

SENATE BILL 490

K3, P4

7lr0500

By: **Senators Ready, Bates, Cassilly, Eckardt, Hershey, Hough, Jennings, and Serafini**

Introduced and read first time: January 30, 2017

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Labor Organizations – Right to Work Act**

3 FOR the purpose of declaring that it is the public policy of the State that the right to work
4 should not be subject to certain restraints or coercion; prohibiting certain employers
5 from requiring, as a condition of employment or continued employment, an employee
6 or a prospective employee to join or remain a member of a labor organization, pay
7 charges to a labor organization, or pay a certain amount to a third party under
8 certain circumstances; prohibiting certain labor organizations and employers from
9 taking certain action against an employee or a prospective employee, or certain other
10 persons, for certain purposes; prohibiting certain labor organizations and employers
11 from causing or attempting to cause an employee or a prospective employee to be
12 denied or discharged from employment for certain reasons; specifying that certain
13 agreements, understandings, or practices between employers and labor
14 organizations are null and void and without legal effect; prohibiting a labor
15 organization from taking certain actions to induce or attempt to induce an employer
16 to enter into a certain agreement of understanding or engage in a certain practice;
17 authorizing an employee or a prospective employee to file an action in a certain
18 circuit court for a certain violation of law; specifying that an employee or a
19 prospective employee is entitled to injunctive relief and to recover certain damages
20 and costs under certain circumstances; providing that a certain violation of law is a
21 misdemeanor and is subject to certain penalties; requiring the Attorney General to
22 take certain action to ensure effective enforcement of certain laws, investigate
23 certain complaints, and try certain prosecutions; specifying that the Attorney
24 General has certain powers and duties relating to criminal prosecutions under
25 certain circumstances; specifying that certain provisions of law are unenforceable
26 under certain circumstances; repealing a certain provision of law that prohibits a
27 court from granting relief under certain circumstances; repealing certain provisions
28 of law related to fees paid by employees to certain labor organizations; defining
29 certain terms; providing for the application of this Act; and generally relating to the
30 rights of individuals, employee organizations, and employers.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, with amendments,
2 Article – Education
3 Section 6–407, 6–504, 9.5–704, and 16–414.1(e)(3) and (f)
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2016 Supplement)
- 6 BY repealing and reenacting, with amendments,
7 Article – Health – General
8 Section 15–904(e)
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2016 Supplement)
- 11 BY repealing and reenacting, with amendments,
12 Article – Labor and Employment
13 Section 4–304
14 Annotated Code of Maryland
15 (2016 Replacement Volume)
- 16 BY adding to
17 Article – Labor and Employment
18 Section 4–701 through 4–708 to be under the new subtitle “Subtitle 7. Right to Work”
19 Annotated Code of Maryland
20 (2016 Replacement Volume)
- 21 BY repealing and reenacting, with amendments,
22 Article – State Personnel and Pensions
23 Section 3–502
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2016 Supplement)

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

28 **Article – Education**

29 6–407.

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

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

35 (2) In addition, in Montgomery County the exclusive representative shall
36 represent fairly and without discrimination all persons actually employed as substitute

1 teachers without regard to whether they are included in § 6–401(e) of this subtitle as public
2 school employees.

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

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

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

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

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

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

21 (5) The exclusive representative shall establish and maintain a procedure
22 that provides nonmembers with:

23 (i) An adequate explanation of the basis for the service or
24 representation fee; and

25 (ii) An opportunity to challenge the amount of the fee.

26 (6) An employee who is a home or hospital teacher and who works on a
27 short-term day-to-day basis is not required to pay a service or representation fee.

28 (7) The public school employer shall:

29 (i) Deduct the service or representation fee from the earnings of the
30 nonmember employees in accordance with a schedule provided by the exclusive
31 representative; and

32 (ii) Promptly transmit the amount deducted to the exclusive
33 representative.

1 (d) When negotiating the implementation of a service or representation fee under
2 this section, the public school employer and the exclusive bargaining representative shall
3 negotiate whether the fee is applicable to current employees.

4 (e) (1) This subsection applies to a county in which a service or representation
5 fee was not negotiated before July 1, 2013.

