

HOUSE BILL 743

K3, P4

11r2340

By: **Delegates W. Miller, Bates, Haddaway–Riccio, Hershey, Impallaria, O'Donnell, Schuh, Schulz, and Stifler**

Introduced and read first time: February 10, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Labor Organizations – Right to Work**

3 FOR the purpose of prohibiting an employer from requiring, as a condition of
4 employment or continued employment, an employee or prospective employee to
5 join or remain a member of a labor organization, pay charges to a labor
6 organization, or pay a certain amount to a third party under certain
7 circumstances; prohibiting an employer from threatening an employee or a
8 prospective employee with certain action; specifying that certain agreements,
9 understandings, or practices between employers and labor organizations are
10 null and void and without legal effect; authorizing an employee or prospective
11 employee to file an action in a certain circuit court for a certain violation of law;
12 specifying that an employee or a prospective employer is entitled to injunctive
13 relief and to recover certain damages and costs under certain circumstances;
14 providing that a certain violation of law is a misdemeanor and is subject to
15 certain penalties; requiring the Attorney General to take certain action to
16 ensure effective enforcement of certain law, investigate certain complaints, and
17 try certain prosecutions; specifying that the Attorney General has certain
18 powers and duties relating to criminal prosecutions under certain
19 circumstances; specifying that certain provisions of law are unenforceable under
20 certain circumstances; repealing a certain provision of law that prohibits a court
21 from granting relief under certain circumstances; repealing certain provisions of
22 law related to fees paid by employees to certain labor organizations; defining
23 certain terms; providing for the application of this Act; providing for the
24 effective date of certain provisions of this Act; providing for the termination of
25 certain provisions of this Act; and generally relating to the rights of individuals,
26 employee organizations, and employers.

27 BY repealing and reenacting, with amendments,

28 Article 28 – Maryland–National Capital Park and Planning Commission

29 Section 5–114.1(f)(1)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume)

3 BY repealing
4 Article 28 – Maryland–National Capital Park and Planning Commission
5 Section 5–114.1(j)
6 Annotated Code of Maryland
7 (2010 Replacement Volume)

8 BY repealing and reenacting, without amendments,
9 Article – Courts and Judicial Proceedings
10 Section 2–309(j)(5)(i) and (ii)
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2010 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Courts and Judicial Proceedings
15 Section 2–309(j)(5)(iii)
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2010 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Education
20 Section 6–407, 6–504, and 16–414.1(e)(3) and (f)
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2010 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Family Law
25 Section 5–595.3
26 Annotated Code of Maryland
27 (2006 Replacement Volume and 2010 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article – Labor and Employment
30 Section 4–304
31 Annotated Code of Maryland
32 (2008 Replacement Volume and 2010 Supplement)

33 BY adding to
34 Article – Labor and Employment
35 Section 4–701 through 4–707 to be under the new subtitle “Subtitle 7. Right to
36 Work”
37 Annotated Code of Maryland
38 (2008 Replacement Volume and 2010 Supplement)

39 BY repealing and reenacting, with amendments,
40 Article – State Personnel and Pensions

1 Section 3–502
 2 Annotated Code of Maryland
 3 (2009 Replacement Volume and 2010 Supplement)

4 BY repealing and reenacting, with amendments,
 5 Article – Education
 6 Section 6–407
 7 Annotated Code of Maryland
 8 (2008 Replacement Volume and 2010 Supplement)
 9 (As enacted by Chapters 324 and 325 of the Acts of the General Assembly of
 10 2010)

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

13 **Article 28 – Maryland–National Capital Park and Planning Commission**

14 5–114.1.

15 (f) (1) A collective bargaining agreement shall be executed by the
 16 MNCPPC and the exclusive representative incorporating any matters of agreement
 17 reached on wages, hours, and other terms and conditions of employment, and may
 18 include dues [and maintenance or service fees] taken from payroll deduction.

