

HOUSE BILL 667

P4

3lr1346
CF SB 422

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

Introduced and read first time: February 1, 2013

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2013

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; providing a certain
7 exception and requirement for noncertificated employees whose religious beliefs
8 are opposed to joining or financially supporting a collective bargaining
9 organization; requiring the exclusive representative to establish and maintain a
10 certain procedure; requiring the public school employer to deduct a certain fee
11 from the earnings of nonmember employees in accordance with a certain
12 schedule; excluding certain negotiated fees from certain requirements and
13 further negotiations; making conforming changes; and generally relating to
14 representation fees for public school employees.

15 BY repealing and reenacting, with amendments,
16 Article – Education
17 Section 6–407(c) and 6–504
18 Annotated Code of Maryland

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.



1 (2008 Replacement Volume and 2012 Supplement)

2 BY repealing

3 Article – Education

4 Section 6–407(d), (e), and (f)

5 Annotated Code of Maryland

6 (2008 Replacement Volume and 2012 Supplement)

7 BY adding to

8 Article – Education

9 Section 6–407(d)

10 Annotated Code of Maryland

11 (2008 Replacement Volume and 2012 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 (c) (1) [In Montgomery County, Prince George’s County, Baltimore
17 County, Baltimore City, and Howard County, the] **THE** public school employer [may]
18 **SHALL** negotiate with the employee organization designated as the exclusive
19 representative for the public school employees in a unit, a ~~REQUIRED REQUIREMENT~~
20 OF A reasonable service or representation fee, to be charged nonmembers for
21 representing them in negotiations, contract administration, including grievances, and
22 other activities as are required under subsection (b) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

28 **(5) THE EXCLUSIVE REPRESENTATIVE SHALL ESTABLISH AND**
29 **MAINTAIN A PROCEDURE THAT PROVIDES NONMEMBERS WITH:**

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

32 **(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE**
33 **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.]

1 ~~(6)~~ (7) THE PUBLIC SCHOOL EMPLOYER SHALL:

2 (I) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM
3 THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A
4 SCHEDULE PROVIDED BY THE EXCLUSIVE REPRESENTATIVE; AND

5 (II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE
6 EXCLUSIVE REPRESENTATIVE.

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

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

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

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

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

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

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

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

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

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

33 **(D) IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS**
34 **BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED**
35 **UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1,**

1 **2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT**
2 **THE NEED FOR FURTHER NEGOTIATIONS.**

3 6-504.

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

6 (b) (1) [In Montgomery County, Allegany County, Charles County, and
7 Howard County, the county board] **THE PUBLIC SCHOOL EMPLOYER**, with respect to
8 noncertificated employees, shall negotiate a structure of **REQUIRED** reasonable
9 service **OR REPRESENTATION** fees to be charged nonmembers for representation in
10 negotiations and grievance matters by employee organizations.

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

13 **(2) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO**
14 **JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING**
15 **ORGANIZATION IS:**

16 **(I) NOT REQUIRED TO PAY A SERVICE OR**
17 **REPRESENTATION FEE; AND**

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

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

27 **(C) THE EMPLOYEE ORGANIZATION SHALL ESTABLISH AND MAINTAIN A**
28 **PROCEDURE THAT PROVIDES NONMEMBERS WITH:**

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

31 **(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE**
32 **FEE.**

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

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

7 (i) Each party shall:

8 1. Confer in good faith, at all reasonable times; and

9 2. Reduce to writing the matters agreed on as a result of
10 the negotiations; and

11 (ii) Neither party is required to agree to any proposal or to make
12 any concession.

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

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

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

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

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

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

7 **(D) THE PUBLIC SCHOOL EMPLOYER SHALL:**

8 **(I) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM**
9 **THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A**
10 **SCHEDULE PROVIDED BY THE EMPLOYEE ORGANIZATION; AND**

11 **(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE**
12 **EMPLOYEE ORGANIZATION.**

13 【(e) In Baltimore City, the public school employer shall negotiate with the
14 employee organization designated as the exclusive representative for the public school
15 employees in a unit, a reasonable service or representation fee to be charged to
16 nonmembers for representing them in negotiations in the same manner that any such
17 fee was permitted under law and bargained for prior to January 1, 1997.】

18 **(E) IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS**
19 **BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED**
20 **UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1,**
21 **2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT**
22 **THE NEED FOR FURTHER NEGOTIATIONS.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.