

HOUSE BILL 1038

K3, P4
HB 249/15 – ECM

6lr2389

By: **Delegates W. Miller, Adams, Arentz, Aumann, Fisher, S. Howard, Impallaria,
and Mautz**

Introduced and read first time: February 11, 2016

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Labor Organizations – Right to Work**

3 FOR the purpose of prohibiting certain employers from requiring, as a condition of
4 employment or continued employment, an employee or a prospective employee to join
5 or remain a member of a labor organization, pay charges to a labor organization, or
6 pay a certain amount to a third party under certain circumstances; prohibiting
7 certain employers from threatening an employee or a prospective employee with
8 certain action; specifying that certain agreements, understandings, or practices
9 between employers and labor organizations are null and void and without legal
10 effect; authorizing an employee or a prospective employee to file an action in a certain
11 circuit court for a certain violation of law; specifying that an employee or a
12 prospective employee is entitled to injunctive relief and to recover certain damages
13 and costs under certain circumstances; providing that a certain violation of law is a
14 misdemeanor and is subject to certain penalties; requiring the Attorney General to
15 take certain action to ensure effective enforcement of certain laws, investigate
16 certain complaints, and try certain prosecutions; specifying that the Attorney
17 General has certain powers and duties relating to criminal prosecutions under
18 certain circumstances; specifying that certain provisions of law are unenforceable
19 under certain circumstances; repealing a certain provision of law that prohibits a
20 court from granting relief under certain circumstances; repealing certain provisions
21 of law related to fees paid by employees to certain labor organizations; defining
22 certain terms; providing for the application of this Act; and generally relating to the
23 rights of individuals, employee organizations, and employers.

24 BY repealing and reenacting, without amendments,
25 Article – Courts and Judicial Proceedings
26 Section 2–309(j)(5)(i) and (ii)
27 Annotated Code of Maryland
28 (2013 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, with amendments,
2 Article – Courts and Judicial Proceedings
3 Section 2–309(j)(5)(iii)
4 Annotated Code of Maryland
5 (2013 Replacement Volume and 2015 Supplement)
- 6 BY repealing and reenacting, with amendments,
7 Article – Education
8 Section 6–407, 6–504, and 16–414.1(e)(3) and (f)
9 Annotated Code of Maryland
10 (2014 Replacement Volume and 2015 Supplement)
- 11 BY repealing and reenacting, with amendments,
12 Article – Family Law
13 Section 5–595.3
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2015 Supplement)
- 16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 15–904(e)
19 Annotated Code of Maryland
20 (2015 Replacement Volume)
- 21 BY repealing and reenacting, with amendments,
22 Article – Labor and Employment
23 Section 4–304
24 Annotated Code of Maryland
25 (2008 Replacement Volume and 2015 Supplement)
- 26 BY adding to
27 Article – Labor and Employment
28 Section 4–701 through 4–707 to be under the new subtitle “Subtitle 7. Right to Work”
29 Annotated Code of Maryland
30 (2008 Replacement Volume and 2015 Supplement)
- 31 BY repealing and reenacting, with amendments,
32 Article – Land Use
33 Section 16–309
34 Annotated Code of Maryland
35 (2012 Volume and 2015 Supplement)
- 36 BY repealing
37 Article – Land Use
38 Section 16–316
39 Annotated Code of Maryland
40 (2012 Volume and 2015 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article – State Personnel and Pensions
3 Section 3–502
4 Annotated Code of Maryland
5 (2015 Replacement Volume)

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

8 **Article – Courts and Judicial Proceedings**

9 2–309.

10 (j) (5) (i) This paragraph applies to all full–time, merit system sworn law
11 enforcement officers and correctional officers in the Charles County Sheriff’s Office at a
12 rank of sergeant or below.

13 (ii) This paragraph does not apply to the following employees in the
14 Charles County Sheriff’s Office:

15 1. Sworn law enforcement officers or correctional officers in
16 the Charles County Sheriff’s Office at a rank of lieutenant or above;

17 2. Employees in appointed positions;

18 3. Civilian merit system employees;

19 4. Full–time reduced hours employees;

20 5. Part–time employees;

21 6. Contractual employees;

22 7. Temporary employees;

23 8. Emergency employees; or

24 9. Employees whose employment is administered under the
25 county policies and procedures manual.