19 [(j) (1) Nothing in this section or in any other federal or State law may
 20 preclude the MNCPPC from making a collective bargaining agreement with an
 21 exclusive representative that requires an employee, as a condition of employment, to
 22 pay a maintenance or service fee as a contribution towards the cost of the negotiation
 23 and administration of the agreement, in an amount not greater than the regular
 24 annual dues paid to the exclusive representative.

25 (2) Before the MNCPPC discharges an employee who fails to pay a
 26 maintenance or service fee, it shall give the employee:

27 (i) Written notice of the delinquent payment; and

28 (ii) Adequate time to correct the delinquency.

29 (3) If the MNCPPC and the employee are unable to resolve the fee
 30 issue, the issue shall be submitted to an umpire in accordance with the provisions of
 31 subsection (k) of this section.]

32 **Article – Courts and Judicial Proceedings**

33 2–309.

1 (j) (5) (i) This paragraph applies to all full-time, merit system sworn
 2 law enforcement officers and correctional officers in the Charles County Sheriff's
 3 Office at a rank of sergeant or below.

4 (ii) This paragraph does not apply to the following employees in
 5 the Charles County Sheriff's Office:

6 1. Sworn law enforcement officers or correctional officers
 7 in the Charles County Sheriff's Office at a rank of lieutenant or above;

8 2. Employees in appointed positions;

9 3. Civilian merit system employees;

10 4. Full-time reduced hours employees;

11 5. Part-time employees;

12 6. Contractual employees;

13 7. Temporary employees;

14 8. Emergency employees; or

15 9. Employees whose employment is administered under
 16 the county policies and procedures manual.

17 (iii) 1. A sworn law enforcement officer or correctional officer
 18 subject to this paragraph has the right to:

19 A. Take part in or refrain from taking part in forming,
 20 joining, supporting, or participating in any employee organization or its lawful
 21 activities;

22 B. Be represented by an exclusive representative, if any,
 23 in collective bargaining; and

24 C. Engage in other concerted activities for the purpose of
 25 collective bargaining.

26 2. Sworn law enforcement officers and correctional
 27 officers subject to this paragraph may seek recognition in order to organize and
 28 bargain collectively in good faith with the Sheriff or the Sheriff's designee concerning
 29 the following matters:

30 A. Compensation, excluding salary, wages, and those
 31 benefits determined, offered, administered, controlled, or managed by the County
 32 Commissioners of Charles County;

1 B. Leave, holidays, and vacations; and

2 C. Hours, working conditions, and job security.

3 3. A sworn law enforcement officer or correctional officer
4 who is a member of a bargaining unit with an exclusive representative may discuss
5 any matter with the employer without the intervention of the exclusive representative.

6 4. [A sworn law enforcement officer or correctional
7 officer who is not a member of a bargaining unit with an exclusive representative may
8 be required to pay a proportional service fee for costs associated with the
9 administration and enforcement of any agreement that benefits the affected
10 employees.] An exclusive representative shall be selected in accordance with the
11 procedures set forth in subparagraph (v) of this paragraph.

12 5. This paragraph does not require that sworn law
13 enforcement officers and correctional officers be represented by the same exclusive
14 representative.

15 Article – Education

16 6–504.

17 [(a)] A public school employee may refuse to join or participate in the activities
18 of employee organizations.

19 [(b) (1)] In Montgomery County, Allegany County, Charles County, and
20 Howard County, the county board, with respect to noncertificated employees, shall
21 negotiate a structure of reasonable service fees to be charged nonmembers for
22 representation in negotiations and grievance matters by employee organizations.

23 (2) In Charles County, the provisions of this subsection shall apply
24 only to employees hired on or after July 1, 2005.

25 (c) In Prince George’s County, the county board shall negotiate an
26 organizational security provision, commonly known as “agency shop”, with employee
27 organizations.

28 (d) (1) In Anne Arundel County, Baltimore County, and Garrett County,
29 the county board, with respect to noncertificated employees, may negotiate a structure
30 of reasonable service fees to be charged nonmembers for representation in negotiations
31 and grievance matters by employee organizations.

