

HOUSE BILL 362

L5

9lr0582

By: **Montgomery County Delegation and Prince George's County Delegation**

Introduced and read first time: January 30, 2019

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Collective**
3 **Bargaining – Exclusive Representative Duty of Fair Representation**

4 **MC/PG 109–19**

5 FOR the purpose of altering the duty of an employee organization certified as the exclusive
6 representative of certain employees of the Maryland–National Capital Park and
7 Planning Commission to represent all employees in a certain bargaining unit in a
8 certain manner; authorizing the exclusive representative to require an employee who
9 does not pay certain dues or fees to pay certain costs and fees for filing a certain
10 grievance or arbitrating a certain matter; providing that the failure by the employee
11 to pay certain costs and fees relieves the exclusive representative of certain
12 responsibilities; requiring that a dispute concerning the reasonableness of certain
13 costs and fees be submitted to a certain labor relations administrator in accordance
14 with certain procedures; limiting an exclusive representative's duty of fair
15 representation owed to certain public employees to certain matters; providing for the
16 construction of certain provisions of this Act; and generally relating to collective
17 bargaining for employees of the Maryland–National Capital Park and Planning
18 Commission.

19 BY repealing and reenacting, with amendments,
20 Article – Land Use
21 Section 16–202 and 16–302
22 Annotated Code of Maryland
23 (2012 Volume and 2018 Supplement)

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

3 **Article – Land Use**

4 16–202.

5 (a) The Commission shall recognize the right of an employee organization,
6 certified under this subtitle as the exclusive representative of a bargaining unit, to
7 represent the employees in the bargaining unit in collective bargaining and in the
8 settlement of grievances.

9 (b) An employee organization certified as the exclusive representative of a
10 bargaining unit shall:

11 (1) serve as the sole bargaining agent for the unit in collective bargaining;
12 and

13 (2) **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,**
14 represent all employees in the bargaining unit fairly[,] **AND** without discrimination[, and
15 without regard to whether an employee is a member of the employee organization].

16 (c) An employee organization meets the requirements of subsection (b)(2) of this
17 section if the employee organization's actions with respect to employees [who are members
18 of the employee organization and employees who are not members of the employee
19 organization] **IN THE BARGAINING UNIT** are not arbitrary, discriminatory, or in bad faith.

20 **(D) (1) THE EXCLUSIVE REPRESENTATIVE MAY REQUIRE AN EMPLOYEE**
21 **WHO DOES NOT PAY MEMBERSHIP DUES OR EQUIVALENT FEES TO PAY:**

22 **(I) THE REASONABLE COSTS AND FEES, INCLUDING EXPENSES**
23 **FOR STAFF TIME AND MATERIALS, ARBITRATOR FEES, AND RELATED ATTORNEY'S**
24 **FEES, FOR FILING A GRIEVANCE OR ARBITRATING A MATTER THAT ARISES UNDER A**
25 **COLLECTIVE BARGAINING AGREEMENT NEGOTIATED UNDER THIS SUBTITLE**
26 **BROUGHT BY THE EXCLUSIVE REPRESENTATIVE AT THE REQUEST OF THE**
27 **EMPLOYEE; AND**

28 **(II) ANY ANTICIPATED PROPORTIONAL COSTS AND FEES**
29 **BEFORE A GRIEVANCE IS FILED OR ARBITRATION IS PURSUED.**

30 **(2) FAILURE BY THE EMPLOYEE TO PAY THE COSTS AND FEES**
31 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL RELIEVE THE**
32 **EXCLUSIVE REPRESENTATIVE OF ANY FURTHER RESPONSIBILITY TO THE**
33 **EMPLOYEE.**

1 **(3) A DISPUTE CONCERNING THE REASONABLENESS OF THE COSTS**
2 **AND FEES IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE**
3 **SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR IN ACCORDANCE WITH THE**
4 **PROCEDURES ESTABLISHED UNDER § 16–218 OF THIS SUBTITLE FOR UNFAIR LABOR**
5 **PRACTICES.**

