

HOUSE BILL 531

K3
HB 1038/16 – ECM

7lr1191

By: **Delegates W. Miller, Adams, Arentz, Aumann, Fisher, S. Howard, Krebs, Mautz, McConkey, Rose, Shoemaker, and Vogt**

Introduced and read first time: January 30, 2017

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of prohibiting certain employers from requiring, as a condition of
4 employment or continued employment, an employee or a prospective employee to join
5 or remain a member of a labor organization, pay charges to a labor organization, or
6 pay a certain amount to a third party under certain circumstances; prohibiting
7 certain employers from threatening an employee or a prospective employee with
8 certain action; specifying that certain agreements, understandings, or practices
9 between employers and labor organizations are null and void and without legal
10 effect; authorizing an employee or a prospective employee to file an action in a certain
11 circuit court for a certain violation of law; specifying that an employee or a
12 prospective employee is entitled to injunctive relief and to recover certain damages
13 and costs under certain circumstances; providing that a certain violation of law is a
14 misdemeanor and is subject to certain penalties; requiring the Attorney General to
15 take certain action to ensure effective enforcement of certain laws, investigate
16 certain complaints, and try certain prosecutions; specifying that the Attorney
17 General has certain powers and duties relating to criminal prosecutions under
18 certain circumstances; specifying that certain provisions of law are unenforceable
19 under certain circumstances; repealing a certain provision of law that prohibits a
20 court from granting relief under certain circumstances; repealing certain provisions
21 of law related to fees paid by employees to certain labor organizations; defining
22 certain terms; providing for the application of this Act; and generally relating to the
23 rights of individuals, employee organizations, and employers.

24 BY repealing and reenacting, without amendments,
25 Article – Courts and Judicial Proceedings
26 Section 2–309(j)(5)(i) and (ii)
27 Annotated Code of Maryland
28 (2013 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, with amendments,
2 Article – Courts and Judicial Proceedings
3 Section 2–309(j)(5)(iii)
4 Annotated Code of Maryland
5 (2013 Replacement Volume and 2016 Supplement)
- 6 BY repealing and reenacting, with amendments,
7 Article – Education
8 Section 6–407, 6–504, 9.5–704, and 16–414.1(e)(3) and (f)
9 Annotated Code of Maryland
10 (2014 Replacement Volume and 2016 Supplement)
- 11 BY repealing and reenacting, with amendments,
12 Article – Health – General
13 Section 15–904(e)
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2016 Supplement)
- 16 BY repealing and reenacting, with amendments,
17 Article – Labor and Employment
18 Section 4–304
19 Annotated Code of Maryland
20 (2016 Replacement Volume)
- 21 BY adding to
22 Article – Labor and Employment
23 Section 4–701 through 4–707 to be under the new subtitle “Subtitle 7. Right to Work”
24 Annotated Code of Maryland
25 (2016 Replacement Volume)
- 26 BY repealing and reenacting, with amendments,
27 Article – Land Use
28 Section 16–309
29 Annotated Code of Maryland
30 (2012 Volume and 2016 Supplement)
- 31 BY repealing
32 Article – Land Use
33 Section 16–316
34 Annotated Code of Maryland
35 (2012 Volume and 2016 Supplement)
- 36 BY repealing and reenacting, with amendments,
37 Article – State Personnel and Pensions
38 Section 3–502
39 Annotated Code of Maryland
40 (2015 Replacement Volume and 2016 Supplement)

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

3 **Article – Courts and Judicial Proceedings**

4 2–309.

5 (j) (5) (i) This paragraph applies to all full–time, merit system sworn law
6 enforcement officers and correctional officers in the Charles County Sheriff’s Office at a
7 rank of sergeant or below.

8 (ii) This paragraph does not apply to the following employees in the
9 Charles County Sheriff’s Office:

- 10 1. Sworn law enforcement officers or correctional officers in
11 the Charles County Sheriff’s Office at a rank of lieutenant or above;
- 12 2. Employees in appointed positions;
- 13 3. Civilian merit system employees;
- 14 4. Full–time reduced hours employees;
- 15 5. Part–time employees;
- 16 6. Contractual employees;
- 17 7. Temporary employees;
- 18 8. Emergency employees; or
- 19 9. Employees whose employment is administered under the
20 county policies and procedures manual.