32 (2) In Anne Arundel County, if the county board negotiates a structure
33 of fees as authorized under this subsection:

- 1 (i) Each party shall:
- 2 1. Confer in good faith, at all reasonable times; and
- 3 2. Reduce to writing the matters agreed on as a result of
- 4 the negotiations; and
- 5 (ii) Neither party is required to agree to any proposal or to make
- 6 any concession.
- 7 (3) (i) The provisions of this paragraph apply if an agency or
- 8 representation fee is negotiated in Baltimore County.
- 9 (ii) 1. Subject to the provisions of subparagraph 2 of this
- 10 subparagraph, the employee organization designated as the exclusive representative
- 11 for the public school employees shall indemnify and hold harmless the Board of
- 12 Education of Baltimore County against any and all claims, demands, suits, or any
- 13 other forms of liability that may arise out of, or by reason of, action taken by the board
- 14 for the purpose of complying with any of the agency or representation fee provisions of
- 15 the negotiated agreement.
- 16 2. The board shall retain without charge to the board the
- 17 services of counsel that are designated by the exclusive representative with regard to
- 18 any claim, demand, suit, or any other liability that may arise out of, or by reason of,
- 19 action taken by the board for the purpose of complying with any of the agency or
- 20 representation fee provisions of the negotiated agreement.
- 21 (iii) The employee organization designated as the exclusive
- 22 representative shall submit to the board an annual audit from an external auditor
- 23 that reflects the operational expenses of the employee organization and explains how
- 24 the representation fee is calculated based on the audit.
- 25 (iv) 1. The agency or representation fee shall be based only
- 26 on the expenses incurred by the employee organization in its representation in
- 27 negotiations, contract administration, including the handling of grievances, and other
- 28 activities as required under § 6-509 of this subtitle; and
- 29 2. Any political activities of the employee organization
- 30 designated as the exclusive representative may not be financed by the funds collected
- 31 from the agency or representation fee.
- 32 (4) In Garrett County, if a noncertificated employee was not a public
- 33 school employee at the time that a service fee under paragraph (1) of this subsection
- 34 was initiated, the noncertificated employee may not be charged a service fee.
- 35 (e) In Baltimore City, the public school employer shall negotiate with the
- 36 employee organization designated as the exclusive representative for the public school
- 37 employees in a unit, a reasonable service or representation fee to be charged to

1 nonmembers for representing them in negotiations in the same manner that any such
2 fee was permitted under law and bargained for prior to January 1, 1997.]

3 16-414.1.

4 (e) (3) On behalf of the exclusive representative for payment to the
5 exclusive representative, the public employer shall automatically deduct from the
6 paycheck of each public employee in a bargaining unit represented by an employee
7 organization certified as an exclusive representative for that bargaining unit[:

8 (i) Any] ANY union dues authorized and owed by the employee
9 to the organization[; and

10 (ii) Any service fees authorized and owed by the employee to the
11 organization].

12 (f) Collective bargaining shall include all matters relating to:

13 (1) Wages, hours, and other terms and conditions of employment; and

14 (2) The procedures for the employee organization to receive
15 membership dues [and service fees] through payroll deduction.

16 Article – Family Law

17 5-595.3.

18 (a) The State Department of Education shall designate appropriate
19 representatives to participate in collective bargaining with the provider organization
20 certified as the exclusive representative of family child care providers.

21 (b) Except as otherwise provided in this Part XI of this subtitle, the parties
22 shall adhere to the bargaining process set forth in § 3-501 of the State Personnel and
23 Pensions Article.

24 (c) The State Department of Education shall negotiate in consultation with
25 the Department of Budget and Management regarding all matters that require
26 appropriation of State funds.

27 (d) Collective bargaining shall include all matters related to the terms and
28 conditions of participation by family child care providers in the Maryland Child Care
29 Subsidy Program, including:

30 (1) reimbursement rates;

31 (2) benefits;

- 1 (3) payment procedures;
- 2 (4) contract grievance procedures;
- 3 (5) training;
- 4 (6) member dues deductions; and
- 5 (7) other terms and conditions of participation by family child care
6 providers in the Maryland Child Care Subsidy Program.