6 (2) The following employees in a unit are eligible to vote on ratification of
7 the implementing agreement that provides for a service or representation fee:

8 (i) Members of the employee organization; and

9 (ii) Nonmembers affected by the service or representation fee.

10 (3) The implementing agreement that provides for a service or
11 representation fee shall be ratified by a majority of votes cast by the employees eligible to
12 vote under paragraph (2) of this subsection.

13 (f) In a county in which a service or representation fee has been negotiated before
14 July 1, 2013, the fee shall be implemented under the provisions of the agreement negotiated
15 before July 1, 2013, and consistent with the requirements of this section without the need
16 for further negotiations.]

17 6-504.

18 [(a)] A public school employee may refuse to join or participate in the activities of
19 employee organizations.

20 [(b) (1) Subject to subsection (e) of this section, the public school employer, with
21 respect to noncertificated employees, shall negotiate a structure of required reasonable
22 service or representation fees to be charged nonmembers for representation in negotiations
23 and grievance matters by employee organizations.

24 (2) An employee whose religious beliefs are opposed to joining or financially
25 supporting any collective bargaining organization is:

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

27 (ii) Required to pay an amount of money that is equal to the service
28 or representation fee to a nonreligious, nonunion charity or to such other charitable
29 organization as may be mutually agreed upon by the employee and the employee
30 organization, and who furnishes to the public school employer and the employee
31 organization written proof of the payment.

32 (c) The employee organization shall establish and maintain a procedure that
33 provides nonmembers with:

1 (1) An adequate explanation of the basis for the service or representation
2 fee; and

3 (2) An opportunity to challenge the amount of the fee.

4 (d) The public school employer shall:

5 (1) Deduct the service or representation fee from the earnings of the
6 nonmember employees in accordance with a schedule provided by the employee
7 organization; and

8 (2) Promptly transmit the amount deducted to the employee organization.

9 (e) When negotiating the implementation of a service or representation fee under
10 this section, the public school employer and the exclusive bargaining representative shall
11 first negotiate whether the fee is applicable to current employees.

12 (f) (1) This subsection applies to a county in which a service or representation
13 fee was not negotiated before July 1, 2013.

14 (2) The following employees in a unit are eligible to vote on ratification of
15 the implementing agreement that provides for a service or representation fee:

16 (i) Members of the employee organization; and

17 (ii) Nonmembers affected by the service or representation fee.

18 (3) The implementing agreement that provides for a service or
19 representation fee shall be ratified by a majority of votes cast by the employees eligible to
20 vote under paragraph (2) of this subsection.

21 (g) In a county in which a service or representation fee has been negotiated before
22 July 1, 2013, the fee shall be implemented under the provisions of the agreement negotiated
23 before July 1, 2013, and consistent with the requirements of this section without the need
24 for further negotiations.]

25 9.5-704.

26 (a) The Department shall designate appropriate representatives to participate in
27 collective bargaining with the provider organization certified as the exclusive
28 representative of family child care providers.

29 (b) Except as otherwise provided in this subtitle, the parties shall adhere to the
30 bargaining process set forth in § 3-501 of the State Personnel and Pensions Article.

31 (c) The Department shall negotiate in consultation with the Department of
32 Budget and Management regarding all matters that require appropriation of State funds.

1 (d) Collective bargaining shall include all matters related to the terms and
2 conditions of participation by family child care providers in the Maryland Child Care
3 Subsidy Program, including:

4 (1) Reimbursement rates;

5 (2) Benefits;

6 (3) Payment procedures;

7 (4) Contract grievance procedures;

8 (5) Training;

9 (6) Member dues deductions; and

10 (7) Other terms and conditions of participation by family child care
11 providers in the Maryland Child Care Subsidy Program.

12 (e) [(1) (i) Subject to subparagraph (ii) of this paragraph, collective
13 bargaining may include negotiations relating to the right of a provider organization that is
14 the exclusive representative to receive service fees from nonmembers.

15 (ii) The representatives of the State may not reach an agreement
16 containing a service fee provision unless the representatives of the State conclude that the
17 agreement as a whole will not adversely impact nonmember providers.