26 (iii) 1. A sworn law enforcement officer or correctional officer
27 subject to this paragraph has the right to:

28 A. Take part in or refrain from taking part in forming,
29 joining, supporting, or participating in any employee organization or its lawful activities;

1 B. Be represented by an exclusive representative, if any, in
2 collective bargaining; and

3 C. Engage in other concerted activities for the purpose of
4 collective bargaining.

5 2. Sworn law enforcement officers and correctional officers
6 subject to this paragraph may seek recognition in order to organize and bargain collectively
7 in good faith with the Sheriff or the Sheriff's designee concerning the following matters:

8 A. Compensation, excluding salary, wages, and those
9 benefits determined, offered, administered, controlled, or managed by the County
10 Commissioners of Charles County;

11 B. Leave, holidays, and vacations; and

12 C. Hours, working conditions, and job security.

13 3. A sworn law enforcement officer or correctional officer who
14 is a member of a bargaining unit with an exclusive representative may discuss any matter
15 with the employer without the intervention of the exclusive representative.

16 4. [A sworn law enforcement officer or correctional officer
17 who is not a member of a bargaining unit with an exclusive representative may be required
18 to pay a proportional service fee for costs associated with the administration and
19 enforcement of any agreement that benefits the affected employees.] An exclusive
20 representative shall be selected in accordance with the procedures set forth in
21 subparagraph (v) of this paragraph.

22 5. This paragraph does not require that sworn law
23 enforcement officers and correctional officers be represented by the same exclusive
24 representative.

25 **Article – Education**

26 6–407.

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

29 (b) (1) An employee organization designated as an exclusive representative
30 shall represent all employees in the unit fairly and without discrimination, whether or not
31 the employees are members of the employee organization.

32 (2) In addition, in Montgomery County the exclusive representative shall
33 represent fairly and without discrimination all persons actually employed as substitute

1 teachers without regard to whether they are included in § 6–401(e) of this subtitle as public
2 school employees.

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

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

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

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

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

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

21 (5) The exclusive representative shall establish and maintain a procedure
22 that provides nonmembers with:

23 (i) An adequate explanation of the basis for the service or
24 representation fee; and

25 (ii) An opportunity to challenge the amount of the fee.

26 (6) An employee who is a home or hospital teacher and who works on a
27 short-term day-to-day basis is not required to pay a service or representation fee.

28 (7) The public school employer shall:

29 (i) Deduct the service or representation fee from the earnings of the
30 nonmember employees in accordance with a schedule provided by the exclusive
31 representative; and

32 (ii) Promptly transmit the amount deducted to the exclusive
33 representative.

1 (d) When negotiating the implementation of a service or representation fee under
2 this section, the public school employer and the exclusive bargaining representative shall
3 negotiate whether the fee is applicable to current employees.

4 (e) (1) This subsection applies to a county in which a service or representation
5 fee was not negotiated before July 1, 2013.

6 (2) The following employees in a unit are eligible to vote on ratification of
7 the implementing agreement that provides for a service or representation fee:

8 (i) Members of the employee organization; and

9 (ii) Nonmembers affected by the service or representation fee.

10 (3) The implementing agreement that provides for a service or
11 representation fee shall be ratified by a majority of votes cast by the employees eligible to
12 vote under paragraph (2) of this subsection.

13 (f) In a county in which a service or representation fee has been negotiated before
14 July 1, 2013, the fee shall be implemented under the provisions of the agreement negotiated
15 before July 1, 2013, and consistent with the requirements of this section without the need
16 for further negotiations.]

17 6-504.

18 [(a)] A public school employee may refuse to join or participate in the activities of
19 employee organizations.

20 [(b) (1) Subject to subsection (e) of this section, the public school employer, with
21 respect to noncertificated employees, shall negotiate a structure of required reasonable
22 service or representation fees to be charged nonmembers for representation in negotiations
23 and grievance matters by employee organizations.

24 (2) An employee whose religious beliefs are opposed to joining or financially
25 supporting any collective bargaining organization is:

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

27 (ii) Required to pay an amount of money that is equal to the service
28 or representation fee to a nonreligious, nonunion charity or to such other charitable
29 organization as may be mutually agreed upon by the employee and the employee
30 organization, and who furnishes to the public school employer and the employee
31 organization written proof of the payment.

