

By: Senators Stone, Jimeno, and Boozer

Introduced and read first time: January 24, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 1996

CHAPTER _____

1 AN ACT concerning

2 **State Personnel - Hearings and Decisions**

3 FOR the purpose of requiring the Secretary of Personnel to delegate authority to the
4 Office of Administrative Hearings to hear and decide certain appeals; clarifying
5 certain delegations of authority to the Office of Administrative Hearings to conduct
6 certain hearings and to issue certain decisions in contested State employment cases;
7 authorizing the Office of Administrative Hearings to issue certain final decisions;
8 requiring the Secretary to take certain actions within a certain time period after an
9 appeal; making this Act an emergency measure; and generally relating to hearings
10 and decisions in contested cases under the State Personnel Article.

11 BY repealing and reenacting, with amendments,
12 Article - State Personnel and Pensions
13 Section 2-301, 2-302, 2-303, and 2-304
14 Annotated Code of Maryland
15 (1994 Volume and 1995 Supplement)

16 BY repealing
17 Article - State Personnel and Pensions
18 Section 2-305
19 Annotated Code of Maryland
20 (1994 Volume and 1995 Supplement)

21 BY adding to
22 Article - State Personnel and Pensions
23 Section 2-304
24 Annotated Code of Maryland

2

1 (1994 Volume and 1995 Supplement)

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

4 **Article - State Personnel and Pensions**

5 2-301.

6 The Secretary [may] SHALL delegate to the Office of Administrative Hearings the
7 authority to conduct a hearing and issue a final decision in any of the following:

8 (1) a grievance under § 14-1B-06 of the Education Article or § 10-209(b) of
9 this article; ~~and~~

10 (2) an appeal under § 6-107(d)(1) of this article from the denial of a pay
11 increment;

12 ~~2-302.~~

13 ~~The Secretary [may] SHALL delegate to the Office of Administrative Hearings the~~
14 ~~authority to conduct a hearing and issue a [proposed] FINAL decision [for approval by~~
15 ~~the Secretary] in any of the following:~~

16 ~~(1)~~ (3) a Whistleblower Law hearing under § 3-308 of this article;

17 ~~(2)~~ (4) a hearing under § 4-504 of this article on an unsatisfactory work or
18 conduct report;

19 ~~(3)~~ (5) an appeal under § 4-604 of this article from the proposed
20 demotion of an employee;

21 ~~(4)~~ (6) an appeal under § 9-103 of this article by an employee who is
22 rejected while on probation as a result of a promotion;

23 ~~(5)~~ (7) an appeal under § 9-205 of this article from charges for removal of
24 an employee;

25 ~~(6)~~ (8) a preliminary hearing under § 9-303 of this article on the
26 suspension of an employee pending removal;

27 ~~(7)~~ (9) an appeal under § 9-406 of this article from the disciplinary
28 suspension of an employee; and

29 ~~(8)~~ (10) an appeal under Article 29, § 11-109(b) of the Code from the
30 removal of an employee of the Washington Suburban Sanitary Commission.

31 ~~2-303.~~ 2-302.

32 The [Secretary may delegate to the deputy secretary, an assistant secretary, or
33 another official in the Department whose duties are unrelated to the hearing process, the
34 authority to approve any of the following:

35 (1) a proposed decision issued under § 2-302 of this subtitle; and

3

1 (2) a proposed] OFFICE OF ADMINISTRATIVE HEARINGS SHALL ISSUE
2 THE FINAL decision [issued] in a grievance arbitration under § 10-209(c) of this article.

3 ~~2-304. 2-303.~~

4 In an appeal submitted to the Secretary under Title 13, Subtitle 1A of the
5 Education Article, the Secretary may delegate authority TO THE OFFICE OF
6 ADMINISTRATIVE HEARINGS in a way that is consistent with the other delegations
7 allowed under this subtitle.

8 [2-305.

9 Within 30 days after a delegation of authority is made under this subtitle, the
10 Secretary shall publish notice of the delegation in the Maryland Register.]

11 ~~2-304.~~

12 WITHIN 30 DAYS AFTER RECEIVING AN APPEAL, THE SECRETARY OR THE
13 SECRETARY'S DESIGNEE SHALL:

14 (1) (I) MEDIATE A SETTLEMENT BETWEEN THE EMPLOYEE AND THE
15 UNIT; OR

16 (II) UPHOLD THE UNIT'S DECISION AND REFER THE APPEAL TO
17 THE OFFICE OF ADMINISTRATIVE HEARINGS FOR A HEARING; AND

18 (2) ADVISE THE EMPLOYEE IN WRITING OF THE SECRETARY'S ACTION.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
20 measure, is necessary for the immediate preservation of the public health and safety, has
21 been passed by a ye and nay vote supported by three-fifths of all the members elected to
22 each of the two Houses of the General Assembly, and shall take effect from the date it is
23 enacted.