

HOUSE BILL 667

P4

(3lr1346)

ENROLLED BILL

— *Ways and Means/Finance* —

Introduced by **Delegates Hixson, Arora, Barkley, Barve, Bobo, Cane, Carr, Clagett, Cullison, DeBoy, Feldman, Frick, Gilchrist, Gutierrez, Guzzone, Healey, Howard, Hubbard, Hucker, Ivey, Kaiser, Kramer, Lafferty, Luedtke, Malone, McHale, McIntosh, Minnick, Mizeur, Morhaim, Murphy, Nathan-Pulliam, Niemann, Pendergrass, Proctor, Reznik, B. Robinson, Rosenberg, Stein, Stukes, F. Turner, Valderrama, Vallario, Vaughn, Waldstreicher, M. Washington, Weir, and Zucker**

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.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Public School Employees – Collective Bargaining – Representation Fees**

3 FOR the purpose of requiring public school employers in all jurisdictions of the State
4 to negotiate with certain employee organizations designated as the exclusive
5 representatives for the public school employees a requirement of a certain
6 service or representation fee to be charged to nonmembers; *exempting certain*
7 *employees from certain requirements for paying service or representation fees;*
8 *requiring certain public school employers and certain exclusive bargaining*
9 *representatives to negotiate whether service or representation fees are applicable*

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.

Italics indicate opposite chamber/conference committee amendments.



1 to certain employees under certain circumstances; providing for the ratification
 2 of certain contracts in certain counties by certain employees after a certain date;
 3 providing a certain exception and requirement for noncertificated employees
 4 whose religious beliefs are opposed to joining or financially supporting a
 5 collective bargaining organization; requiring the exclusive representative to
 6 establish and maintain a certain procedure; requiring the public school
 7 employer to deduct a certain fee from the earnings of nonmember employees in
 8 accordance with a certain schedule; excluding certain negotiated fees from
 9 certain requirements and further negotiations; making conforming changes;
 10 providing for the application of this Act; and generally relating to representation
 11 fees for public school employees.

12 BY repealing and reenacting, with amendments,
 13 Article – Education
 14 Section 6–407(c) and 6–504
 15 Annotated Code of Maryland
 16 (2008 Replacement Volume and 2012 Supplement)

17 BY repealing
 18 Article – Education
 19 Section 6–407(d), (e), and (f)
 20 Annotated Code of Maryland
 21 (2008 Replacement Volume and 2012 Supplement)

22 BY adding to
 23 Article – Education
 24 Section 6–407(d), (e), and (f)
 25 Annotated Code of Maryland
 26 (2008 Replacement Volume and 2012 Supplement)

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

29 **Article – Education**

30 6–407.

31 (c) (1) [In Montgomery County, Prince George’s County, Baltimore
 32 County, Baltimore City, and Howard County, the] ~~THE~~ **SUBJECT TO SUBSECTION**
 33 **(D) OF THIS SECTION, THE** public school employer [may] **SHALL** negotiate with the
 34 employee organization designated as the exclusive representative for the public school
 35 employees in a unit, a ~~REQUIRED~~ **REQUIREMENT OF A** reasonable service or
 36 representation fee, to be charged nonmembers for representing them in negotiations,
 37 contract administration, including grievances, and other activities as are required
 38 under 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 subsubparagraph 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 **(5) THE EXCLUSIVE REPRESENTATIVE SHALL ESTABLISH AND**
5 **MAINTAIN A PROCEDURE THAT PROVIDES NONMEMBERS WITH:**

6 **(I) AN ADEQUATE EXPLANATION OF THE BASIS FOR THE**
7 **SERVICE OR REPRESENTATION FEE; AND**

8 **(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE**
9 **FEE.**

10 ~~¶(6) In Montgomery County, an~~ AN employee who is a home or hospital
11 teacher and who works on a short-term day-to-day basis is not required to pay a
12 service or representation fee.‡

13 ~~(6)~~ **(7) THE PUBLIC SCHOOL EMPLOYER SHALL:**

14 **(I) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM**
15 **THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A**
16 **SCHEDULE PROVIDED BY THE EXCLUSIVE REPRESENTATIVE; AND**

17 **(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE**
18 **EXCLUSIVE REPRESENTATIVE.**

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

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

27 (e) In Garrett County:

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

32 (2) An individual who becomes a public school employee after the time
33 that a negotiated service or representation fee is initiated and does not join the

1 employee organization designated as the exclusive representative is liable for the fee
2 provided under subsection (d) of this section.

3 (f) In Anne Arundel County:

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

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

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

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

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

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

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

35 (ii) Required to pay an amount of money as determined under
36 paragraph (1) of this subsection to a nonreligious, nonunion charity or to another
37 charitable organization that is mutually agreed upon by the employee and the

1 exclusive representative, and who furnishes to the public school employer and the
2 exclusive representative written proof of the payment.