18 (2) A family child care provider whose religious beliefs are opposed to
19 joining or financially supporting any collective bargaining organization is:

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

21 (ii) Required to pay an amount of money as determined in collective
22 bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of
23 this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of
24 the Internal Revenue Code and to furnish to the Department and the exclusive
25 representative written proof of the payment.

26 (f)] (1) Collective bargaining shall include negotiations that result in the
27 establishment of a fund for the purpose of protecting family child care providers against
28 extreme hardship or loss of livelihood resulting from late State payments.

29 (2) The exclusive representative shall pay for a portion of the fund.

30 (3) The fund:

1 (i) May not be a State fund; but

2 (ii) Shall be established and administered in consultation with the
3 State.

4 (4) All revenues, money, and assets of the fund belong solely to the fund
5 and are held by the fund in trust for family child care providers.

6 (5) The State may not borrow, appropriate, or direct payments from the
7 revenues, money, or assets of the fund for any purpose.

8 (6) The fund shall include funds sufficient to meet the reasonably
9 foreseeable needs of the family child care providers.

10 **[(g)] (F)** Notwithstanding subsection (d) of this section, the representatives of
11 the State:

12 (1) May not be required to negotiate any matter that is inconsistent with
13 applicable law; and

14 (2) May negotiate and reach agreement with regard to any such matter
15 only if it is understood that the agreement with respect to such matter cannot become
16 effective unless the applicable law is amended by the General Assembly.

17 **[(h)] (G)** The parties shall reduce their agreement to a Memorandum of
18 Understanding that complies with the provisions of § 3–601 of the State Personnel and
19 Pensions Article.

20 16–414.1.

21 (e) (3) On behalf of the exclusive representative for payment to the exclusive
22 representative, the public employer shall automatically deduct from the paycheck of each
23 public employee in a bargaining unit represented by an employee organization certified as
24 an exclusive representative for that bargaining unit[:

25 (i) Any] ANY union dues authorized and owed by the employee to
26 the organization[; and

27 (ii) Any service fees authorized and owed by the employee to the
28 organization].

29 (f) Collective bargaining shall include all matters relating to:

30 (1) Wages, hours, and other terms and conditions of employment; and

(2) The procedures for the employee organization to receive membership dues [and service fees] through payroll deduction.

Article – Health – General

15–904.

(e) [(1) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, collective] **COLLECTIVE** bargaining may **NOT** include negotiations relating to the right of a provider organization that is the exclusive representative to receive service fees from nonmembers.

[(ii) The representatives of the State may not reach an agreement containing a service fee provision unless the representatives of the State conclude that the agreement as a whole will not adversely impact nonmember providers.

(iii) The representatives of the State may only agree to a service fee provision if the service fee provision would require nonmembers to pay service fees on a sliding scale in approximate proportion to the amount each nonmember receives in reimbursement through:

1. The Medicaid Waiver for Older Adults that is jointly administered by the Department and the Department of Aging as established under § 15–132 of this title, or any successor program;

2. The Medicaid Personal Care Program under the State Medical Assistance Program, or any successor program; and

3. The In–Home Aide Service Program administered by the Department of Human Resources, or any successor program.

(2) An independent home care provider whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization:

(i) Is not required to pay a service fee; but

(ii) Shall pay an amount of money as determined in collective bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code and to furnish to the State agencies engaged in collective bargaining under this subtitle and the exclusive representative written proof of the payment.

(3) (i) An independent home care provider who provides home care services only to an immediate family member is not required to pay a service fee.

1 (ii) An independent home care provider who provides services to an
2 immediate family member and any other individual who is not an immediate family
3 member may be required to pay a service fee that is proportionate to the amount the
4 provider receives in reimbursement for the provider's services to any individual who is not
5 an immediate family member.

6 (iii) An independent home care provider may be required to provide
7 written documentation of the provision of home care services to an immediate family
8 member.]

9 Article – Labor and Employment

10 4–304.

11 (a) In this section, “promise” means any undertaking, whether express or implied
12 or oral or written.

