

# SENATE BILL 430

P4

11r1465  
CF 11r1468

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By: **Senator Klausmeier**

Introduced and read first time: February 4, 2011

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County – Public School Employees – Collective Bargaining and**  
3 **Representation Fees**

4 FOR the purpose of requiring the Board of Education of Baltimore County to negotiate  
5 certain fees with certain employee organizations representing certain  
6 certificated and noncertificated employees to be charged to certain nonmembers  
7 hired or promoted into a unit on or before a certain date for certain  
8 representation when membership includes a certain percentage of those eligible  
9 for membership; requiring the Board to negotiate certain fees with certain  
10 employee organizations representing certain certificated and noncertificated  
11 employees to be charged to certain nonmembers who are hired or promoted into  
12 a unit on or after a certain date; and generally relating to collective bargaining  
13 and representation fees for certain certificated and noncertificated school  
14 personnel in Baltimore County.

15 BY repealing and reenacting, with amendments,  
16 Article – Education  
17 Section 6–504  
18 Annotated Code of Maryland  
19 (2008 Replacement Volume and 2010 Supplement)

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

22 **Article – Education**

23 6–504.

24 (a) A public school employee may refuse to join or participate in the activities  
25 of employee organizations.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

7 (c) In Prince George's County, the county board shall negotiate an  
8 organizational security provision, commonly known as "agency shop", with employee  
9 organizations.

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

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

16 (i) Each party shall:

17 1. Confer in good faith, at all reasonable times; and  
18 2. Reduce to writing the matters agreed on as a result of  
19 the negotiations; and

20 (ii) Neither party is required to agree to any proposal or to make  
21 any concession.

22 (3) [(i) The provisions of this paragraph apply if an agency or  
23 representation fee is negotiated in Baltimore County.

24 (ii) 1. Subject to the provisions of subsubparagraph 2 of this  
25 subparagraph, the employee organization designated as the exclusive representative  
26 for the public school employees shall indemnify and hold harmless the Board of  
27 Education of Baltimore County against any and all claims, demands, suits, or any  
28 other forms of liability that may arise out of, or by reason of, action taken by the board  
29 for the purpose of complying with any of the agency or representation fee provisions of  
30 the negotiated agreement.

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

1 (iii) The employee organization designated as the exclusive  
2 representative shall submit to the board an annual audit from an external auditor  
3 that reflects the operational expenses of the employee organization and explains how  
4 the representation fee is calculated based on the audit.

5 (iv) 1. The agency or representation fee shall be based only  
6 on the expenses incurred by the employee organization in its representation in  
7 negotiations, contract administration, including the handling of grievances, and other  
8 activities as required under § 6-509 of this subtitle; and

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

12 (4)] In Garrett County, if a noncertificated employee was not a public  
13 school employee at the time that a service fee under paragraph (1) of this subsection  
14 was initiated, the noncertificated employee may not be charged a service fee.

15 **(E) (1) THIS SUBSECTION APPLIES ONLY TO BALTIMORE COUNTY.**

16 **(2) THE COUNTY BOARD, WITH RESPECT TO ANY UNIT THAT**  
17 **CONSISTS OF BOTH CERTIFICATED AND NONCERTIFICATED EMPLOYEES, AS**  
18 **DESCRIBED IN § 6-404(C)(2) OF THIS TITLE, SHALL NEGOTIATE A STRUCTURE**  
19 **OF REASONABLE SERVICE FEES TO BE CHARGED NONMEMBERS WHO ARE HIRED**  
20 **OR PROMOTED INTO A UNIT ON OR BEFORE JUNE 30, 2011, FOR**  
21 **REPRESENTATION IN NEGOTIATIONS, CONTRACT ADMINISTRATION, GRIEVANCE**  
22 **MATTERS, AND ALL OTHER ACTIVITIES AS REQUIRED UNDER § 6-509 OF THIS**  
23 **SUBTITLE WHEN MEMBERSHIP IN THE UNIT INCLUDES 60 PERCENT OR MORE OF**  
24 **THOSE ELIGIBLE FOR MEMBERSHIP.**

25 **(3) (I) THIS PARAGRAPH APPLIES ONLY TO EMPLOYEES WHO**  
26 **ARE HIRED OR PROMOTED ON OR AFTER JULY 1, 2011, INTO A UNIT THAT**  
27 **CONSISTS OF BOTH CERTIFICATED AND NONCERTIFICATED EMPLOYEES, AS**  
28 **DESCRIBED UNDER § 6-404(C)(2) OF THIS TITLE.**