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

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

9 **(D) WHEN NEGOTIATING THE IMPLEMENTATION OF A SERVICE OR**
10 **REPRESENTATION FEE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER**
11 **AND THE EXCLUSIVE BARGAINING REPRESENTATIVE SHALL NEGOTIATE**
12 **WHETHER THE FEE IS APPLICABLE TO CURRENT EMPLOYEES.**

13 **(E) (1) THIS SUBSECTION APPLIES TO A COUNTY IN WHICH A SERVICE**
14 **OR REPRESENTATION FEE WAS NOT NEGOTIATED BEFORE JULY 1, 2013.**

15 **(2) THE FOLLOWING EMPLOYEES IN A UNIT ARE ELIGIBLE TO**
16 **VOTE ON RATIFICATION OF THE IMPLEMENTING AGREEMENT THAT PROVIDES**
17 **FOR A SERVICE OR REPRESENTATION FEE:**

18 **(I) MEMBERS OF THE EMPLOYEE ORGANIZATION; AND**

19 **(II) NONMEMBERS AFFECTED BY THE SERVICE OR**
20 **REPRESENTATION FEE.**

21 **(3) THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A**
22 **SERVICE OR REPRESENTATION FEE SHALL BE RATIFIED BY A MAJORITY OF**
23 **VOTES CAST BY THE EMPLOYEES ELIGIBLE TO VOTE UNDER PARAGRAPH (2) OF**
24 **THIS SUBSECTION.**

25 ~~(D)~~ **(F)** IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE
26 HAS BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE
27 IMPLEMENTED UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED
28 BEFORE JULY 1, 2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS
29 SECTION WITHOUT THE NEED FOR FURTHER NEGOTIATIONS.

30 6-504.

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

1 (b) (1) [In Montgomery County, Allegany County, Charles County, and
 2 Howard County, the county board] ~~THE~~ SUBJECT TO SUBSECTION (E) OF THIS
 3 SECTION, THE PUBLIC SCHOOL EMPLOYER, with respect to noncertificated
 4 employees, shall negotiate a structure of **REQUIRED** reasonable service **OR**
 5 **REPRESENTATION** fees to be charged nonmembers for representation in negotiations
 6 and grievance matters by employee organizations.

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

9 (2) **AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO**
 10 **JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING**
 11 **ORGANIZATION IS:**

12 (i) **NOT REQUIRED TO PAY A SERVICE OR**
 13 **REPRESENTATION FEE; AND**

14 (ii) **REQUIRED TO PAY AN AMOUNT OF MONEY THAT IS**
 15 **EQUAL TO THE SERVICE OR REPRESENTATION FEE TO A NONRELIGIOUS,**
 16 **NONUNION CHARITY OR TO SUCH OTHER CHARITABLE ORGANIZATION AS MAY**
 17 **BE MUTUALLY AGREED UPON BY THE EMPLOYEE AND THE EMPLOYEE**
 18 **ORGANIZATION, AND WHO FURNISHES TO THE PUBLIC SCHOOL EMPLOYER AND**
 19 **THE EMPLOYEE ORGANIZATION WRITTEN PROOF OF THE PAYMENT.**

20 [(c) In Prince George's County, the county board shall negotiate an
 21 organizational security provision, commonly known as "agency shop", with employee
 22 organizations.]

23 (c) **THE EMPLOYEE ORGANIZATION SHALL ESTABLISH AND MAINTAIN A**
 24 **PROCEDURE THAT PROVIDES NONMEMBERS WITH:**

25 ~~(1)~~ **(1) AN ADEQUATE EXPLANATION OF THE BASIS FOR**
 26 **THE SERVICE OR REPRESENTATION FEE; AND**

27 ~~(2)~~ **(2) AN OPPORTUNITY TO CHALLENGE THE AMOUNT**
 28 **OF THE FEE.**

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

33 (2) In Anne Arundel County, if the county board negotiates a structure
 34 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 (D) THE PUBLIC SCHOOL EMPLOYER SHALL:

1 (1) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM THE
2 EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A
3 SCHEDULE PROVIDED BY THE EMPLOYEE ORGANIZATION; AND

4 (2) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE
5 EMPLOYEE ORGANIZATION.

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

11 **(E) WHEN NEGOTIATING THE IMPLEMENTATION OF A SERVICE OR**
12 **REPRESENTATION FEE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER**
13 **AND THE EXCLUSIVE BARGAINING REPRESENTATIVE SHALL FIRST NEGOTIATE**
14 **WHETHER THE FEE IS APPLICABLE TO CURRENT EMPLOYEES.**

15 **(F) (1) THIS SUBSECTION APPLIES TO A COUNTY IN WHICH A SERVICE**
16 **OR REPRESENTATION FEE WAS NOT NEGOTIATED BEFORE JULY 1, 2013.**

17 **(2) THE FOLLOWING EMPLOYEES IN A UNIT ARE ELIGIBLE TO**
18 **VOTE ON RATIFICATION OF THE IMPLEMENTING AGREEMENT THAT PROVIDES**
19 **FOR A SERVICE OR REPRESENTATION FEE:**

20 **(I) MEMBERS OF THE EMPLOYEE ORGANIZATION; AND**

21 **(II) NONMEMBERS AFFECTED BY THE SERVICE OR**
22 **REPRESENTATION FEE.**

23 **(3) THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A**
24 **SERVICE OR REPRESENTATION FEE SHALL BE RATIFIED BY A MAJORITY OF**
25 **VOTES CAST BY THE EMPLOYEES ELIGIBLE TO VOTE UNDER PARAGRAPH (2) OF**
26 **THIS SUBSECTION.**

27 ~~(E)~~ **(G)** IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE
28 HAS BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE
29 IMPLEMENTED UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED
30 BEFORE JULY 1, 2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS
31 SECTION WITHOUT THE NEED FOR FURTHER NEGOTIATIONS.

32 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be**
33 **construed to require any further negotiations regarding provisions of applicability to**

1 employees based on date of hire that are contained in an implementing agreement that
2 provided for a service or representation fee negotiated before July 1, 2013.

3 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect July 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.