7 (e) [(1) (i) Subject to subparagraph (ii) of this paragraph, collective
8 bargaining may include negotiations relating to the right of a provider organization
9 that is the exclusive representative to receive service fees from nonmembers.

10 (ii) The representatives of the State may not reach an
11 agreement containing a service fee provision unless the representatives of the State
12 conclude that the agreement as a whole will not adversely impact nonmember
13 providers.

14 (2) A family child care provider whose religious beliefs are opposed to
15 joining or financially supporting any collective bargaining organization is:

16 (i) not required to pay a service fee; and

17 (ii) required to pay an amount of money as determined in
18 collective bargaining negotiations, not to exceed any service fee negotiated under
19 paragraph (1) of this subsection, to any charitable organization exempt from taxation
20 under § 501(c)(3) of the Internal Revenue Code and to furnish to the State Department
21 of Education and the exclusive representative written proof of the payment.

22 (f)] (1) Collective bargaining shall include negotiations that result in the
23 establishment of a fund for the purpose of protecting family child care providers
24 against extreme hardship or loss of livelihood resulting from late State payments.

25 (2) The exclusive representative shall pay for a portion of the fund.

26 (3) The fund:

27 (i) may not be a State fund; but

28 (ii) shall be established and administered in consultation with
29 the State.

30 (4) All revenues, money, and assets of the fund belong solely to the
31 fund and are held by the fund in trust for family child care providers.

1 **(B) A PROVISION OF THIS SUBTITLE THAT IS IN CONFLICT WITH OR**
2 **PREEMPTED BY FEDERAL LAW IS UNENFORCEABLE TO THE EXTENT OF THE**
3 **CONFLICT OR PREEMPTION.**

4 **4-703.**

5 **(A) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL**
6 **LAW, AN EMPLOYER MAY NOT REQUIRE, AS A CONDITION OF EMPLOYMENT OR**
7 **CONTINUED EMPLOYMENT, AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE TO:**

8 **(1) JOIN OR REMAIN A MEMBER OF A LABOR ORGANIZATION;**

9 **(2) PAY ANY DUES, FEES, ASSESSMENTS, OR OTHER CHARGES TO**
10 **A LABOR ORGANIZATION; OR**

11 **(3) PAY TO ANY CHARITY OR ANOTHER THIRD PARTY, IN LIEU OF**
12 **A PAYMENT TO A LABOR ORGANIZATION, ANY AMOUNT EQUIVALENT TO OR PRO**
13 **RATA PORTION OF THE CHARGE REQUIRED TO BE PAID TO A LABOR**
14 **ORGANIZATION BY A MEMBER OF THE LABOR ORGANIZATION.**

15 **(B) AN EMPLOYER MAY NOT THREATEN AN EMPLOYEE OR A**
16 **PROSPECTIVE EMPLOYEE WITH AN ACTION THAT WOULD BE A VIOLATION OF**
17 **SUBSECTION (A) OF THIS SECTION.**

18 **4-704.**

19 **AN AGREEMENT, UNDERSTANDING, OR PRACTICE BETWEEN AN**
20 **EMPLOYER AND A LABOR ORGANIZATION THAT VIOLATES § 4-703 OF THIS**
21 **SUBTITLE IS NULL AND VOID AND WITHOUT LEGAL EFFECT.**

22 **4-705.**

23 **(A) AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE MAY FILE AN ACTION**
24 **AGAINST AN EMPLOYER FOR A VIOLATION OF § 4-703 OF THIS SUBTITLE IN THE**
25 **CIRCUIT COURT FOR THE JURISDICTION WHERE THE EMPLOYER IS LOCATED.**

