
By: **Senators Middleton and Dyson**
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Assigned to: Finance

Committee Report: Favorable
Senate action: Adopted
Read second time: February 15, 2005

CHAPTER_____

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.

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

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

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

15 (2) The service or representation fee may not exceed the annual dues of
16 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 sub-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
35 other forms of liability that may arise out of, or by reason of, action taken by the
36 Board for the purpose of complying with any of the agency or representation fee
37 provisions of the negotiated agreement.

38 2. The Board shall retain without charge to the Board the
39 services of counsel that are designated by the exclusive representative with regard to

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

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

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

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

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

18 (d) (1) In Allegany County, CHARLES COUNTY, Garrett County, and
19 Washington County, 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 negotiation, contract administration, including
23 grievances, and other activities specified under subsection (b) of this section.

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

26 (e) In Garrett County:

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

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

35 (f) In Anne Arundel County:

36 (1) The public school employer may negotiate with the employee
37 organization designated as the exclusive representative for the public school
38 employees in a unit, a reasonable service or representation fee to be charged
39 nonmembers for representing them in negotiations, contract administration,

1 including grievances, and other activities as are required under subsection (b) of this
2 section.

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

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

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

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

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

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

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

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

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

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

1 6-504.

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

4 (b) (1) In Montgomery County [and], Allegany County, AND CHARLES
5 COUNTY, the County Board, with respect to noncertificated employees, shall negotiate
6 a structure of reasonable service fees to be charged nonmembers for representation in
7 negotiations and grievance matters by employee organizations.

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

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

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

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

19 (i) Each party shall:

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

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

23 (ii) Neither party is required to agree to any proposal or to make
24 any concession.

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

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

34 2. The Board shall retain without charge to the Board the
35 services of counsel that are designated by the exclusive representative with regard to
36 any claim, demand, suit, or any other liability that may arise out of, or by reason of,

1 action taken by the Board for the purpose of complying with any of the agency or
2 representation fee provisions of the negotiated agreement.

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

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

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

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

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