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By: **Senators Jimeno, Astle, DeGrange, and Giannetti**  
Introduced and read first time: February 6, 2004  
Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County - Public School Employees - Service or**  
3 **Representation Fee**

4 FOR the purpose of authorizing the Anne Arundel County Board of Education to  
5 negotiate with a certain employee organization a reasonable service or  
6 representation fee to be charged to nonmembers for representing them in  
7 certain matters; providing that certain employees are not required to pay the  
8 service or representation fee, but instead shall pay an equivalent amount to  
9 certain charities; requiring that certain negotiated agreements also contain a  
10 certain provision relating to a fee, that is not to exceed a certain amount, that is  
11 to be collected and committed to professional development for certain educators;  
12 and generally relating to service or representation fees for nonmembers of  
13 certain employee organizations.

14 BY repealing and reenacting, with amendments,  
15 Article - Education  
16 Section 6-407  
17 Annotated Code of Maryland  
18 (2001 Replacement Volume and 2003 Supplement)

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

21 **Article - Education**

22 6-407.

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

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

1           (2)       In addition, in Montgomery County the exclusive representative shall  
2 represent fairly and without discrimination all persons actually employed as  
3 substitute teachers without regard to whether they are included in § 6-401(d) of this  
4 subtitle as public school employees.

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

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

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

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

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

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

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

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

28                   (iii)       1.       Subject to the provisions of sub-subparagraph 2 of this  
29 subparagraph, the employee organization designated as the exclusive representative  
30 for the public school employees shall indemnify and hold harmless the Board of  
31 Education of Baltimore County against any and all claims, demands, suits, or any  
32 other forms of liability that may arise out of, or by reason of, action taken by the  
33 Board for the purpose of complying with any of the agency or representation fee  
34 provisions of the negotiated agreement.

35                               2.       The Board shall retain without charge to the Board the  
36 services of counsel that are designated by the exclusive representative with regard to  
37 any claim, demand, suit, or any other liability that may arise out of, or by reason of,  
38 action taken by the Board for the purpose of complying with any of the agency or  
39 representation fee provisions of the negotiated agreement.

1 (iv) The employee organization designated as the exclusive  
2 representative shall submit to the Board an annual audit from an external auditor  
3 that reflects the operational expenses of the employee organization and explains how  
4 the representation fee is calculated based on the audit.

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

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

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

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

21 (e) In Garrett County:

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

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

30 (F) IN ANNE ARUNDEL COUNTY:

31 (1) THE PUBLIC SCHOOL EMPLOYER MAY NEGOTIATE WITH THE  
32 EMPLOYEE ORGANIZATION DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE FOR  
33 THE PUBLIC SCHOOL EMPLOYEES IN A UNIT, A REASONABLE SERVICE OR  
34 REPRESENTATION FEE TO BE CHARGED NONMEMBERS FOR REPRESENTING THEM IN  
35 NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING GRIEVANCES, AND OTHER  
36 ACTIVITIES AS ARE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

37 (2) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO  
38 JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING  
39 ORGANIZATION IS:

1 (I) NOT REQUIRED TO PAY A SERVICE OR REPRESENTATION FEE;  
2 AND

3 (II) REQUIRED TO PAY AN AMOUNT OF MONEY AS DETERMINED  
4 UNDER PARAGRAPH (1) OF THIS SUBSECTION TO A NONRELIGIOUS, NONUNION  
5 CHARITY OR TO ANOTHER CHARITABLE ORGANIZATION THAT IS MUTUALLY AGREED  
6 UPON BY THE EMPLOYEE AND THE EXCLUSIVE REPRESENTATIVE, AND WHO  
7 FURNISHES TO THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE  
8 REPRESENTATIVE WRITTEN PROOF OF THE PAYMENT.

9 (3) (I) ANY NEGOTIATED AGREEMENT THAT INCLUDES A  
10 REPRESENTATION FEE SHALL ALSO CONTAIN A PROVISION THAT IDENTIFIES AN  
11 AMOUNT OF REVENUE EQUAL TO A PORTION OF THE REPRESENTATION FEE  
12 COLLECTED AND DESIGNATED FOR THE LOCAL BARGAINING REPRESENTATIVE TO  
13 BE COMMITTED TO PROFESSIONAL DEVELOPMENT FOR REPRESENTED EDUCATORS.

14 (II) THE PORTION OF THE REPRESENTATION FEE COLLECTED AND  
15 DESIGNATED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

16 1. BE NEGOTIATED BETWEEN THE LOCAL BARGAINING  
17 REPRESENTATIVE AND THE COUNTY BOARD; AND

18 2. MAY NOT BE GREATER THAN 25% OF THE ANNUAL  
19 AMOUNT COLLECTED AND DESIGNATED UNDER THIS SUBSECTION FOR THE LOCAL  
20 BARGAINING REPRESENTATIVE IN REPRESENTATION FEES.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2004.