

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 129
Appropriations

(The Speaker *et al.*) (By Request – Administration)

State Employees - Collective Bargaining - Negotiations

This Administration bill authorizes a State employee exclusive representative to collectively bargain for service fees from non-union members.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: Authorizing a State employee exclusive representative to collectively bargain for service fees would not impact State finances.

Local Effect: None.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Background: While an exclusive representative bargains for all members of a particular bargaining unit, only a portion of these individuals pays union membership dues to the representing organization. A service fee is paid by an employee to his/her bargaining unit's exclusive representative to offset costs attributable to the collective bargaining process. Generally, this fee is less than the fee charged for union dues.

Supreme Court Rulings

The U.S. Supreme Court has issued several opinions relating to the right of a public-sector exclusive representative to collect service fees from non-union members. In *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977), the court found that, while an exclusive representative could collect a fee from non-union members, the fee revenues could not be used to support ideological causes not germane to the organization's duties as the collective bargaining representative. In another case, the *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986), the court held that, in order to protect non-union members' constitutional rights to freedom of speech and association, the union's collection of agency fees must "include an adequate explanation of the basis for the fee, a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker, and an escrow for the amounts reasonably in dispute while such challenges are pending."

Maryland Bargaining Units

This bill would apply to all Executive Branch bargaining units where the employees have elected an exclusive representative. There are approximately 33,000 State employees in 9 nonhigher education Executive Branch bargaining units with exclusive representatives, and 6,500 employees in 33 higher education bargaining units with exclusive representatives. **Exhibit 1** shows the number of State employees in each nonhigher education bargaining unit. Although the Judicial and Legislative branches are not specifically excluded, the State's collective bargaining statute only applies to the Executive Branch.

Of the approximately 40,000 State employees in bargaining units with exclusive representatives, about 30,000 are represented by the American Federation of State, County, and Municipal Employees (AFSCME). Union membership dues for State employees typically range from \$9 to \$15 per pay period but exceed \$19 per pay period for certain unions.

Exhibit 1
Nonhigher Education State of Maryland Bargaining Units

<u>Unit</u>	<u>Unit Name</u>	<u>Number of Employees</u>	<u>Exclusive Representative</u>
A	Labor and Trades	1,849	AFSCME MD
B	Administrative, Technical, and Clerical	6,548	AFSCME MD
C	Regulatory, Inspection, and License	507	AFSCME MD
D	Health and Human Services (nonprof.)	2,378	AFSCME MD
E	Health Care Professionals	2,002	AFT – Healthcare MD
F	Social and Human Services Professionals	4,182	AFSCME MD
G	Engineering, Scientific, and Admin. Prof.	4,743	MPEC
H	Public Safety and Security	8,928	AFSCME / Teamsters
I	Sworn Police Officers	1,761	SLEOLA

Note: AFSCME = American Federation of State, County, and Municipal Employees; AFT = American Federation of Teachers; MPEC = Maryland Professional Employees Council; SLEOLA = State Law Enforcement Officers' Labor Alliance

Source: Department of Budget and Management, January 2007.

Service Fees in Other States

There are 23 states that either require state employees to pay a service fee or permit the fee to be mandated through collective bargaining. In some states, employees with a religious objection to paying the fee are exempt from paying it. In all states, some employees, such as managers or confidential employees are exempt from the collective bargaining law. In some states, supervisors are exempt. Service fees are also referred to as representation fees, agency fees, agency shop fees, or fair share fees. **Exhibit 2** lists the states where service fees are authorized.

Exhibit 2
States Allowing Public Sector Service Fees

Alaska	Hawaii	Minnesota	New York	Vermont
California	Illinois	Montana	Ohio	Washington
Connecticut	Maine	New Hampshire	Oregon	Wisconsin
Delaware	Massachusetts	New Jersey	Pennsylvania	
District of Columbia	Michigan	New Mexico	Rhode Island	

It should be noted that some employees pay union membership dues to an employee organization that is not their bargaining unit's exclusive representative.

Additional Information

Prior Introductions: None.

Cross File: SB 111 (The President) (By Request – Administration) – Finance.

Information Source(s): Department of Budget and Management; Maryland Department of Transportation (Mass Transit Administration); University System of Maryland; Maryland Higher Education Commission; Morgan State University; U.S. Supreme Court; “Judge Rejects Nonmembers’ Challenge to Maine Union’s Agency-Fees Procedure,” *Government Employee Relations*, vol. 44, no. 2154, April, 2006; The American Federation of State, County, and Municipal Employees; Higher Education Labor Relations Board; Department of Legislative Services

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