

# HOUSE BILL 122

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By: **Calvert County Delegation**

Introduced and read first time: January 22, 2009

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

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

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

13 BY repealing and reenacting, with amendments,  
14 Article - Education  
15 Section 6-407 and 6-504  
16 Annotated Code of Maryland  
17 (2008 Replacement Volume)

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

20 **Article - Education**

21 6-407.

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

24 (b) (1) An employee organization designated as an exclusive  
25 representative shall represent all employees in the unit fairly and without

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 discrimination, whether or not the employees are members of the employee  
2 organization.

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

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

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

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

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

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

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

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

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

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

1                   2.     The board shall retain without charge to the board the  
2 services of counsel that are designated by the exclusive representative with regard to  
3 any claim, demand, suit, or any other liability that may arise out of, or by reason of,  
4 action taken by the board for the purpose of complying with any of the agency or  
5 representation fee provisions of the negotiated agreement.

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

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

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

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

20                  (d)    (1)    In Allegany County, **CALVERT COUNTY**, Charles County, Garrett  
21 County, and Washington County, the public school employer may negotiate with the  
22 employee organization designated as the exclusive representative for the public school  
23 employees in a unit, a reasonable service or representation fee, to be charged  
24 nonmembers for representing them in negotiation, contract administration, including  
25 grievances, and other activities specified under subsection (b) of this section.

26                  (2)    **IN CALVERT COUNTY, THE PROVISIONS OF THIS SUBSECTION**  
27 **SHALL APPLY ONLY TO EMPLOYEES WHO ARE HIRED ON OR AFTER JULY 1,**  
28 **2009.**

29                  (3)    In Charles County, the provisions of this subsection shall apply  
30 only to employees who are hired on or after July 1, 2005.

31                  (e)    In Garrett County:

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

36                  (2)    An individual who becomes a public school employee after the time  
37 that a negotiated service or representation fee is initiated and does not join the

1 employee organization designated as the exclusive representative is liable for the fee  
2 provided under subsection (d) of this section.

3 (f) In Anne Arundel County:

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

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

16 (ii) The board shall retain without charge to the board the  
17 services of counsel that are designated by the exclusive representative with regard to  
18 any claim, demand, suit, or any other liability that may arise out of, or by reason of,  
19 action taken by the board for the purpose of complying with any of the agency or  
20 representation fee provisions of the negotiated agreement.

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

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

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

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

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

35 (ii) Required to pay an amount of money as determined under  
36 paragraph (1) of this subsection to a nonreligious, nonunion charity or to another  
37 charitable organization that is mutually agreed upon by the employee and the

1 exclusive representative, and who furnishes to the public school employer and the  
2 exclusive representative written proof of the payment.

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

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

9 6-504.

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

12 (b) (1) In Montgomery County, Allegany County, **CALVERT COUNTY**,  
13 Charles County, and Howard County, the county board, with respect to noncertificated  
14 employees, shall negotiate a structure of reasonable service fees to be charged  
15 nonmembers for representation in negotiations and grievance matters by employee  
16 organizations.

17 (2) **IN CALVERT COUNTY, THE PROVISIONS OF THIS SUBSECTION**  
18 **SHALL APPLY ONLY TO EMPLOYEES HIRED ON OR AFTER JULY 1, 2009.**

19 (3) In Charles County, the provisions of this subsection shall apply  
20 only to employees hired on or after July 1, 2005.

21 (c) In Prince George's County, the county board shall negotiate an  
22 organizational security provision, commonly known as "agency shop", with employee  
23 organizations.

24 (d) (1) In Anne Arundel County and Baltimore County, the county board,  
25 with respect to noncertificated employees, may negotiate a structure of reasonable  
26 service fees to be charged nonmembers for representation in negotiations and  
27 grievance matters by employee organizations.

28 (2) In Anne Arundel County, if the county board negotiates a structure  
29 of fees as authorized under this subsection:

30 (i) Each party shall:

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

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

1 (ii) Neither party is required to agree to any proposal or to make  
2 any concession.

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

5 (ii) 1. Subject to the provisions of subparagraph 2 of this  
6 subparagraph, the employee organization designated as the exclusive representative  
7 for the public school employees shall indemnify and hold harmless the Board of  
8 Education of Baltimore County against any and all claims, demands, suits, or any  
9 other forms of liability that may arise out of, or by reason of, action taken by the board  
10 for the purpose of complying with any of the agency or representation fee provisions of  
11 the negotiated agreement.

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

17 (iii) The employee organization designated as the exclusive  
18 representative shall submit to the board an annual audit from an external auditor  
19 that reflects the operational expenses of the employee organization and explains how  
20 the representation fee is calculated based on the audit.

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

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

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 July 1, 2009.