26 **(B) IF AN EMPLOYER IS FOUND LIABLE FOR A VIOLATION OF § 4-703 OF**
27 **THIS SUBTITLE IN AN ACTION FILED UNDER SUBSECTION (A) OF THIS SECTION,**
28 **THE EMPLOYEE OR PROSPECTIVE EMPLOYEE WHO FILED THE ACTION IS**
29 **ENTITLED TO INJUNCTIVE RELIEF, DAMAGES, COURT COSTS, AND REASONABLE**
30 **ATTORNEY'S FEES.**

31 **4-706.**

1 **(A) A INDIVIDUAL WHO VIOLATES § 4-703 OF THIS SUBTITLE IS GUILTY**
2 **OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT**
3 **EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR, OR BOTH.**

4 **(B) A PERSON OTHER THAN AN INDIVIDUAL WHO VIOLATES § 4-703 OF**
5 **THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT**
6 **TO A FINE NOT EXCEEDING \$1,000.**

7 **4-707.**

8 **(A) THE ATTORNEY GENERAL SHALL:**

9 **(1) TAKE ANY STEPS NECESSARY TO ENSURE EFFECTIVE**
10 **ENFORCEMENT OF THIS SUBTITLE;**

11 **(2) INVESTIGATE ALL COMPLAINTS REGARDING VIOLATIONS OF §**
12 **4-703 OF THIS SUBTITLE; AND**

13 **(3) COMMENCE AND TRY ALL PROSECUTIONS FOR VIOLATIONS OF**
14 **§ 4-703 OF THIS SUBTITLE.**

15 **(B) WITH RESPECT TO THE COMMENCEMENT AND TRIAL OF THE**
16 **PROSECUTION UNDER SUBSECTION (A) OF THIS SECTION, THE ATTORNEY**
17 **GENERAL HAS ALL THE POWERS AND DUTIES VESTED BY LAW IN STATE'S**
18 **ATTORNEYS WITH RESPECT TO CRIMINAL PROSECUTIONS.**

19 **Article - State Personnel and Pensions**

20 **3-502.**

21 **(a) Collective bargaining shall include all matters relating to wages, hours,**
22 **and other terms and conditions of employment.**

23 **(b) [(1) Except as provided in paragraph (3) of this subsection, collective]**
24 **COLLECTIVE bargaining may NOT include negotiations relating to the right of an**
25 **employee organization to receive service fees from nonmembers.**

26 **[(2) An employee whose religious beliefs are opposed to joining or**
27 **financially supporting any collective bargaining organization is:**

28 **(i) not required to pay a service fee; and**

29 **(ii) required to pay an amount of money as determined in**
30 **collective bargaining negotiations, not to exceed any service fee negotiated under**
31 **paragraph (1) of this subsection, to any charitable organization exempt from taxation**

1 under § 501(c)(3) of the Internal Revenue Code and to furnish to the Department and
2 the exclusive representative written proof of such payment.

3 (3) Collective bargaining between an employee organization and a
4 system institution, Morgan State University, St. Mary's College of Maryland, or
5 Baltimore City Community College may not include negotiations relating to the right
6 of an employee organization to receive service fees from nonmembers.]

7 (c) Notwithstanding subsection (a) of this section, the representatives of the
8 State, a system institution, Morgan State University, St. Mary's College of Maryland,
9 and Baltimore City Community College:

10 (1) shall not be required to negotiate over any matter that is
11 inconsistent with applicable law; and

12 (2) may negotiate and reach agreement with regard to any such
13 matter only if it is understood that the agreement with respect to such matter cannot
14 become effective unless the applicable law is amended by the General Assembly.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
16 read as follows:

17 **Article – Education**

18 6–407.

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

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

25 (2) In addition, in Montgomery County the exclusive representative
26 shall represent fairly and without discrimination all persons actually employed as
27 substitute teachers without regard to whether they are included in § 6–401(e) of this
28 subtitle as public school employees.

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

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

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

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

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

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

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

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

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

24 2. The board shall retain without charge to the board the
25 services of counsel that are designated by the exclusive representative with regard to
26 any claim, demand, suit, or any other liability that may arise out of, or by reason of,
27 action taken by the board for the purpose of complying with any of the agency or
28 representation fee provisions of the negotiated agreement.

