
32 designated as the exclusive representative may not be financed by the funds collected
33 from the agency or representation fee.

34 (6) In Montgomery County, an employee who is a home or hospital
35 teacher and who works on a short-term day-to-day basis is not required to pay a
36 service or representation fee.

37 (d) In Allegany County, Garrett County, and Washington County, the public
38 school employer may negotiate with the employee organization designated as the
39 exclusive representative for the public school employees in a unit, a reasonable
40 service or representation fee, to be charged nonmembers for representing them in

1 negotiation, contract administration, including grievances, and other activities
 2 specified under subsection (b) of this section.

3 (e) In Garrett County:

4 (1) A public school employee who is not a member of the employee
 5 organization designated as the exclusive representative for the public school
 6 employees in a unit at the time that a negotiated service or representation fee is
 7 initiated is exempt from the fee provided under subsection (d) of this section; and

8 (2) An individual who becomes a public school employee after the time
 9 that a negotiated service or representation fee is initiated and does not join the
 10 employee organization designated as the exclusive representative is liable for the fee
 11 provided under subsection (d) of this section.

12 (F) IN ANNE ARUNDEL COUNTY:

13 (1) THE PUBLIC SCHOOL EMPLOYER MAY NEGOTIATE WITH THE
 14 EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR
 15 THE PUBLIC SCHOOL EMPLOYEES IN A UNIT, A REASONABLE SERVICE OR
 16 REPRESENTATION FEE TO BE CHARGED NONMEMBERS FOR REPRESENTING THEM IN
 17 NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING GRIEVANCES, AND OTHER
 18 ACTIVITIES AS ARE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

19 (2) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS
 20 PARAGRAPH, THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE
 21 REPRESENTATIVE FOR THE PUBLIC SCHOOL EMPLOYEES SHALL INDEMNIFY AND
 22 HOLD HARMLESS THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION AGAINST ANY
 23 AND ALL CLAIMS, DEMANDS, SUITS, OR ANY OTHER FORMS OF LIABILITY THAT MAY
 24 ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE BOARD FOR THE PURPOSE
 25 OF COMPLYING WITH ANY OF THE AGENCY OR REPRESENTATION FEE PROVISIONS
 26 OF THE NEGOTIATED AGREEMENT.

27 (II) THE BOARD SHALL RETAIN WITHOUT CHARGE TO THE BOARD
 28 THE SERVICES OF COUNSEL THAT ARE DESIGNATED BY THE EXCLUSIVE
 29 REPRESENTATIVE WITH REGARD TO ANY CLAIM, DEMAND, SUIT, OR ANY OTHER
 30 LIABILITY THAT MAY ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE
 31 BOARD FOR THE PURPOSE OF COMPLYING WITH ANY OF THE AGENCY OR
 32 REPRESENTATION FEE PROVISIONS OF THE NEGOTIATED AGREEMENT.

33 (3) THE EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE
 34 REPRESENTATIVE SHALL SUBMIT TO THE ANNE ARUNDEL COUNTY BOARD OF
 35 EDUCATION AN ANNUAL AUDIT FROM AN EXTERNAL AUDITOR THAT REFLECTS THE
 36 OPERATIONAL EXPENSES OF THE EMPLOYEE ORGANIZATION AND EXPLAINS HOW
 37 THE SERVICE OR REPRESENTATION FEE IS CALCULATED BASED ON THE AUDIT.

38 (4) (I) THE SERVICE OR REPRESENTATION FEE SHALL BE BASED
 39 ONLY ON THE EXPENSES INCURRED BY THE EMPLOYEE ORGANIZATION IN ITS
 40 REPRESENTATION IN NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING
 41 GRIEVANCES, AND OTHER ACTIVITIES UNDER THIS SECTION.

1 (II) POLITICAL ACTIVITIES OF THE EMPLOYEE ORGANIZATION
 2 DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE MAY NOT BE FINANCED WITH
 3 THE FUNDS COLLECTED FROM THE SERVICE OR REPRESENTATION FEE.

4 ~~(2)~~ (5) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO
 5 JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING
 6 ORGANIZATION IS:

7 (I) NOT REQUIRED TO PAY A SERVICE OR REPRESENTATION FEE;
 8 AND

9 (II) REQUIRED TO PAY AN AMOUNT OF MONEY AS DETERMINED
 10 UNDER PARAGRAPH (1) OF THIS SUBSECTION TO A NONRELIGIOUS, NONUNION
 11 CHARITY OR TO ANOTHER CHARITABLE ORGANIZATION THAT IS MUTUALLY AGREED
 12 UPON BY THE EMPLOYEE AND THE EXCLUSIVE REPRESENTATIVE, AND WHO
 13 FURNISHES TO THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE
 14 REPRESENTATIVE WRITTEN PROOF OF THE PAYMENT.

15 ~~(3) (4) ANY NEGOTIATED AGREEMENT THAT INCLUDES A~~
 16 ~~REPRESENTATION FEE SHALL ALSO CONTAIN A PROVISION THAT IDENTIFIES AN~~
 17 ~~AMOUNT OF REVENUE EQUAL TO A PORTION OF THE REPRESENTATION FEE~~
 18 ~~COLLECTED AND DESIGNATED FOR THE LOCAL BARGAINING REPRESENTATIVE TO~~
 19 ~~BE COMMITTED TO PROFESSIONAL DEVELOPMENT FOR REPRESENTED EDUCATORS.~~

20 ~~(4) THE PORTION OF THE REPRESENTATION FEE COLLECTED AND~~
 21 ~~DESIGNATED UNDER SUBPARAGRAPH (1) OF THIS PARAGRAPH SHALL:~~

22 ~~1. BE NEGOTIATED BETWEEN THE LOCAL BARGAINING~~
 23 ~~REPRESENTATIVE AND THE COUNTY BOARD; AND~~

24 ~~2. MAY NOT BE GREATER THAN 25% OF THE ANNUAL~~
 25 ~~AMOUNT COLLECTED AND DESIGNATED UNDER THIS SUBSECTION FOR THE LOCAL~~
 26 ~~BARGAINING REPRESENTATIVE IN REPRESENTATION FEES.~~

27 ~~(3) (6) ANY NEGOTIATED AGREEMENT THAT INCLUDES A~~
 28 ~~REPRESENTATION FEE ALSO SHALL CONTAIN A PROVISION THAT REQUIRES THAT AN~~
 29 ~~AMOUNT OF REVENUE EQUAL TO 25% OF THE ANNUAL REPRESENTATION FEES~~
 30 ~~COLLECTED AND MAINTAINED BY THE LOCAL BARGAINING REPRESENTATIVE BE~~
 31 ~~DESIGNATED FOR PROFESSIONAL DEVELOPMENT FOR REPRESENTED EDUCATORS.~~

32 ~~(4) (7) THIS SUBSECTION SHALL APPLY ONLY TO EMPLOYEES WHO~~
 33 ~~ARE HIRED ON OR AFTER JULY 1, 2004 OCTOBER 1, 2004.~~

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 35 October 1, 2004.

