

Chapter 561

(House Bill 302)

AN ACT concerning

Montgomery County Housing Opportunities Commission – Collective Bargaining – Exclusive Representative Duty of Fair Representation

MC 26–19

FOR the purpose of altering the duty of an employee organization certified as the exclusive representative of certain employees of the Housing Opportunities Commission of Montgomery County to represent all employees in a certain bargaining unit in a certain manner; authorizing the exclusive representative to require an employee who does not pay certain dues or fees to pay certain costs and fees for filing a certain grievance or arbitrating a certain matter; providing that the failure by the employee to pay certain costs and fees relieves the exclusive representative of certain responsibilities; requiring that a dispute concerning the reasonableness of certain costs and fees be submitted to a certain labor relations administrator in accordance with certain procedures; limiting an exclusive representative’s duty of fair representation owed to certain public employees to certain matters; providing for the construction of certain provisions of this Act; and generally relating to collective bargaining for employees of the Housing Opportunities Commission of Montgomery County.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 16–303
Annotated Code of Maryland
(2006 Volume and 2018 Supplement)

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

Article – Housing and Community Development

16–303.

(a) (1) The Montgomery Commission shall recognize the right of an employee organization certified under this subtitle as the exclusive representative of a bargaining unit to represent the employees of the bargaining unit in collective bargaining and in the settlement of grievances.

(2) If a single employee organization is certified to represent more than one bargaining unit, the Montgomery Commission shall negotiate a single contract with that organization covering all employees the organization represents.

(b) (1) An employee organization certified as the exclusive representative of a bargaining unit shall:

(i) serve as the only bargaining agent for the unit in collective bargaining; and

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

(2) An employee organization meets the requirements of paragraph (1)(ii) of this subsection as long as its actions are not arbitrary, discriminatory, or in bad faith toward[:

(i) employees who are members of the employee organization; or

(ii) employees who are not members of the employee organization]

AN EMPLOYEE IN THE BARGAINING UNIT.

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

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

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

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

(3) A DISPUTE CONCERNING THE REASONABLENESS OF THE COSTS AND FEES IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED UNDER § 16-318 OF THIS SUBTITLE FOR UNFAIR LABOR PRACTICES.

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

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

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

Approved by the Governor, May 13, 2019.