29 (iv) The employee organization designated as the exclusive
30 representative shall submit to the board an annual audit from an external auditor
31 that reflects the operational expenses of the employee organization and explains how
32 the representation fee is calculated based on the audit.

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

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

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

7 (d) (1) In Allegany County, Calvert County, Charles County, Garrett
8 County, and Washington County, the public school employer may negotiate with the
9 employee organization designated as the exclusive representative for the public school
10 employees in a unit, a reasonable service or representation fee, to be charged
11 nonmembers for representing them in negotiation, contract administration, including
12 grievances, and other activities specified under subsection (b) of this section.

13 (2) In Charles County, the provisions of this subsection shall apply
14 only to employees who are hired on or after July 1, 2005.

15 (e) In Garrett County:

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

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

24 (f) In Anne Arundel County:

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

30 (2) (i) Subject to the provisions of subparagraph (ii) of this
31 paragraph, the employee organization designated as the exclusive representative for
32 the public school employees shall indemnify and hold harmless the Anne Arundel
33 County Board of Education against any and all claims, demands, suits, or any other
34 forms of liability that may arise out of, or by reason of, action taken by the board for
35 the purpose of complying with any of the agency or representation fee provisions of the
36 negotiated agreement.

37 (ii) The board shall retain without charge to the board the
38 services of counsel that are designated by the exclusive representative with regard to

1 any claim, demand, suit, or any other liability that may arise out of, or by reason of,
2 action taken by the board for the purpose of complying with any of the agency or
3 representation fee provisions of the negotiated agreement.

4 (3) The employee organization designated as the exclusive
5 representative shall submit to the Anne Arundel County Board of Education an
6 annual audit from an external auditor that reflects the operational expenses of the
7 employee organization and explains how the service or representation fee is calculated
8 based on the audit.

9 (4) (i) The service or representation fee shall be based only on the
10 expenses incurred by the employee organization in its representation in negotiations,
11 contract administration, including grievances, and other activities under this section.

12 (ii) Political activities of the employee organization designated
13 as the exclusive representative may not be financed with the funds collected from the
14 service or representation fee.

15 (5) An employee whose religious beliefs are opposed to joining or
16 financially supporting any collective bargaining organization is:

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

18 (ii) Required to pay an amount of money as determined under
19 paragraph (1) of this subsection to a nonreligious, nonunion charity or to another
20 charitable organization that is mutually agreed upon by the employee and the
21 exclusive representative, and who furnishes to the public school employer and the
22 exclusive representative written proof of the payment.

23 (6) Any negotiated agreement that includes a representation fee also
24 shall contain a provision that requires that an amount of revenue equal to 25% of the
25 annual representation fees collected and maintained by the local bargaining
26 representative be designated for professional development for represented educators.

27 (7) This subsection shall apply only to employees who are hired on or
28 after October 1, 2004.]

29 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

31 **Article – Education**

32 6–407.

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

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

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

9 [(c) (1) In Montgomery County, Prince George's County, Baltimore
10 County, Baltimore City, and Howard County, the public school employer may
11 negotiate with the employee organization designated as the exclusive representative
12 for the public school employees in a unit, a reasonable service or representation fee, to
13 be charged nonmembers for representing them in negotiations, contract
14 administration, including grievances, and other activities as are required under
15 subsection (b) of this section.

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

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

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

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

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

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

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

32 (iii) 1. Subject to the provisions of subparagraph 2 of this
33 subparagraph, the employee organization designated as the exclusive representative
34 for the public school employees shall indemnify and hold harmless the Board of
35 Education of Baltimore County against any and all claims, demands, suits, or any
36 other forms of liability that may arise out of, or by reason of, action taken by the board

1 for the purpose of complying with any of the agency or representation fee provisions of
2 the negotiated agreement.

3 2. The board shall retain without charge to the board the
4 services of counsel that are designated by the exclusive representative with regard to
5 any claim, demand, suit, or any other liability that may arise out of, or by reason of,
6 action taken by the board for the purpose of complying with any of the agency or
7 representation fee provisions of the negotiated agreement.

