

SENATE BILL 422

P4

3lr1604
CF 3lr1346

By: **Senators Pugh, Benson, Conway, Currie, Ferguson, Forehand, Frosh, Garagiola, Gladden, Kelley, King, Klausmeier, Madaleno, Manno, McFadden, Montgomery, Peters, Pinsky, Ramirez, Robey, Rosapepe, Stone, and Young**

Introduced and read first time: January 28, 2013

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring public school employers to negotiate with certain
4 employee organizations designated as the exclusive representatives for the
5 public school employees a certain service or representation fee to be charged to
6 nonmembers; providing a certain exception and requirement for noncertificated
7 employees whose religious beliefs are opposed to joining or financially
8 supporting a collective bargaining organization; requiring the exclusive
9 representative to establish and maintain a certain procedure; requiring the
10 public school employer to deduct a certain fee from the earnings of nonmember
11 employees in accordance with a certain schedule; excluding certain negotiated
12 fees from certain requirements and further negotiations; and generally relating
13 to representation fees for public school employees.

14 BY repealing and reenacting, with amendments,
15 Article – Education
16 Section 6–407(c) and 6–504
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2012 Supplement)

19 BY repealing
20 Article – Education
21 Section 6–407(d), (e), and (f)
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2012 Supplement)

24 BY adding to
25 Article – Education

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 6–407(d)
2 Annotated Code of Maryland
3 (2008 Replacement Volume and 2012 Supplement)

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

6 **Article – Education**

7 6–407.

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

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

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

19 (4) 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 in
23 paragraph (2) of this subsection to a nonreligious, nonunion charity or to such other
24 charitable organization as may be 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 such payment.

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

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

31 (iii) 1. Subject to the provisions of subparagraph 2 of this
32 subparagraph, the employee organization designated as the exclusive representative
33 for the public school employees shall indemnify and hold harmless the Board of
34 Education of Baltimore County against any and all claims, demands, suits, or any

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

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

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

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

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

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

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

24 **(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE**
25 **FEE.**

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

29 **(6) THE PUBLIC SCHOOL EMPLOYER SHALL:**

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

33 **(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE**
34 **EXCLUSIVE REPRESENTATIVE.**

1 [(d) (1) In Allegany County, Calvert County, Charles County, Garrett
2 County, and Washington County, the public school employer may negotiate with the
3 employee 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 negotiation, contract administration, including
6 grievances, and other activities specified under subsection (b) of this section.

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

9 (e) In Garrett County:

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

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

18 (f) In Anne Arundel County:

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

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

31 (ii) 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.

36 (3) The employee organization designated as the exclusive
37 representative shall submit to the Anne Arundel County Board of Education an

1 annual audit from an external auditor that reflects the operational expenses of the
2 employee organization and explains how the service or representation fee is calculated
3 based on the audit.

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

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

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

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

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

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

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

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

29 6-504.

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

32 (b) (1) [In Montgomery County, Allegany County, Charles County, and
33 Howard County, the county board] **THE PUBLIC SCHOOL EMPLOYER**, with respect to
34 noncertificated employees, shall negotiate a structure of **REQUIRED** reasonable

1 service **OR REPRESENTATION** fees to be charged nonmembers for representation in
 2 negotiations and grievance matters by employee organizations.

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

5 **(2) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO**
 6 **JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING**
 7 **ORGANIZATION IS:**

8 **(I) NOT REQUIRED TO PAY A SERVICE OR**
 9 **REPRESENTATION FEE; AND**

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

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

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

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

23 **(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE**
 24 **FEE.**

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

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

31 (i) Each party shall:

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

1 **(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE**
2 **EMPLOYEE ORGANIZATION.**

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

8 **(E) IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS**
9 **BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED**
10 **UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1,**
11 **2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT**
12 **THE NEED FOR FURTHER NEGOTIATIONS.**

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