32 (c) The employee organization shall establish and maintain a procedure that
33 provides nonmembers with:

1 (1) An adequate explanation of the basis for the service or representation
2 fee; and

3 (2) An opportunity to challenge the amount of the fee.

4 (d) The public school employer shall:

5 (1) Deduct the service or representation fee from the earnings of the
6 nonmember employees in accordance with a schedule provided by the employee
7 organization; and

8 (2) Promptly transmit the amount deducted to the employee organization.

9 (e) When negotiating the implementation of a service or representation fee under
10 this section, the public school employer and the exclusive bargaining representative shall
11 first negotiate whether the fee is applicable to current employees.

12 (f) (1) This subsection applies to a county in which a service or representation
13 fee was not negotiated before July 1, 2013.

14 (2) The following employees in a unit are eligible to vote on ratification of
15 the implementing agreement that provides for a service or representation fee:

16 (i) Members of the employee organization; and

17 (ii) Nonmembers affected by the service or representation fee.

18 (3) The implementing agreement that provides for a service or
19 representation fee shall be ratified by a majority of votes cast by the employees eligible to
20 vote under paragraph (2) of this subsection.

21 (g) In a county in which a service or representation fee has been negotiated before
22 July 1, 2013, the fee shall be implemented under the provisions of the agreement negotiated
23 before July 1, 2013, and consistent with the requirements of this section without the need
24 for further negotiations.]

25 16-414.1.

26 (e) (3) On behalf of the exclusive representative for payment to the exclusive
27 representative, the public employer shall automatically deduct from the paycheck of each
28 public employee in a bargaining unit represented by an employee organization certified as
29 an exclusive representative for that bargaining unit[:

30 (i) Any] ANY union dues authorized and owed by the employee to
31 the organization[; and

1 (ii) Any service fees authorized and owed by the employee to the
2 organization].

3 (f) Collective bargaining shall include all matters relating to:

4 (1) Wages, hours, and other terms and conditions of employment; and

5 (2) The procedures for the employee organization to receive membership
6 dues [and service fees] through payroll deduction.

7 **Article – Family Law**

8 5–595.3.

9 (a) The State Department of Education shall designate appropriate
10 representatives to participate in collective bargaining with the provider organization
11 certified as the exclusive representative of family child care providers.

12 (b) Except as otherwise provided in this Part XI of this subtitle, the parties shall
13 adhere to the bargaining process set forth in § 3–501 of the State Personnel and Pensions
14 Article.

15 (c) The State Department of Education shall negotiate in consultation with the
16 Department of Budget and Management regarding all matters that require appropriation
17 of State funds.

18 (d) Collective bargaining shall include all matters related to the terms and
19 conditions of participation by family child care providers in the Maryland Child Care
20 Subsidy Program, including:

21 (1) reimbursement rates;

22 (2) benefits;

23 (3) payment procedures;

24 (4) contract grievance procedures;

25 (5) training;

26 (6) member dues deductions; and

27 (7) other terms and conditions of participation by family child care
28 providers in the Maryland Child Care Subsidy Program.

1 (e) [(1) (i) Subject to subparagraph (ii) of this paragraph, collective
2 bargaining may include negotiations relating to the right of a provider organization that is
3 the exclusive representative to receive service fees from nonmembers.

4 (ii) The representatives of the State may not reach an agreement
5 containing a service fee provision unless the representatives of the State conclude that the
6 agreement as a whole will not adversely impact nonmember providers.

7 (2) A family child care provider whose religious beliefs are opposed to
8 joining or financially supporting any collective bargaining organization is:

9 (i) not required to pay a service fee; and

10 (ii) required to pay an amount of money as determined in collective
11 bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of
12 this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of
13 the Internal Revenue Code and to furnish to the State Department of Education and the
14 exclusive representative written proof of the payment.

15 (f)] (1) Collective bargaining shall include negotiations that result in the
16 establishment of a fund for the purpose of protecting family child care providers against
17 extreme hardship or loss of livelihood resulting from late State payments.

18 (2) The exclusive representative shall pay for a portion of the fund.

19 (3) The fund:

20 (i) may not be a State fund; but

21 (ii) shall be established and administered in consultation with the
22 State.

