

HOUSE BILL 667

P4

3lr1346
CF SB 422

By: **Delegates Hixson, Arora, Barkley, Barve, Bobo, Cane, Carr, Clagett, Cullison, DeBoy, Feldman, Frick, Gilchrist, Gutierrez, Guzzone, Healey, Howard, Hubbard, Hucker, Ivey, Kaiser, Kramer, Lafferty, Luedtke, Malone, McHale, McIntosh, Minnick, Mizeur, Morhaim, Murphy, Nathan-Pulliam, Niemann, Pendergrass, Proctor, Reznik, B. Robinson, Rosenberg, Stein, Stukes, F. Turner, Valderrama, Vallario, Vaughn, Waldstreicher, M. Washington, Weir, and Zucker**

Introduced and read first time: February 1, 2013

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Public School Employees – Collective Bargaining – Representation Fees**

3 FOR the purpose of requiring public school employers to negotiate with certain
4 employee organizations designated as the exclusive representatives for the
5 public school employees a certain service or representation fee to be charged to
6 nonmembers; providing a certain exception and requirement for noncertificated
7 employees whose religious beliefs are opposed to joining or financially
8 supporting a collective bargaining organization; requiring the exclusive
9 representative to establish and maintain a certain procedure; requiring the
10 public school employer to deduct a certain fee from the earnings of nonmember
11 employees in accordance with a certain schedule; excluding certain negotiated
12 fees from certain requirements and further negotiations; and generally relating
13 to representation fees for public school employees.

14 BY repealing and reenacting, with amendments,
15 Article – Education
16 Section 6–407(c) and 6–504
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2012 Supplement)

19 BY repealing
20 Article – Education
21 Section 6–407(d), (e), and (f)
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Education
3 Section 6–407(d)
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2012 Supplement)

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

8 **Article – Education**

9 6–407.

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

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

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

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

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

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

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

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

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

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

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

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

21 2. Any political activities of the employee organization
22 designated as the exclusive representative may not be financed by the funds collected
23 from the agency or representation fee.]

24 **(5) THE EXCLUSIVE REPRESENTATIVE SHALL ESTABLISH AND**
25 **MAINTAIN A PROCEDURE THAT PROVIDES NONMEMBERS WITH:**

26 **(I) AN ADEQUATE EXPLANATION OF THE BASIS FOR THE**
27 **SERVICE OR REPRESENTATION FEE; AND**

28 **(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE**
29 **FEE.**

30 **[(6) In Montgomery County, an employee who is a home or hospital**
31 **teacher and who works on a short-term day-to-day basis is not required to pay a**
32 **service or representation fee.]**

33 **(6) THE PUBLIC SCHOOL EMPLOYER SHALL:**

1 **(I) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM**
2 **THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A**
3 **SCHEDULE PROVIDED BY THE EXCLUSIVE REPRESENTATIVE; AND**

4 **(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE**
5 **EXCLUSIVE REPRESENTATIVE.**

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

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

14 (e) In Garrett County:

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

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

23 (f) In Anne Arundel County:

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

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

1 (ii) 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 (3) The employee organization designated as the exclusive
7 representative shall submit to the Anne Arundel County Board of Education an
8 annual audit from an external auditor that reflects the operational expenses of the
9 employee organization and explains how the service or representation fee is calculated
10 based on the audit.

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

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

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

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

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

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

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

31 **(D) IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS**
32 **BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED**
33 **UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1,**
34 **2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT**
35 **THE NEED FOR FURTHER NEGOTIATIONS.**

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, Charles County, and
4 Howard County, the county board] **THE PUBLIC SCHOOL EMPLOYER**, with respect to
5 noncertificated employees, shall negotiate a structure of **REQUIRED** reasonable
6 service **OR REPRESENTATION** 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 apply
9 only to employees hired on or after July 1, 2005.]

10 **(2) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO**
11 **JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING**
12 **ORGANIZATION IS:**

13 **(I) NOT REQUIRED TO PAY A SERVICE OR**
14 **REPRESENTATION FEE; AND**

15 **(II) REQUIRED TO PAY AN AMOUNT OF MONEY THAT IS**
16 **EQUAL TO THE SERVICE OR REPRESENTATION FEE TO A NONRELIGIOUS,**
17 **NONUNION CHARITY OR TO SUCH OTHER CHARITABLE ORGANIZATION AS MAY**
18 **BE MUTUALLY AGREED UPON BY THE EMPLOYEE AND THE EMPLOYEE**
19 **ORGANIZATION, AND WHO FURNISHES TO THE PUBLIC SCHOOL EMPLOYER AND**
20 **THE EMPLOYEE ORGANIZATION WRITTEN PROOF OF THE PAYMENT.**

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 **(C) THE EMPLOYEE ORGANIZATION SHALL ESTABLISH AND MAINTAIN A**
25 **PROCEDURE THAT PROVIDES NONMEMBERS WITH:**

26 **(I) AN ADEQUATE EXPLANATION OF THE BASIS FOR THE**
27 **SERVICE OR REPRESENTATION FEE; AND**

28 **(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE**
29 **FEE.**

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

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

3 (i) Each party shall:

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

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

7 (ii) Neither party is required to agree to any proposal or to make
8 any concession.

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

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

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

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

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

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

1 (4) In Garrett County, if a noncertificated employee was not a public
2 school employee at the time that a service fee under paragraph (1) of this subsection
3 was initiated, the noncertificated employee may not be charged a service fee.]

4 **(D) THE PUBLIC SCHOOL EMPLOYER SHALL:**

5 **(I) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM**
6 **THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A**
7 **SCHEDULE PROVIDED BY THE EMPLOYEE ORGANIZATION; AND**

8 **(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE**
9 **EMPLOYEE ORGANIZATION.**

10 [(e) In Baltimore City, the public school employer shall 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 to
13 nonmembers for representing them in negotiations in the same manner that any such
14 fee was permitted under law and bargained for prior to January 1, 1997.]

15 **(E) IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS**
16 **BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED**
17 **UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1,**
18 **2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT**
19 **THE NEED FOR FURTHER NEGOTIATIONS.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 July 1, 2013.