13 (b) A promise made between an employee or prospective employee and an
14 employer, prospective employer, or any other individual, association, company, corporation,
15 or firm is against the policy of the State if the promise requires either party:

16 (1) to join or remain a member of an employer or labor organization;

17 (2) not to join or not to remain a member of an employer or labor
18 organization; or

19 (3) to withdraw from an employment relation if the party joins or remains
20 a member of an employer or labor organization.

21 [(c) A court may not grant, on the basis of a promise described in this section, any
22 relief against:

23 (1) a party to the promise; or

24 (2) another person who, without the act or threat of fraud or violence,
25 advises, induces, or urges a party to disregard the promise.]

26 SUBTITLE 7. RIGHT TO WORK.

27 4–701.

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

30 (B) (1) “EMPLOYER” MEANS:

1 (I) A PERSON ENGAGED IN A BUSINESS, AN INDUSTRY, A
2 PROFESSION, A TRADE, OR ANY OTHER ENTERPRISE IN THE STATE;

3 (II) THE STATE AND UNITS OF THE STATE;

4 (III) A COUNTY AND UNITS OF A COUNTY; AND

5 (IV) A MUNICIPAL GOVERNMENT IN THE STATE.

6 (2) "EMPLOYER" INCLUDES A PERSON WHO ACTS DIRECTLY OR
7 INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

8 (C) (1) "LABOR ORGANIZATION" MEANS AN ORGANIZATION OF ANY KIND
9 THAT EXISTS FOR THE PURPOSE OF INTERACTING WITH AN EMPLOYER ON BEHALF
10 OF THE EMPLOYEES OF THE EMPLOYER CONCERNING WAGES, RATES OF PAY, HOURS
11 OF WORK, OR ANY OTHER TERM OR CONDITION OF EMPLOYMENT.

12 (2) "LABOR ORGANIZATION" INCLUDES ANY PERSON WHO ACTS
13 DIRECTLY OR INDIRECTLY IN THE INTEREST OF A LABOR ORGANIZATION WITH AN
14 EMPLOYER.

15 4-702.

16 IT IS THE PUBLIC POLICY OF THE STATE THAT, IN ORDER TO MAXIMIZE
17 INDIVIDUAL FREEDOM OF CHOICE IN THE PURSUIT OF EMPLOYMENT AND TO
18 ENCOURAGE AN EMPLOYMENT CLIMATE CONDUCIVE TO ECONOMIC GROWTH, THE
19 RIGHT TO WORK SHOULD NOT BE SUBJECT TO UNDUE RESTRAINT OR COERCION OR
20 INFRINGED OR RESTRICTED IN ANY WAY BASED ON MEMBERSHIP IN, AFFILIATION
21 WITH, OR FINANCIAL SUPPORT OF A LABOR ORGANIZATION.

22 4-703.

23 (A) THIS SUBTITLE DOES NOT APPLY TO:

24 (1) EMPLOYERS AND EMPLOYEES COVERED BY THE FEDERAL
25 RAILWAY LABOR ACT;

26 (2) FEDERAL EMPLOYERS AND EMPLOYEES;

27 (3) EMPLOYERS AND EMPLOYEES ON EXCLUSIVE FEDERAL
28 ENCLAVES;

1 **(4) A LAW ENFORCEMENT AGENCY AS DEFINED UNDER § 3-201 OF**
2 **THE PUBLIC SAFETY ARTICLE AND THE EMPLOYEES OF THAT LAW ENFORCEMENT**
3 **AGENCY WHO ARE AUTHORIZED TO ENFORCE THE GENERAL CRIMINAL LAWS OF THE**
4 **STATE; AND**

5 **(5) (I) THE STATE, THE STATE AIRPORT AUTHORITY, A COUNTY, A**
6 **MUNICIPAL CORPORATION, OR A FIRE CONTROL DISTRICT, WITH RESPECT ONLY TO**
7 **FIREFIGHTERS, FIRE FIGHTING INSTRUCTORS, OR PARAMEDICS; AND**