23 (4) All revenues, money, and assets of the fund belong solely to the fund
24 and are held by the fund in trust for family child care providers.

25 (5) The State may not borrow, appropriate, or direct payments from the
26 revenues, money, or assets of the fund for any purpose.

27 (6) The fund shall include funds sufficient to meet the reasonably
28 foreseeable needs of the family child care providers.

29 [(g)] (F) Notwithstanding subsection (d) of this section, the representatives of
30 the State:

31 (1) may not be required to negotiate any matter that is inconsistent with
32 applicable law; and

1 (2) may negotiate and reach agreement with regard to any such matter
 2 only if it is understood that the agreement with respect to such matter cannot become
 3 effective unless the applicable law is amended by the General Assembly.

4 **[(h)] (G)** The parties shall reduce their agreement to a Memorandum of
 5 Understanding that complies with the provisions of § 3–601 of the State Personnel and
 6 Pensions Article.

7 **Article – Health – General**

8 15–904.

9 (e) **[(1) (i)** Subject to subparagraphs (ii) and (iii) of this paragraph,
 10 collective] **COLLECTIVE** bargaining may **NOT** include negotiations relating to the right of
 11 a provider organization that is the exclusive representative to receive service fees from
 12 nonmembers.

13 **[(ii)** The representatives of the State may not reach an agreement
 14 containing a service fee provision unless the representatives of the State conclude that the
 15 agreement as a whole will not adversely impact nonmember providers.

16 **[(iii)** The representatives of the State may only agree to a service fee
 17 provision if the service fee provision would require nonmembers to pay service fees on a
 18 sliding scale in approximate proportion to the amount each nonmember receives in
 19 reimbursement through:

20 1. The Medicaid Waiver for Older Adults that is jointly
 21 administered by the Department and the Department of Aging as established under §
 22 15–132 of this title, or any successor program;

23 2. The Medicaid Personal Care Program under the State
 24 Medical Assistance Program, or any successor program;

25 3. The Living at Home Waiver Program under Subtitle 8 of
 26 this title, or any successor program; and

27 4. The In–Home Aide Service Program administered by the
 28 Department of Human Resources, or any successor program.

29 (2) An independent home care provider whose religious beliefs are opposed
 30 to joining or financially supporting any collective bargaining organization:

31 (i) Is not required to pay a service fee; but

32 (ii) Shall pay an amount of money as determined in collective
 33 bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of
 34 this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of

1 the Internal Revenue Code and to furnish to the State agencies engaged in collective
2 bargaining under this subtitle and the exclusive representative written proof of the
3 payment.

4 (3) (i) An independent home care provider who provides home care
5 services only to an immediate family member is not required to pay a service fee.

6 (ii) An independent home care provider who provides services to an
7 immediate family member and any other individual who is not an immediate family
8 member may be required to pay a service fee that is proportionate to the amount the
9 provider receives in reimbursement for the provider's services to any individual who is not
10 an immediate family member.

11 (iii) An independent home care provider may be required to provide
12 written documentation of the provision of home care services to an immediate family
13 member.]

14 **Article – Labor and Employment**

15 4–304.

16 (a) In this section, “promise” means any undertaking, whether express or implied
17 or oral or written.

18 (b) A promise made between an employee or prospective employee and an
19 employer, prospective employer, or any other individual, association, company, corporation,
20 or firm is against the policy of the State if the promise requires either party:

21 (1) to join or remain a member of an employer or labor organization;

22 (2) not to join or not to remain a member of an employer or labor
23 organization; or

24 (3) to withdraw from an employment relation if the party joins or remains
25 a member of an employer or labor organization.

26 [(c) A court may not grant, on the basis of a promise described in this section, any
27 relief against:

28 (1) a party to the promise; or

29 (2) another person who, without the act or threat of fraud or violence,
30 advises, induces, or urges a party to disregard the promise.]

31 **SUBTITLE 7. RIGHT TO WORK.**

1 **4-701.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) (1) "EMPLOYER" MEANS:

5 (I) A PERSON ENGAGED IN A BUSINESS, AN INDUSTRY, A
6 PROFESSION, A TRADE, OR ANY OTHER ENTERPRISE IN THE STATE;

7 (II) THE STATE AND UNITS OF THE STATE;

8 (III) A COUNTY AND UNITS OF A COUNTY; AND

9 (IV) A MUNICIPAL GOVERNMENT IN THE STATE.

