

# HOUSE BILL 1432

P4

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By: **Delegate Kittleman**

Introduced and read first time: February 22, 2022

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public-Sector Collective Bargaining – Service, Representation, and**  
3 **Maintenance Fees – Repeal**

4 FOR the purpose of repealing provisions of law authorizing or requiring the charging of  
5 service, representation, or maintenance fees by public-sector exclusive  
6 representatives to nonmembers; and generally relating to the public-sector collective  
7 bargaining.

8 BY repealing and reenacting, without amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 2–322(a) and (e)(1) and (2)  
11 Annotated Code of Maryland  
12 (2020 Replacement Volume and 2021 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Courts and Judicial Proceedings  
15 Section 2–322(e)(3)(v)  
16 Annotated Code of Maryland  
17 (2020 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Education  
20 Section 6–407, 6–504, 9.5–704, and 16–414.1(e)(3) and (f)  
21 Annotated Code of Maryland  
22 (2018 Replacement Volume and 2021 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – Health – General  
25 Section 15–904(e)  
26 Annotated Code of Maryland  
27 (2019 Replacement Volume and 2021 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Land Use  
3 Section 16–309  
4 Annotated Code of Maryland  
5 (2012 Volume and 2021 Supplement)

6 BY repealing  
7 Article – Land Use  
8 Section 16–316  
9 Annotated Code of Maryland  
10 (2012 Volume and 2021 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article – State Personnel and Pensions  
13 Section 3–502  
14 Annotated Code of Maryland  
15 (2015 Replacement Volume and 2021 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 2–322.

20 (a) This section applies only in Charles County.

21 (e) (1) This subsection applies to all full–time, merit system sworn law  
22 enforcement officers and correctional officers in the Sheriff’s Office at a rank of sergeant or  
23 below.

24 (2) This subsection does not apply to the following employees in the  
25 Sheriff’s Office:

26 (i) Sworn law enforcement officers or correctional officers in the  
27 Sheriff’s Office at a rank of lieutenant or above;

28 (ii) Employees in appointed positions;

29 (iii) Civilian merit system employees;

30 (iv) Full–time reduced hours employees;

31 (v) Part–time employees;

32 (vi) Contractual employees;

1 (vii) Temporary employees;

2 (viii) Emergency employees; or

3 (ix) Employees whose employment is administered under the county  
4 policies and procedures manual.

5 (3) (v) [1. A sworn law enforcement officer or correctional officer who  
6 is not a member of a bargaining unit with an exclusive representative may be required to  
7 pay a proportional service fee for costs associated with the administration and enforcement  
8 of any agreement that benefits the affected employees.

9 2.] An exclusive representative shall be selected in  
10 accordance with the procedures set forth in paragraph (5) of this subsection.

### 11 Article – Education

12 6–407.

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

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

18 (2) In addition, in Montgomery County the exclusive representative shall  
19 represent fairly and without discrimination all persons actually employed as substitute  
20 teachers without regard to whether they are included in § 6–401(e) of this subtitle as public  
21 school employees.

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

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

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

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

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

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

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

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

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

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

14 (7) The public school employer shall:

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

18 (ii) Promptly transmit the amount deducted to the exclusive  
19 representative.

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

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

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

27 (i) Members of the employee organization; and

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

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

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

5 6-504.

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

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

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

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

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

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

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

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

25 (d) The public school employer shall:

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

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

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

33 (f) (1) This subsection applies to a county in which a service or representation

1 fee was not negotiated before July 1, 2013.

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

4 (i) Members of the employee organization; and

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

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

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

13 9.5–704.

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

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

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

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

24 (1) Reimbursement rates;

25 (2) Benefits;

26 (3) Payment procedures;

27 (4) Contract grievance procedures;

28 (5) Training;

29 (6) Member dues deductions; and

30 (7) Other terms and conditions of participation by family child care

1 providers in the Maryland Child Care Subsidy Program.

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

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

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

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

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

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

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

20 (3) The fund:

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

22 (ii) Shall be established and administered in consultation with the  
23 State.

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

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

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

30 [(g) (F) Notwithstanding subsection (d) of this section, the representatives of  
31 the State:

32 (1) May not be required to negotiate any matter that is inconsistent with

1 applicable law; and

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

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

8 16–414.1.

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

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

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

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

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

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

21 **Article – Health – General**

22 15–904.

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

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

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



1 reimbursement through:

2 1. The Medicaid Waiver for Older Adults that is jointly  
3 administered by the Department and the Department of Aging as established under §  
4 15–132 of this title, or any successor program;

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

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

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

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

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

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

20 (ii) An independent home care provider who provides services to an  
21 immediate family member and any other individual who is not an immediate family  
22 member may be required to pay a service fee that is proportionate to the amount the  
23 provider receives in reimbursement for the provider’s services to any individual who is not  
24 an immediate family member.

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

28 **Article – Land Use**

29 16–309.

30 (a) The Commission and the exclusive representative shall execute a collective  
31 bargaining agreement incorporating all matters agreed.

32 (b) A collective bargaining agreement may include a provision for:

33 (1) dues [and maintenance or service fees] paid by payroll deduction; and

1           (2)    the arbitration of grievances arising under the collective bargaining  
2 agreement.

3           (c)    The collective bargaining agreement supersedes any conflicting rule,  
4 regulation, or administrative policy of the Commission.

5 [16–316.

6           (a)    This subtitle does not preclude the Commission from entering into a collective  
7 bargaining agreement with an exclusive representative that requires an employee, as a  
8 condition of employment, to pay a maintenance or service fee as a contribution towards the  
9 cost of the negotiation and administration of the collective bargaining agreement.

10          (b)    A maintenance or service fee under subsection (a) of this section may not  
11 exceed the annual dues paid to the exclusive representative.

12          (c)    Before the Commission discharges an employee who fails to pay a  
13 maintenance or service fee, it shall give the employee:

14               (1)    written notice of the delinquent payment; and

15               (2)    adequate time to correct the delinquency.

16          (d)    If the Commission and an employee are unable to resolve any issue relating  
17 to the payment of a maintenance or service fee, the issue shall be submitted to an umpire  
18 in accordance with § 16–317 of this subtitle.]

19                               **Article – State Personnel and Pensions**

20 3–502.

21          (a)    Collective bargaining shall include all matters relating to:

22               (1)    wages, hours, and other terms and conditions of employment; and

23               (2)    the time and manner of access to a new employee program as required  
24 under § 3–307 of this title.

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

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

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

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

5                   1.     A.     the Department;

6                   B.     in the case of an employee of the Maryland Environmental  
7 Service, the Board of Directors of the Service; or

8                   C.     in the case of an employee of an institution of higher  
9 education specified in § 3–102(a)(1)(v) of this title, the President of the institution or the  
10 President’s designee; and

11                   2.     the exclusive representative.]

12           (c)     Notwithstanding subsection (a) of this section, the representatives of the  
13 State, the Maryland Environmental Service, a system institution, Morgan State  
14 University, St. Mary’s College of Maryland, and Baltimore City Community College:

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

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

20           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
21 1, 2022.