21 (iii) 1. A sworn law enforcement officer or correctional officer
22 subject to this paragraph has the right to:

- 23 A. Take part in or refrain from taking part in forming,
24 joining, supporting, or participating in any employee organization or its lawful activities;
- 25 B. Be represented by an exclusive representative, if any, in
26 collective bargaining; and
- 27 C. Engage in other concerted activities for the purpose of
28 collective bargaining.

1 2. Sworn law enforcement officers and correctional officers
 2 subject to this paragraph may seek recognition in order to organize and bargain collectively
 3 in good faith with the Sheriff or the Sheriff's designee concerning the following matters:

4 A. Compensation, excluding salary, wages, and those
 5 benefits determined, offered, administered, controlled, or managed by the County
 6 Commissioners of Charles County;

7 B. Leave, holidays, and vacations; and

8 C. Hours, working conditions, and job security.

9 3. A. Sworn law enforcement officers subject to this
 10 paragraph may seek recognition in order to organize and bargain collectively in good faith
 11 with the County Commissioners of Charles County and the Sheriff, or the Sheriff's
 12 designee, concerning merit step increases and those benefits determined, offered,
 13 administered, controlled, or managed by the County Commissioners of Charles County.

14 B. Correctional officers subject to this paragraph may seek
 15 recognition in order to organize and bargain collectively in good faith with the County
 16 Commissioners of Charles County and the Sheriff, or the Sheriff's designee, concerning
 17 salary, wages, and those benefits determined, offered, administered, controlled, or managed
 18 by the County Commissioners of Charles County.

19 4. A. A sworn law enforcement officer or correctional
 20 officer who is a member of a bargaining unit with an exclusive representative may discuss
 21 any matter with the employer without the intervention of the exclusive representative.

22 B. If a discussion under subsubsubparagraph A of this
 23 subsubparagraph leads to a resolution or adjustment of a dispute, the resolution or
 24 adjustment may not be inconsistent with the terms of a collective bargaining agreement
 25 then in effect.

26 5. [A sworn law enforcement officer or correctional officer
 27 who is not a member of a bargaining unit with an exclusive representative may be required
 28 to pay a proportional service fee for costs associated with the administration and
 29 enforcement of any agreement that benefits the affected employees.] An exclusive
 30 representative shall be selected in accordance with the procedures set forth in
 31 subparagraph (v) of this paragraph.

32 6. This paragraph does not require that sworn law
 33 enforcement officers and correctional officers be represented by the same exclusive
 34 representative.

35 Article – Education

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (7) The public school employer shall:

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

5 (ii) Promptly transmit the amount deducted to the exclusive
6 representative.

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

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

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

14 (i) Members of the employee organization; and

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

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

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

23 6-504.

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

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

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

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

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

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

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

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

11 (d) The public school employer shall:

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

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

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

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

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

23 (i) Members of the employee organization; and

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

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

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

32 9.5-704.

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

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

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

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

11 (1) Reimbursement rates;

12 (2) Benefits;

13 (3) Payment procedures;

14 (4) Contract grievance procedures;

15 (5) Training;

16 (6) Member dues deductions; and

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

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

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

25 (2) A family child care provider whose religious beliefs are opposed to
26 joining or financially 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

1 the Internal Revenue Code and to furnish to the Department and the exclusive
2 representative written proof of the payment.

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

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

7 (3) The fund:

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

9 (ii) Shall be established and administered in consultation with the
10 State.

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

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

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

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

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

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

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

27 16–414.1.

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

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

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

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

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

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

9 Article – Health – General

10 15–904.

11 (e) [(1) (i) Subject to subparagraphs (ii) and (iii) of this paragraph,
12 collective] COLLECTIVE bargaining may NOT include negotiations relating to the right of
13 a provider organization that is the exclusive representative to receive service fees from
14 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 (iii) The representatives of the State may only agree to a service fee
19 provision if the service fee provision would require nonmembers to pay service fees on a
20 sliding scale in approximate proportion to the amount each nonmember receives in
21 reimbursement through:

22 1. The Medicaid Waiver for Older Adults that is jointly
23 administered by the Department and the Department of Aging as established under §
24 15–132 of this title, or any successor program;

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

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

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

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

1 (ii) Shall 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 to the State agencies engaged in collective
5 bargaining under this subtitle and the exclusive representative written proof of the
6 payment.

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

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

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

17 Article – Labor and Employment

18 4–304.

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

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

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

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

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

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

31 (1) a party to the promise; or

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

SUBTITLE 7. RIGHT TO WORK.

4-701.

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

(B) (1) "EMPLOYER" MEANS:

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

(II) THE STATE AND UNITS OF THE STATE;

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

(IV) A MUNICIPAL GOVERNMENT IN THE STATE.