10 (2) "EMPLOYER" INCLUDES A PERSON WHO ACTS DIRECTLY OR
11 INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

12 (C) (1) "LABOR ORGANIZATION" MEANS AN ORGANIZATION OF ANY KIND
13 THAT EXISTS FOR THE PURPOSE OF INTERACTING WITH AN EMPLOYER ON BEHALF
14 OF THE EMPLOYEES OF THE EMPLOYER CONCERNING WAGES, RATES OF PAY, HOURS
15 OF WORK, OR ANY OTHER TERM OR CONDITION OF EMPLOYMENT.

16 (2) "LABOR ORGANIZATION" INCLUDES ANY PERSON WHO ACTS
17 DIRECTLY OR INDIRECTLY IN THE INTEREST OF A LABOR ORGANIZATION WITH AN
18 EMPLOYER.

19 **4-702.**

20 (A) THIS SUBTITLE DOES NOT APPLY TO:

21 (1) EMPLOYERS AND EMPLOYEES COVERED BY THE FEDERAL
22 RAILWAY LABOR ACT;

23 (2) FEDERAL EMPLOYERS AND EMPLOYEES; AND

24 (3) EMPLOYERS AND EMPLOYEES ON EXCLUSIVE FEDERAL
25 ENCLAVES.

26 (B) A PROVISION OF THIS SUBTITLE THAT IS IN CONFLICT WITH OR
27 PREEMPTED BY FEDERAL LAW IS UNENFORCEABLE TO THE EXTENT OF THE
28 CONFLICT OR PREEMPTION.

1 **4-703.**

2 (A) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW,
3 AN EMPLOYER MAY NOT REQUIRE, AS A CONDITION OF EMPLOYMENT OR CONTINUED
4 EMPLOYMENT, AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE TO:

5 (1) JOIN OR REMAIN A MEMBER OF A LABOR ORGANIZATION;

6 (2) PAY ANY DUES, FEES, ASSESSMENTS, OR OTHER CHARGES TO A
7 LABOR ORGANIZATION; OR

8 (3) PAY TO ANY CHARITY OR ANOTHER THIRD PARTY, IN LIEU OF A
9 PAYMENT TO A LABOR ORGANIZATION, ANY AMOUNT EQUIVALENT TO OR PRO RATA
10 PORTION OF THE CHARGE REQUIRED TO BE PAID TO A LABOR ORGANIZATION BY A
11 MEMBER OF THE LABOR ORGANIZATION.

12 (B) AN EMPLOYER MAY NOT THREATEN AN EMPLOYEE OR A PROSPECTIVE
13 EMPLOYEE WITH AN ACTION THAT WOULD BE A VIOLATION OF SUBSECTION (A) OF
14 THIS SECTION.

15 **4-704.**

16 AN AGREEMENT, AN UNDERSTANDING, OR A PRACTICE BETWEEN AN
17 EMPLOYER AND A LABOR ORGANIZATION THAT VIOLATES § 4-703 OF THIS SUBTITLE
18 IS NULL AND VOID AND WITHOUT LEGAL EFFECT.

19 **4-705.**

20 (A) AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE MAY FILE AN ACTION
21 AGAINST AN EMPLOYER FOR A VIOLATION OF § 4-703 OF THIS SUBTITLE IN THE
22 CIRCUIT COURT FOR THE JURISDICTION WHERE THE EMPLOYER IS LOCATED.

23 (B) IF AN EMPLOYER IS FOUND LIABLE FOR A VIOLATION OF § 4-703 OF THIS
24 SUBTITLE IN AN ACTION FILED UNDER SUBSECTION (A) OF THIS SECTION, THE
25 EMPLOYEE OR PROSPECTIVE EMPLOYEE WHO FILED THE ACTION IS ENTITLED TO
26 INJUNCTIVE RELIEF, DAMAGES, COURT COSTS, AND REASONABLE ATTORNEY'S
27 FEES.