8 **(II) THE FIREFIGHTERS, FIRE FIGHTING INSTRUCTORS, OR**
9 **PARAMEDICS EMPLOYED BY THE STATE, THE STATE AIRPORT AUTHORITY, A**
10 **COUNTY, A MUNICIPAL CORPORATION, OR A FIRE CONTROL DISTRICT.**

11 **(B) A PROVISION OF THIS SUBTITLE THAT IS IN CONFLICT WITH OR**
12 **PREEMPTED BY FEDERAL LAW IS UNENFORCEABLE TO THE EXTENT OF THE**
13 **CONFLICT OR PREEMPTION.**

14 **4-704.**

15 **(A) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW,**
16 **AN EMPLOYER MAY NOT REQUIRE, AS A CONDITION OF EMPLOYMENT OR CONTINUED**
17 **EMPLOYMENT, AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE TO:**

18 **(1) JOIN OR REMAIN A MEMBER OF A LABOR ORGANIZATION;**

19 **(2) PAY ANY DUES, FEES, ASSESSMENTS, OR OTHER CHARGES TO A**
20 **LABOR ORGANIZATION; OR**

21 **(3) PAY TO ANY CHARITY OR ANOTHER THIRD PARTY, IN LIEU OF A**
22 **PAYMENT TO A LABOR ORGANIZATION, ANY AMOUNT EQUIVALENT TO OR PRO RATA**
23 **PORTION OF THE CHARGE REQUIRED TO BE PAID TO A LABOR ORGANIZATION BY A**
24 **MEMBER OF THE LABOR ORGANIZATION.**

25 **(B) A LABOR ORGANIZATION OR AN EMPLOYER MAY NOT THREATEN OR**
26 **INTIMIDATE AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE, OR A FAMILY MEMBER**
27 **OR RESIDENT OF THE EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S HOME, OR**
28 **DAMAGE OR THREATEN TO DAMAGE THE PROPERTY OF THE EMPLOYEE OR**
29 **PROSPECTIVE EMPLOYEE, OR A FAMILY MEMBER OF THE EMPLOYEE OR**
30 **PROSPECTIVE EMPLOYEE IN ORDER TO COMPEL OR ATTEMPT TO COMPEL THE**
31 **EMPLOYEE OR PROSPECTIVE EMPLOYEE TO:**

32 **(1) JOIN, AFFILIATE WITH, OR FINANCIALLY SUPPORT A LABOR**
33 **ORGANIZATION; OR**

1 **(2) REFRAIN FROM:**

2 **(I) JOINING, AFFILIATING WITH, OR FINANCIALLY SUPPORTING**
3 **A LABOR ORGANIZATION; OR**

4 **(II) EXERCISING A RIGHT GUARANTEED UNDER THIS SUBTITLE.**

5 **(C) A LABOR ORGANIZATION OR EMPLOYER MAY NOT CAUSE OR ATTEMPT**
6 **TO CAUSE AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE TO BE DENIED OR**
7 **DISCHARGED FROM EMPLOYMENT FOR THE SUPPORT OR NONSUPPORT OF A LABOR**
8 **ORGANIZATION BY INDUCING OR ATTEMPTING TO INDUCE ANOTHER INDIVIDUAL TO**
9 **REFUSE TO WORK WITH THE EMPLOYEE OR PROSPECTIVE EMPLOYEE.**

10 **4-705.**

11 **(A) AN AGREEMENT, AN UNDERSTANDING, OR A PRACTICE BETWEEN AN**
12 **EMPLOYER AND A LABOR ORGANIZATION THAT VIOLATES § 4-704 OF THIS SUBTITLE**
13 **IS NULL AND VOID AND WITHOUT LEGAL EFFECT.**

14 **(B) A LABOR ORGANIZATION MAY NOT STRIKE, PICKET, BOYCOTT, OR**
15 **ENGAGE IN ANY OTHER ACTION FOR THE SOLE PURPOSE OF INDUCING OR**
16 **ATTEMPTING TO INDUCE AN EMPLOYER TO ENTER INTO AN AGREEMENT OR AN**
17 **UNDERSTANDING OR ENGAGE IN A PRACTICE THAT VIOLATES § 4-704 OF THIS**
18 **SUBTITLE.**