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

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

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

4-702.

(A) THIS SUBTITLE DOES NOT APPLY TO:

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

(2) FEDERAL EMPLOYERS AND EMPLOYEES; AND

(3) EMPLOYERS AND EMPLOYEES ON EXCLUSIVE FEDERAL ENCLAVES.

1 (B) A PROVISION OF THIS SUBTITLE THAT IS IN CONFLICT WITH OR
2 PREEMPTED BY FEDERAL LAW IS UNENFORCEABLE TO THE EXTENT OF THE
3 CONFLICT OR PREEMPTION.

4 **4-703.**

5 (A) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW,
6 AN EMPLOYER MAY NOT REQUIRE, AS A CONDITION OF EMPLOYMENT OR CONTINUED
7 EMPLOYMENT, AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE TO:

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

9 (2) PAY ANY DUES, FEES, ASSESSMENTS, OR OTHER CHARGES TO A
10 LABOR ORGANIZATION; OR

11 (3) PAY TO ANY CHARITY OR ANOTHER THIRD PARTY, IN LIEU OF A
12 PAYMENT TO A LABOR ORGANIZATION, ANY AMOUNT EQUIVALENT TO OR PRO RATA
13 PORTION OF THE CHARGE REQUIRED TO BE PAID TO A LABOR ORGANIZATION BY A
14 MEMBER OF THE LABOR ORGANIZATION.

15 (B) AN EMPLOYER MAY NOT THREATEN AN EMPLOYEE OR A PROSPECTIVE
16 EMPLOYEE WITH AN ACTION THAT WOULD BE A VIOLATION OF SUBSECTION (A) OF
17 THIS SECTION.

18 **4-704.**

19 AN AGREEMENT, AN UNDERSTANDING, OR A PRACTICE BETWEEN AN
20 EMPLOYER AND A LABOR ORGANIZATION THAT VIOLATES § 4-703 OF THIS SUBTITLE
21 IS NULL AND VOID AND WITHOUT LEGAL EFFECT.

22 **4-705.**

23 (A) AN EMPLOYEE OR A PROSPECTIVE EMPLOYEE MAY FILE AN ACTION
24 AGAINST AN EMPLOYER FOR A VIOLATION OF § 4-703 OF THIS SUBTITLE IN THE
25 CIRCUIT COURT FOR THE JURISDICTION WHERE THE EMPLOYER IS LOCATED.

26 (B) IF AN EMPLOYER IS FOUND LIABLE FOR A VIOLATION OF § 4-703 OF THIS
27 SUBTITLE IN AN ACTION FILED UNDER SUBSECTION (A) OF THIS SECTION, THE
28 EMPLOYEE OR PROSPECTIVE EMPLOYEE WHO FILED THE ACTION IS ENTITLED TO
29 INJUNCTIVE RELIEF, DAMAGES, COURT COSTS, AND REASONABLE ATTORNEY'S
30 FEES.

31 **4-706.**

1 (A) AN INDIVIDUAL WHO VIOLATES § 4-703 OF THIS SUBTITLE IS GUILTY OF
2 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
3 \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

4 (B) A PERSON OTHER THAN AN INDIVIDUAL WHO VIOLATES § 4-703 OF THIS
5 SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
6 NOT EXCEEDING \$1,000.

7 4-707.

8 (A) THE ATTORNEY GENERAL SHALL:

9 (1) TAKE ANY STEPS NECESSARY TO ENSURE EFFECTIVE
10 ENFORCEMENT OF THIS SUBTITLE;

11 (2) INVESTIGATE ALL COMPLAINTS REGARDING VIOLATIONS OF §
12 4-703 OF THIS SUBTITLE; AND

13 (3) COMMENCE AND TRY ALL PROSECUTIONS FOR VIOLATIONS OF §
14 4-703 OF THIS SUBTITLE.

15 (B) WITH RESPECT TO THE COMMENCEMENT AND TRIAL OF THE
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 – Land Use**

20 16-309.

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

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

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

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

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

1 [16–316.

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

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

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

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

11 (2) adequate time to correct the delinquency.

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

15 Article – State Personnel and Pensions

16 3–502.

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

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

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

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

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

28 1. A. the Department; or

29 B. in the case of an employee of an institution of higher
30 education specified in § 3–102(a)(1)(v) of this title, the President of the institution or the
31 President’s designee; and

1 2. the exclusive representative.]

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

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

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

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

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