

**SENATE BILL 430**

P4

11r1465  
CF HB 683

**By: Senator Klausmeier**

Introduced and read first time: February 4, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2011

Returned to second reading: March 25, 2011

Senate action: Adopted with floor amendments

Read second time: March 29, 2011

CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of ~~specifying that, in Baltimore County, an employee organization~~  
5 ~~that represents certain certificated and noncertificated employees may~~  
6 ~~represent nonmembers only in negotiations;~~ requiring the Board of Education of  
7 Baltimore County to ~~negotiate~~ meet and confer with an employee organization  
8 ~~that represents certain certificated and noncertificated employees by a certain~~  
9 ~~date regarding a certain matter; certain fees with certain employee~~  
10 ~~organizations representing certain certificated and noncertificated employees to~~  
11 ~~be charged to certain nonmembers hired or promoted into a unit on or before a~~  
12 ~~certain date for certain representation when membership includes a certain~~  
13 ~~percentage of those eligible for membership; requiring the Board to negotiate~~  
14 ~~certain fees with certain employee organizations representing certain~~  
15 ~~certificated and noncertificated employees to be charged to certain nonmembers~~  
16 ~~who are hired or promoted into a unit on or after a certain date;~~ and generally  
17 relating to collective bargaining units ~~and representation fees~~ for ~~certain~~  
18 certificated and noncertificated school personnel in Baltimore County.

19 ~~BY repealing and reenacting, with amendments,~~  
20 ~~Article – Education~~  
21 ~~Section 6-504-6-407(a) and 6-509(a)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)~~

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

~~Article — Education~~

~~6-407.~~

~~(a) (1) An employee organization designated as an exclusive representative shall be the negotiating agent of all public school employees in the unit in the county.~~

~~(2) IN ADDITION, IN BALTIMORE COUNTY, AN EMPLOYEE ORGANIZATION THAT IS DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE OF A UNIT THAT CONSISTS OF BOTH CERTIFICATED AND NONCERTIFICATED EMPLOYEES, AS DESCRIBED IN § 6-404(C)(2) OF THIS SUBTITLE, MAY REPRESENT NONMEMBERS ONLY IN NEGOTIATIONS.~~

~~6-500.~~

~~(a) (1) An employee organization designated as an exclusive representative shall be the negotiating agent of all public school employees in the unit in the county.~~

~~(2) IN ADDITION, IN BALTIMORE COUNTY, AN EMPLOYEE ORGANIZATION THAT IS DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE OF A UNIT THAT CONSISTS OF BOTH CERTIFICATED AND NONCERTIFICATED EMPLOYEES, AS DESCRIBED IN § 6-404(C)(2) OF THIS TITLE, MAY REPRESENT NONMEMBERS ONLY IN NEGOTIATIONS.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Education of Baltimore County shall meet and confer with an employee organization that is designated as the exclusive representative of a unit that consists of both certificated employees whose position requires an administrative and supervisory certificate and supervisory noncertificated employees, as described in § 6-404(e)(2) defined under § 6-501(h) of the Education Article, by November 1, 2011, regarding the job titles to be included in the unit.~~

~~6-504.~~

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

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.~~

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

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

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

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

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

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

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

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

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

1                   ~~(H) 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                   ~~(H) 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                   ~~[(c)] (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.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take  
 36 effect July 1, 2011.