

## **CLARIFICATIONS ON SERVICE FEES**

State employees understandably have many questions regarding the impact of the newly enacted service fee bill. While the General Assembly did approve a version of Senate Bill 264, **there is no immediate impact on state employees - AFSCME does not have the right to begin to take service fees from nonmembers:**

1. The new law only allows the State and the exclusive representative (in most cases, AFSCME) to include a request for service fees in their collective bargaining negotiations. The current AFSCME memorandums of understanding (MOUs) (for units A, B, C, D, F, and H) do not expire until December 31, 2009, and so any changes, to include service fees, can only be negotiated as part of the next state contract.
2. Any MOU, including one that contains a negotiated service fee, is subject to ratification by members of the bargaining unit, regardless of whether they are members of AFSCME or any other exclusive representative. This means that employees must watch for their opportunity to vote on whether to accept an MOU that contains a provision for service fees. The process for MOU ratification is, as of late February, 2009, contained in COMAR 14.32.06.03 (available online at [www.dsd.state.md.us](http://www.dsd.state.md.us)).

**While MCEA fought for amendments to SB 264 that would have provided for a separate, stand-alone vote on service fees, this provision was opposed by AFSCME and rejected by the legislature. As such, any service fee that may be negotiated will be part of an MOU, and employees must then exercise their right to vote on whether to accept an MOU that contains service fees.**

3. The bill does contain a provision for employees to opt-out of the payment of service fees on religious grounds, and to instead donate a fee to a non-profit organization. The precise impact of this provision, and how it is going to be applied, remains to be seen. Further, while this provision addresses those who may object to paying service fees on religious grounds, the Supreme Court has ruled that any MOU containing a provision for service fees must include, for the benefit of all employees, an adequate explanation of the basis for the fee, a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker, and an escrow for the amounts reasonably in dispute while such challenges are pending. As no such protections were included in SB 264, it is not known how those protections will be incorporated into an MOU, and how employees will be advised of these rights. **MCEA will continue to monitor the implementation of the legislation, and research all available options to ensure that the rights of all state employees to vote for or against, and to appropriately challenge the forced payment of service fees, are protected.**
4. Presently, the final language of SB 264 is available at [www.mlis.state.md.us](http://www.mlis.state.md.us). MCEA also has it published on our website, and will continue to advise State employees of their rights and options through e-mails, flyers and website postings.



***Maryland Classified Employees Association, inc.***