29 **(II) THE COUNTY BOARD, WITH RESPECT TO ANY UNIT THAT**  
30 **REPRESENTS BOTH CERTIFICATED AND NONCERTIFICATED EMPLOYEES, AS**  
31 **DESCRIBED IN § 6-404(C)(2) OF THIS TITLE, SHALL NEGOTIATE A REASONABLE**  
32 **SERVICE FEE TO BE CHARGED NONMEMBERS WHO ARE HIRED OR PROMOTED**  
33 **INTO A UNIT ON OR AFTER JULY 1, 2011, FOR REPRESENTATION IN**  
34 **NEGOTIATIONS, CONTRACT ADMINISTRATION, GRIEVANCE MATTERS, AND ALL**  
35 **OTHER ACTIVITIES AS REQUIRED UNDER § 6-509 OF THIS SUBTITLE.**

36 **(4) (I) THE PROVISIONS OF THIS PARAGRAPH APPLY IF AN**  
37 **AGENCY OR REPRESENTATION FEE IS NEGOTIATED IN THE COUNTY.**

1                   **(II) 1. SUBJECT TO THE PROVISIONS OF**  
2 **SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE EMPLOYEE ORGANIZATION**  
3 **DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR THE PUBLIC SCHOOL**  
4 **EMPLOYEES SHALL INDEMNIFY AND HOLD HARMLESS THE COUNTY BOARD**  
5 **AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, OR ANY OTHER FORMS OF**  
6 **LIABILITY THAT MAY ARISE OUT OF, OR BY REASON OF, ACTION TAKEN BY THE**  
7 **BOARD FOR THE PURPOSE OF COMPLYING WITH ANY OF THE AGENCY OR**  
8 **REPRESENTATION FEE PROVISIONS OF THE NEGOTIATED AGREEMENT.**

9                   **2. THE COUNTY BOARD SHALL RETAIN WITHOUT**  
10 **CHARGE TO THE COUNTY BOARD THE SERVICES OF COUNSEL THAT ARE**  
11 **DESIGNATED BY THE EXCLUSIVE REPRESENTATIVE WITH REGARD TO ANY**  
12 **CLAIM, DEMAND, SUIT, OR ANY OTHER LIABILITY THAT MAY ARISE OUT OF, OR**  
13 **BY REASON OF, ACTION TAKEN BY THE COUNTY BOARD FOR THE PURPOSE OF**  
14 **COMPLYING WITH ANY OF THE AGENCY OR REPRESENTATION FEE PROVISIONS**  
15 **OF THE NEGOTIATED AGREEMENT.**

16                   **(III) THE EMPLOYEE ORGANIZATION DESIGNATED AS THE**  
17 **EXCLUSIVE REPRESENTATIVE SHALL SUBMIT TO THE COUNTY BOARD AN**  
18 **ANNUAL AUDIT FROM AN EXTERNAL AUDITOR THAT REFLECTS THE**  
19 **OPERATIONAL EXPENSES OF THE EMPLOYEE ORGANIZATION AND EXPLAINS**  
20 **HOW THE REPRESENTATION FEE IS CALCULATED BASED ON THE AUDIT.**

21                   **(IV) 1. THE AGENCY OR REPRESENTATION FEE SHALL BE**  
22 **BASED ONLY ON THE EXPENSES INCURRED BY THE EMPLOYEE ORGANIZATION**  
23 **IN ITS REPRESENTATION IN NEGOTIATIONS, CONTRACT ADMINISTRATION,**  
24 **INCLUDING THE HANDLING OF GRIEVANCES, AND OTHER ACTIVITIES AS**  
25 **REQUIRED UNDER § 6-509 OF THIS SUBTITLE; AND**

26                   **2. ANY POLITICAL ACTIVITIES OF THE EMPLOYEE**  
27 **ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE MAY NOT BE**  
28 **FINANCED BY THE FUNDS COLLECTED FROM THE AGENCY OR REPRESENTATION**  
29 **FEE.**

30                   **[(e)] (F)** In Baltimore City, the public school employer shall negotiate with  
31 the employee organization designated as the exclusive representative for the public  
32 school employees in a unit, a reasonable service or representation fee to be charged to  
33 nonmembers for representing them in negotiations in the same manner that any such  
34 fee was permitted under law and bargained for prior to January 1, 1997.

35                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 July 1, 2011.