8 (iv) The employee organization designated as the exclusive
9 representative shall submit to the board an annual audit from an external auditor
10 that reflects the operational expenses of the employee organization and explains how
11 the representation fee is calculated based on the audit.

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

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

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

22 (d) (1) In Allegany County, Calvert County, Charles County, Garrett
23 County, and Washington County, the public school employer may negotiate with the
24 employee organization designated as the exclusive representative for the public school
25 employees in a unit, a reasonable service or representation fee, to be charged
26 nonmembers for representing them in negotiation, contract administration, including
27 grievances, and other activities specified under subsection (b) of this section.

28 (2) In Charles County, the provisions of this subsection shall apply
29 only to employees who are hired on or after July 1, 2005.

30 (e) In Garrett County:

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

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

1 (f) In Anne Arundel County:

2 (1) The public school employer may negotiate with the employee
3 organization designated as the exclusive representative for the public school
4 employees in a unit, a reasonable service or representation fee to be charged
5 nonmembers for representing them in negotiations, contract administration, including
6 grievances, and other activities as are required under subsection (b) of this section.

7 (2) (i) Subject to the provisions of subparagraph (ii) of this
8 paragraph, the employee organization designated as the exclusive representative for
9 the public school employees shall indemnify and hold harmless the Anne Arundel
10 County Board of Education against any and all claims, demands, suits, or any other
11 forms of liability that may arise out of, or by reason of, action taken by the board for
12 the purpose of complying with any of the agency or representation fee provisions of the
13 negotiated agreement.

14 (ii) The board shall retain without charge to the board the
15 services of counsel that are designated by the exclusive representative with regard to
16 any claim, demand, suit, or any other liability that may arise out of, or by reason of,
17 action taken by the board for the purpose of complying with any of the agency or
18 representation fee provisions of the negotiated agreement.

19 (3) The employee organization designated as the exclusive
20 representative shall submit to the Anne Arundel County Board of Education an
21 annual audit from an external auditor that reflects the operational expenses of the
22 employee organization and explains how the service or representation fee is calculated
23 based on the audit.

24 (4) (i) The service or representation fee shall be based only on the
25 expenses incurred by the employee organization in its representation in negotiations,
26 contract administration, including grievances, and other activities under this section.

27 (ii) Political activities of the employee organization designated
28 as the exclusive representative may not be financed with the funds collected from the
29 service or representation fee.

30 (5) An employee whose religious beliefs are opposed to joining or
31 financially supporting any collective bargaining organization is:

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

33 (ii) Required to pay an amount of money as determined under
34 paragraph (1) of this subsection to a nonreligious, nonunion charity or to another
35 charitable organization that is mutually agreed upon by the employee and the
36 exclusive representative, and who furnishes to the public school employer and the
37 exclusive representative written proof of the payment.

1 (6) Any negotiated agreement that includes a representation fee also
2 shall contain a provision that requires that an amount of revenue equal to 25% of the
3 annual representation fees collected and maintained by the local bargaining
4 representative be designated for professional development for represented educators.

5 (7) This subsection shall apply only to employees who are hired on or
6 after October 1, 2004.]

7 SECTION 4. AND IT BE FURTHER ENACTED, That this Act shall be
8 construed to apply only prospectively and may not be applied or interpreted to have
9 any effect on or application to any collective bargaining agreements that are entered
10 into before the effective date of this Act.

11 SECTION 5. AND IT BE FURTHER ENACTED, That Section 3 of this Act shall
12 take effect on the taking effect of the termination provision specified in Section 6 of
13 Chapters 324 and 325 of the Acts of the General Assembly of 2010. If that termination
14 provision takes effect, Section 2 of this Act shall be abrogated and of no further force
15 and effect. This Act may not be interpreted to have any effect on that termination
16 provision.

17 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions
18 of Section 5 of this Act, this Act shall take effect October 1, 2011.