6 **(E) (1) AN EXCLUSIVE REPRESENTATIVE’S DUTY OF FAIR**
7 **REPRESENTATION OWED TO A PUBLIC EMPLOYEE WHO IS IN THE BARGAINING UNIT**
8 **SHALL BE LIMITED TO THE NEGOTIATION AND ENFORCEMENT OF THE TERMS OF**
9 **THE COLLECTIVE BARGAINING AGREEMENT WITH THE PUBLIC EMPLOYER.**

10 **(2) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO LIMIT AN**
11 **EMPLOYEE ORGANIZATION FROM PROVIDING ONLY TO THE ORGANIZATION’S**
12 **MEMBERS LEGAL, ECONOMIC, OR JOB-RELATED SERVICES OR BENEFITS OUTSIDE**
13 **THE COLLECTIVE BARGAINING AGREEMENT.**

14 16–302.

15 (a) The Commission shall recognize the right of an employee organization,
16 certified under this subtitle as the exclusive representative of the bargaining unit, to
17 represent the employees in the bargaining unit in collective bargaining and in the
18 settlement of grievances.

19 (b) An employee organization certified as the exclusive representative of a
20 bargaining unit shall:

21 (1) serve as the sole bargaining agent for the bargaining unit in collective
22 bargaining; and

23 (2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
24 represent all employees in the bargaining unit fairly[,] AND without discrimination[, and
25 without regard to whether an employee is a member of the employee organization].

26 **(C) (1) THE EXCLUSIVE REPRESENTATIVE MAY REQUIRE AN EMPLOYEE**
27 **WHO DOES NOT PAY MEMBERSHIP DUES OR EQUIVALENT FEES TO PAY:**

28 **(I) THE REASONABLE COSTS AND FEES, INCLUDING EXPENSES**
29 **FOR STAFF TIME AND MATERIALS, ARBITRATION FEES, AND RELATED ATTORNEY’S**
30 **FEES, FOR FILING A GRIEVANCE OR ARBITRATING A MATTER THAT ARISES UNDER A**
31 **COLLECTIVE BARGAINING AGREEMENT NEGOTIATED UNDER THIS SUBTITLE**
32 **BROUGHT BY THE EXCLUSIVE REPRESENTATIVE AT THE REQUEST OF THE**
33 **EMPLOYEE; AND**

1 (II) ANY ANTICIPATED PROPORTIONAL COSTS AND FEES
 2 BEFORE A GRIEVANCE IS FILED OR ARBITRATION IS PURSUED.

3 (2) FAILURE BY THE EMPLOYEE TO PAY THE COSTS AND FEES
 4 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL RELIEVE THE
 5 EXCLUSIVE REPRESENTATIVE OF ANY FURTHER RESPONSIBILITY TO THE
 6 EMPLOYEE.

7 (3) A DISPUTE CONCERNING THE REASONABLENESS OF THE COSTS
 8 AND FEES IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE
 9 SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR IN ACCORDANCE WITH THE
 10 PROCEDURES ESTABLISHED UNDER § 16–317 OF THIS SUBTITLE FOR UNFAIR LABOR
 11 PRACTICES.

12 (D) (1) AN EXCLUSIVE REPRESENTATIVE’S DUTY OF FAIR
 13 REPRESENTATION OWED TO A PUBLIC EMPLOYEE WHO IS IN THE BARGAINING UNIT
 14 SHALL BE LIMITED TO THE NEGOTIATION AND ENFORCEMENT OF THE TERMS OF
 15 THE COLLECTIVE BARGAINING AGREEMENT WITH THE PUBLIC EMPLOYER.

16 (2) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO LIMIT AN
 17 EMPLOYEE ORGANIZATION FROM PROVIDING ONLY TO THE ORGANIZATION’S
 18 MEMBERS LEGAL, ECONOMIC, OR JOB-RELATED SERVICES OR BENEFITS OUTSIDE
 19 THE COLLECTIVE BARGAINING AGREEMENT.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 21 October 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.