
By: **Senators Middleton and Dyson**
Introduced and read first time: January 26, 2005
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Charles County - Education - School Personnel - Employee Service or**
3 **Representation Fee**

4 FOR the purpose of authorizing the Charles County Board of Education to negotiate
5 with a certain employee organization in the county a service or representation
6 fee to be charged to certain school employees for certain purposes; making this
7 Act applicable only to school employees hired on or after a certain date; and
8 generally relating to the negotiation of a service or representation fee to be
9 charged to certain school employees employed by the Charles County Board of
10 Education.

11 BY repealing and reenacting, with amendments,
12 Article - Education
13 Section 6-407 and 6-504
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2004 Supplement)

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

18 **Article - Education**

19 6-407.

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

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

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

1 (c) (1) In Montgomery County, Prince George's County, Baltimore County,
2 and Baltimore City, the public school employer may negotiate with the employee
3 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 negotiations, contract administration,
6 including grievances, and other activities as are required under subsection (b) of this
7 section.

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

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

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

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

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

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

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

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

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

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

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

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

11 (d) (1) In Allegany County, CHARLES COUNTY, Garrett County, and
12 Washington County, the public school employer may negotiate with the employee
13 organization designated as the exclusive representative for the public school
14 employees in a unit, a reasonable service or representation fee, to be charged
15 nonmembers for representing them in negotiation, contract administration, including
16 grievances, and other activities specified under subsection (b) of this section.

17 (2) IN CHARLES COUNTY, THE PROVISIONS OF THIS SUBSECTION SHALL
18 APPLY ONLY TO EMPLOYEES WHO ARE HIRED ON OR AFTER JULY 1, 2005.

19 (e) In Garrett County:

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

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

28 (f) In Anne Arundel County:

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

35 (2) (i) Subject to the provisions of subparagraph (ii) of this paragraph,
36 the employee organization designated as the exclusive representative for the public
37 school employees shall indemnify and hold harmless the Anne Arundel County Board
38 of Education against any and all claims, demands, suits, or any other forms of liability
39 that may arise out of, or by reason of, action taken by the Board for the purpose of

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

3 (ii) The Board shall retain without charge to the Board the services
4 of counsel that are designated by the exclusive representative with regard to any
5 claim, demand, suit, or any other liability that may arise out of, or by reason of, action
6 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
12 calculated 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 as
17 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 6-504.

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

36 (b) (1) In Montgomery County [and], Allegany County, AND CHARLES
37 COUNTY, the County Board, with respect to noncertificated employees, shall negotiate

1 a structure of reasonable service 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
4 APPLY ONLY TO EMPLOYEES HIRED ON OR AFTER JULY 1, 2005.

5 (c) In Prince George's County, the County Board shall negotiate an
6 organizational security provision, commonly known as "agency shop", with employee
7 organizations.

8 (d) (1) In Anne Arundel County and Baltimore County, the County Board,
9 with respect to noncertificated employees, may negotiate a structure of reasonable
10 service fees to be charged nonmembers for representation in negotiations and
11 grievance matters by employee organizations.

12 (2) In Anne Arundel County, if the County Board negotiates a structure
13 of fees as authorized under this subsection:

14 (i) Each party shall:

15 1. Confer in good faith, at all reasonable times; and
16 2. Reduce to writing the matters agreed on as a result of the
17 negotiations; and

18 (ii) Neither party is required to agree to any proposal or to make
19 any concession.

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

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

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

34 (iii) The employee organization designated as the exclusive
35 representative shall submit to the Board an annual audit from an external auditor
36 that reflects the operational expenses of the employee organization and explains how
37 the representation fee is calculated based on the audit.

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

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

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 July 1, 2005.