19 **4-706.**

20 **(A) AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE MAY FILE AN ACTION**
21 **AGAINST AN EMPLOYER OR A LABOR ORGANIZATION FOR A VIOLATION OF § 4-704**
22 **OR § 4-705(B) OF THIS SUBTITLE IN THE CIRCUIT COURT FOR THE JURISDICTION**
23 **WHERE THE EMPLOYER IS LOCATED.**

24 **(B) IF AN EMPLOYER OR A LABOR ORGANIZATION IS FOUND LIABLE FOR A**
25 **VIOLATION OF § 4-704 OR § 4-705(B) OF THIS SUBTITLE IN AN ACTION FILED UNDER**
26 **SUBSECTION (A) OF THIS SECTION, THE EMPLOYEE OR PROSPECTIVE EMPLOYEE**
27 **WHO FILED THE ACTION IS ENTITLED TO INJUNCTIVE RELIEF, DAMAGES, COURT**
28 **COSTS, AND REASONABLE ATTORNEY'S FEES.**

29 **4-707.**

1 (A) AN INDIVIDUAL WHO VIOLATES § 4-704 OR § 4-705(B) OF THIS
2 SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
3 NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

4 (B) A PERSON OTHER THAN AN INDIVIDUAL WHO VIOLATES § 4-704 OR §
5 4-705(B) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
6 SUBJECT TO A FINE NOT EXCEEDING \$1,000.

7 4-708.

8 (A) THE ATTORNEY GENERAL SHALL:

9 (1) TAKE ANY STEPS NECESSARY TO ENSURE EFFECTIVE
10 ENFORCEMENT OF § 4-704 AND § 4-705(B) OF THIS SUBTITLE;

11 (2) INVESTIGATE ALL COMPLAINTS REGARDING VIOLATIONS OF §
12 4-704 OR § 4-705(B) OF THIS SUBTITLE; AND

13 (3) COMMENCE AND TRY ALL PROSECUTIONS FOR VIOLATIONS OF §
14 4-704 OR § 4-705(B) OF THIS SUBTITLE.

15 (B) WITH RESPECT TO THE COMMENCEMENT AND TRIAL OF A
16 PROSECUTION UNDER SUBSECTION (A) OF THIS SECTION, THE ATTORNEY GENERAL
17 HAS ALL THE POWERS AND DUTIES VESTED BY LAW IN STATE'S ATTORNEYS WITH
18 RESPECT TO CRIMINAL PROSECUTIONS.

19 **Article – State Personnel and Pensions**

20 3-502.

21 (a) Collective bargaining shall include all matters relating to wages, hours, and
22 other terms and conditions of employment.

23 (b) [(1)] Collective bargaining may NOT include negotiations relating to the
24 right of an employee organization to receive service fees from nonmembers.

25 [(2)] An employee whose religious beliefs are opposed to joining or financially
26 supporting any collective bargaining organization is:

27 (i) not required to pay a service fee; and

28 (ii) required to pay an amount of money as determined in collective
29 bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of
30 this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of
31 the Internal Revenue Code and to furnish written proof of the payment to:

- 1 1. A. the Department; or
- 2 B. in the case of an employee of an institution of higher
3 education specified in § 3-102(a)(1)(v) of this title, the President of the institution or the
4 President's designee; and
- 5 2. the exclusive representative.]

6 (c) Notwithstanding subsection (a) of this section, the representatives of the
7 State, a system institution, Morgan State University, St. Mary's College of Maryland, and
8 Baltimore City Community College:

9 (1) shall not be required to negotiate over any matter that is inconsistent
10 with applicable law; and

11 (2) may negotiate and reach agreement with regard to any such matter
12 only if it is understood that the agreement with respect to such matter cannot become
13 effective unless the applicable law is amended by the General Assembly.

14 SECTION 2. AND IT BE FURTHER ENACTED, That this Act shall be construed to
15 apply only prospectively and may not be applied or interpreted to have any effect on or
16 application to any collective bargaining agreements that are entered into before the
17 effective date of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2017.