

HOUSE BILL 122

F3

9lr1760

By: ~~Calvert County Delegation~~ **Delegates Kullen, Proctor, and Vallario**

Introduced and read first time: January 22, 2009

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Calvert County - Education - Certificated School Personnel - Employee**
3 **~~Service or Representation Fee~~ Collective Bargaining Representation Fees**

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

16 BY repealing and reenacting, without amendments,

17 Article - Education

18 Section 6-401 and 6-407(a) and (b)

19 Annotated Code of Maryland

20 (2008 Replacement Volume)

21 BY repealing and reenacting, with amendments,

22 Article - Education

23 Section ~~6-407 and 6-504~~ 6-407(d)

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2008 Replacement Volume)

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

4 **Article – Education**

5 6–401.

6 (a) In this subtitle the following words have the meanings indicated.

7 (b) “Employee organization” means an organization that:

8 (1) Includes certificated employees of a public school employer or
9 individuals of equivalent status in Baltimore City; and

10 (2) Has as one of its main purposes the representation of the
11 employees in their relations with that public school employer.

12 (c) (1) “Home and hospital teacher” means a teacher employed by a public
13 school employer to provide instructional services to a public school student who is
14 unable to function effectively in the classroom setting due to the student’s medical,
15 physical, or emotional condition.

16 (2) A home and hospital teacher may teach in:

17 (i) A private home;

18 (ii) A hospital;

19 (iii) A therapeutic center;

20 (iv) A school; or

21 (v) Any other appropriate site.

22 (d) (1) “Public school employee” means a certificated professional
23 individual who is employed by a public school employer or an individual of equivalent
24 status in Baltimore City, except for a county superintendent or an individual
25 designated by the public school employer to act in a negotiating capacity as provided
26 in § 6–408(b) of this subtitle.

27 (2) In Montgomery County, “public school employees” include:

28 (i) Certificated and noncertificated substitute teachers
29 employed by the public school employer for at least 7 days before March 1 of the school
30 fiscal year ending June 30, 1978, and each year after; and

1 (ii) Home and hospital teachers employed by the public school
2 employer for at least 7 days before March 1 of the school fiscal year ending June 30,
3 2000, and each year after.

4 (3) In Baltimore County, “public school employee” includes:

5 (i) A secondary school nurse, an elementary school nurse, and a
6 special school nurse; and

7 (ii) Supervisory noncertificated employees as defined under §
8 6-501(h) of this title.

9 (4) In Frederick County, “public school employee” includes a social
10 worker employed by a public school employer.

11 (5) In Prince George’s County, “public school employee” includes home
12 and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

13 (6) In Charles County and Garrett County, “public school employee”
14 includes Junior Reserve Officer Training Corps (JROTC) instructors.

15 (7) In Carroll County, “public school employee” includes supervisory
16 noncertificated employees as defined under § 6-501(h) of this title.

17 (e) “Public school employer” means a county board of education or the
18 Baltimore City Board of School Commissioners.

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
23 representative shall represent all employees in the unit fairly and without
24 discrimination, whether or not the employees are members of the employee
25 organization.

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

30 ~~(e) (1) In Montgomery County, Prince George’s County, Baltimore~~
31 ~~County, Baltimore City, and Howard County, the public school employer may~~
32 ~~negotiate with the employee organization designated as the exclusive representative~~
33 ~~for the public school employees in a unit, a reasonable service or representation fee, to~~
34 ~~be charged nonmembers for representing them in negotiations, contract~~

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

3 ~~(2) The service or representation fee may not exceed the annual dues~~
4 ~~of the members of the organization.~~

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

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

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

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

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

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

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

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

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

35 ~~(v) 1. The agency or representation fee shall be based only~~
36 ~~on the expenses incurred by the employee organization in its representation in~~

1 ~~negotiations, contract administration, including the handling of grievances, and other~~
2 ~~activities, as required under this section.~~

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

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

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

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

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

20 ~~(e) In Garrett County:~~

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

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

29 ~~(f) In Anne Arundel County:~~

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

35 ~~(2) (i) Subject to the provisions of subparagraph (ii) of this~~
36 ~~paragraph, the employee organization designated as the exclusive representative for~~

~~1 the public school employees shall indemnify and hold harmless the Anne Arundel
2 County Board of Education against any and all claims, demands, suits, or any other
3 forms of liability that may arise out of, or by reason of, action taken by the board for
4 the purpose of complying with any of the agency or representation fee provisions of the
5 negotiated agreement.~~

~~6 (ii) The board shall retain without charge to the board the
7 services of counsel that are designated by the exclusive representative with regard to
8 any claim, demand, suit, or any other liability that may arise out of, or by reason of,
9 action taken by the board for the purpose of complying with any of the agency or
10 representation fee provisions of the negotiated agreement.~~

~~11 (3) The employee organization designated as the exclusive
12 representative shall submit to the Anne Arundel County Board of Education an
13 annual audit from an external auditor that reflects the operational expenses of the
14 employee organization and explains how the service or representation fee is calculated
15 based on the audit.~~

~~16 (4) (i) The service or representation fee shall be based only on the
17 expenses incurred by the employee organization in its representation in negotiations,
18 contract administration, including grievances, and other activities under this section.~~

~~19 (ii) Political activities of the employee organization designated
20 as the exclusive representative may not be financed with the funds collected from the
21 service or representation fee.~~

~~22 (5) An employee whose religious beliefs are opposed to joining or
23 financially supporting any collective bargaining organization is:~~

~~24 (i) Not required to pay a service or representation fee; and~~

~~25 (ii) Required to pay an amount of money as determined under
26 paragraph (1) of this subsection to a nonreligious, nonunion charity or to another
27 charitable organization that is mutually agreed upon by the employee and the
28 exclusive representative, and who furnishes to the public school employer and the
29 exclusive representative written proof of the payment.~~

~~30 (6) Any negotiated agreement that includes a representation fee also
31 shall contain a provision that requires that an amount of revenue equal to 25% of the
32 annual representation fees collected and maintained by the local bargaining
33 representative be designated for professional development for represented educators.~~

~~34 (7) This subsection shall apply only to employees who are hired on or
35 after October 1, 2004.~~

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

3 ~~(b) (1) In Montgomery County, Allegany County, CALVERT COUNTY,~~
4 ~~Charles County, and Howard County, the county board, with respect to noncertificated~~
5 ~~employees, shall negotiate a structure of reasonable service fees to be charged~~
6 ~~nonmembers for representation in negotiations and grievance matters by employee~~
7 ~~organizations.~~

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

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

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

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

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

21 ~~(i) Each party shall:~~

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

23 ~~2. Reduce to writing the matters agreed on as a result of~~
24 ~~the negotiations; and~~

25 ~~(ii) Neither party is required to agree to any proposal or to make~~
26 ~~any concession.~~

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

29 ~~(ii) 1. Subject to the provisions of subsubparagraph 2 of this~~
30 ~~subparagraph, the employee organization designated as the exclusive representative~~
31 ~~for the public school employees shall indemnify and hold harmless the Board of~~
32 ~~Education of Baltimore County against any and all claims, demands, suits, or any~~
33 ~~other forms of liability that may arise out of, or by reason of, action taken by the board~~
34 ~~for the purpose of complying with any of the agency or representation fee provisions of~~
35 ~~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 ~~(iii) 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 ~~(iv) 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 § 6-509 of this subtitle; and~~

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 23 ~~July~~ October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.