

## CHAPTER 282

(House Bill 122)

AN ACT concerning

### **Calvert County – Education – Certificated School Personnel – ~~Employee Service or Representation Fee~~ Collective Bargaining Representation Fees**

FOR the purpose of authorizing the Board of Education of Calvert County ~~Board of Education~~ to negotiate a certain fee with a certain ~~employee organization a service or representation fee~~ certificated employee organization to be charged to certain ~~nonmember school employees~~ nonmembers for certain ~~purposes, requiring representation;~~ the Calvert County Board of Education to negotiate with a certain employee organization a reasonable service fee to be charged to certain nonmember school employees for certain purposes; making this Act applicable only to school employees hired on or after a certain date; and generally relating to the negotiation of a service or representation fee to be charged to certain school employees employed by the education and collective bargaining fees for certain certificated school personnel in Calvert County ~~Board of Education.~~

BY repealing and reenacting, without amendments,

Article – Education

Section ~~6-401~~ and ~~6-407(a)~~ and (b)

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education

Section ~~6-407~~ and ~~6-504~~ ~~6-407(d)~~

Annotated Code of Maryland

(2008 Replacement Volume)

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

#### **Article – Education**

6-401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Employee organization” means an organization that:

(1) Includes certificated employees of a public school employer or individuals of equivalent status in Baltimore City; and

(2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

(c) (1) "Home and hospital teacher" means a teacher employed by a public school employer to provide instructional services to a public school student who is unable to function effectively in the classroom setting due to the student's medical, physical, or emotional condition.

(2) A home and hospital teacher may teach in:

(i) A private home;

(ii) A hospital;

(iii) A therapeutic center;

(iv) A school; or

(v) Any other appropriate site.

(d) (1) "Public school employee" means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § 6-408(b) of this subtitle.

(2) In Montgomery County, "public school employees" include:

(i) Certificated and noncertificated substitute teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 1978, and each year after; and

(ii) Home and hospital teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 2000, and each year after.

(3) In Baltimore County, "public school employee" includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § 6-501(h) of this title.

(4) In Frederick County, “public school employee” includes a social worker employed by a public school employer.

(5) In Prince George’s County, “public school employee” includes home and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

(6) In Charles County and Garrett County, “public school employee” includes Junior Reserve Officer Training Corps (JROTC) instructors.

(7) In Carroll County, “public school employee” includes supervisory noncertificated employees as defined under § 6–501(h) of this title.

(e) “Public school employer” means a county board of education or the Baltimore City Board of School Commissioners.

6–407.

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

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

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

~~(e) (1) In Montgomery County, Prince George’s County, Baltimore County, Baltimore City, and Howard County, the public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee, to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(2) IN CALVERT COUNTY, THE PROVISIONS OF THIS SUBSECTION SHALL APPLY ONLY TO EMPLOYEES WHO ARE HIRED ON OR AFTER JULY 1, 2009.~~

~~(3)~~ In Charles County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 2005.

~~(e) In Garrett County:~~

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

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

~~(f) In Anne Arundel County:~~

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

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

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

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

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

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

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

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

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

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

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

~~6-504.~~

~~(a) A public school employee may refuse to join or participate in the activities of employee organizations.~~

~~(b) (1) In Montgomery County, Allegany County, CALVERT COUNTY, Charles County, and Howard County, the county board, with respect to noncertificated~~

~~employees, shall negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.~~

~~(2) IN CALVERT COUNTY, THE PROVISIONS OF THIS SUBSECTION SHALL APPLY ONLY TO EMPLOYEES HIRED ON OR AFTER JULY 1, 2009.~~

~~(3) In Charles County, the provisions of this subsection shall apply only to employees hired on or after July 1, 2005.~~

~~(e) In Prince George's County, the county board shall negotiate an organizational security provision, commonly known as "agency shop", with employee organizations.~~

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

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

~~(i) Each party shall:~~

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

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

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

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

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

~~2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of,~~

~~action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.~~

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

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

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

~~(e) In Baltimore City, the public school employer shall negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee to be charged to nonmembers for representing them in negotiations in the same manner that any such fee was permitted under law and bargained for prior to January 1, 1997.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2009.

**Approved by the Governor, May 7, 2009.**