28 **4-706.**

1 **(A) AN INDIVIDUAL WHO VIOLATES § 4-703 OF THIS SUBTITLE IS GUILTY OF**
 2 **A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
 3 **\$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR, OR BOTH.**

4 **(B) A PERSON OTHER THAN AN INDIVIDUAL WHO VIOLATES § 4-703 OF THIS**
 5 **SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE**
 6 **NOT EXCEEDING \$1,000.**

7 **4-707.**

8 **(A) THE ATTORNEY GENERAL SHALL:**

9 **(1) TAKE ANY STEPS NECESSARY TO ENSURE EFFECTIVE**
 10 **ENFORCEMENT OF THIS SUBTITLE;**

11 **(2) INVESTIGATE ALL COMPLAINTS REGARDING VIOLATIONS OF §**
 12 **4-703 OF THIS SUBTITLE; AND**

13 **(3) COMMENCE AND TRY ALL PROSECUTIONS FOR VIOLATIONS OF §**
 14 **4-703 OF THIS SUBTITLE.**

15 **(B) WITH RESPECT TO THE COMMENCEMENT AND TRIAL OF THE**
 16 **PROSECUTION UNDER SUBSECTION (A) OF THIS SECTION, THE ATTORNEY GENERAL**
 17 **HAS ALL THE POWERS AND DUTIES VESTED BY LAW IN STATE'S ATTORNEYS WITH**
 18 **RESPECT TO CRIMINAL PROSECUTIONS.**

19 **Article – Land Use**

20 16-309.

21 (a) The Commission and the exclusive representative shall execute a collective
 22 bargaining agreement incorporating all matters agreed.

23 (b) A collective bargaining agreement may include a provision for:

24 (1) dues [and maintenance or service fees] paid by payroll deduction; and

25 (2) the arbitration of grievances arising under the collective bargaining
 26 agreement.

27 (c) The collective bargaining agreement supersedes any conflicting rule,
 28 regulation, or administrative policy of the Commission.

29 [16-316.

1 (a) This subtitle does not preclude the Commission from entering into a collective
2 bargaining agreement with an exclusive representative that requires an employee, as a
3 condition of employment, to pay a maintenance or service fee as a contribution towards the
4 cost of the negotiation and administration of the collective bargaining agreement.

5 (b) A maintenance or service fee under subsection (a) of this section may not
6 exceed the annual dues paid to the exclusive representative.

7 (c) Before the Commission discharges an employee who fails to pay a
8 maintenance or service fee, it shall give the employee:

9 (1) written notice of the delinquent payment; and

10 (2) adequate time to correct the delinquency.

11 (d) If the Commission and an employee are unable to resolve any issue relating
12 to the payment of a maintenance or service fee, the issue shall be submitted to an umpire
13 in accordance with § 16–317 of this subtitle.]

14 Article – State Personnel and Pensions

15 3–502.

16 (a) Collective bargaining shall include all matters relating to wages, hours, and
17 other terms and conditions of employment.

18 (b) [(1)] Collective bargaining may **NOT** include negotiations relating to the
19 right of an employee organization to receive service fees from nonmembers.

20 [(2)] An employee whose religious beliefs are opposed to joining or financially
21 supporting any collective bargaining organization is:

22 (i) not required to pay a service fee; and

23 (ii) required to pay an amount of money as determined in collective
24 bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of
25 this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of
26 the Internal Revenue Code and to furnish written proof of the payment to:

27 1. A. the Department; or

28 B. in the case of an employee of an institution of higher
29 education specified in § 3–102(a)(1)(v) of this title, the President of the institution or the
30 President’s designee; and

31 2. the exclusive representative.]

1 (c) Notwithstanding subsection (a) of this section, the representatives of the
2 State, a system institution, Morgan State University, St. Mary's College of Maryland, and
3 Baltimore City Community College:

4 (1) shall not be required to negotiate over any matter that is inconsistent
5 with applicable law; and

6 (2) may negotiate and reach agreement with regard to any such matter
7 only if it is understood that the agreement with respect to such matter cannot become
8 effective unless the applicable law is amended by the General Assembly.

9 SECTION 2. AND IT BE FURTHER ENACTED, That this Act shall be construed to
10 apply only prospectively and may not be applied or interpreted to have any effect on or
11 application to any collective bargaining agreements that are entered into before the
12 effective date of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2016.