

HOUSE BILL 1212

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K4

1998 Regular Session
(8r1364)

ENROLLED BILL
-- Appropriations/Budget and Taxation --

Introduced by **Delegates Heller, Hixson, Boston, Kopp, V. Mitchell,
Pendergrass, Exum, Bonsack, Cadden, Conway, Bissett, Barve, and
Edwards**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Retirement Contributions - Local School Systems - Review of Audit**
3 **Determinations**

4 FOR the purpose of altering the appeal procedures for audit determinations by the
5 State Retirement Agency of retirement contributions for employees of local
6 school systems; ~~providing that an appeal from an audit determination is a~~
7 ~~contested case in the Office of Administrative Hearings; clarifying that the~~
8 ~~appeals are subject to judicial review; *altering the conditions under which*~~
9 ~~*certain deductions may be made from State funds that would otherwise be paid*~~
10 ~~*to a school system; providing that a certain decision issued by the Office of*~~
11 ~~*Administrative Hearings is the final finding of fact and conclusion of law and*~~
12 ~~*binding on all parties and is not subject to judicial review;* providing for the~~
13 application of this Act; providing for the repeal of laws inconsistent with this
14 Act; and generally relating to audit determinations of retirement contributions
15 for employees of local school systems.

1 BY repealing and reenacting, with amendments,
 2 Article - Education
 3 Section 5-203(c)
 4 Annotated Code of Maryland
 5 (1997 Replacement Volume and 1997 Supplement)

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

8 **Article - Education**

9 5-203.

10 (c) (1) (i) If an examination of the records of a local school system shows
 11 that the State has paid more than is required under Division II of the State Personnel
 12 and Pensions Article, within 30 days after the date of the notice to the school system
 13 of the State overpayment, the school system may appeal the notice of State
 14 overpayment to the Secretary of Budget and Management who shall {appoint a
 15 hearing examiner} ~~REFER THE APPEAL TO THE OFFICE OF ADMINISTRATIVE~~
 16 ~~HEARINGS FOR ASSIGNMENT TO AN ADMINISTRATIVE LAW JUDGE WHO IS AN~~
 17 ATTORNEY.

18 ~~(H) AN APPEAL UNDER THIS SUBSECTION IS A CONTESTED CASE~~
 19 ~~UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE AND SUBJECT TO~~
 20 ~~JUDICIAL REVIEW AS SET FORTH IN § 10-222 OF THE STATE GOVERNMENT ARTICLE.~~

21 {(ii)} ~~(H)~~ The {hearing examiner} ~~ADMINISTRATIVE LAW JUDGE~~
 22 shall make recommendations, ~~INCLUDING PROPOSED FINDINGS OF FACT AND~~
 23 ~~CONCLUSIONS OF LAW,~~ to the Secretary of Budget and Management who shall make
 24 a ~~final~~ determination regarding the amount, if any, of the State overpayment.

25 (III) SHOULD A LOCAL SCHOOL SYSTEM REQUEST A TRANSCRIPT OF
 26 AN AUDIT APPEALS HEARING, THE LOCAL SCHOOL SYSTEM SHALL PROVIDE AND PAY
 27 FOR THE PRODUCTION OF THE TRANSCRIPT.

28 (2) If a local school system does not appeal to the Secretary of Budget
 29 and Management or if the Secretary of Budget and Management determines that the
 30 State is due reimbursement for excess payments as provided in paragraph (1) of this
 31 subsection, at AT the request of the Department of Education the moneys owed shall
 32 be deducted from any other State funds that would otherwise be paid to the school
 33 system. SYSTEM IF:

34 (I) A LOCAL SCHOOL SYSTEM DOES NOT APPEAL TO THE
 35 SECRETARY OF BUDGET AND MANAGEMENT OR TO THE OFFICE OF ADMINISTRATIVE
 36 HEARINGS; OR

37 (II) THE OFFICE OF ADMINISTRATIVE HEARINGS DETERMINES
 38 THAT THE STATE IS DUE REIMBURSEMENT FOR EXCESS PAYMENTS AS PROVIDED IN
 39 PARAGRAPH (3) OF THIS SUBSECTION.

1 [(3) For purposes of the Administrative Procedure Act, an appeal taken
2 under this section is not a contested case.]

3 (3) (I) THE LOCAL SCHOOL SYSTEM MAY APPEAL TO THE OFFICE OF
4 ADMINISTRATIVE HEARINGS A DETERMINATION BY THE SECRETARY OF THE
5 DEPARTMENT OF BUDGET AND MANAGEMENT REGARDING THE AMOUNT, IF ANY, OF
6 THE STATE OVERPAYMENT.

7 (II) WITHIN 45 DAYS AFTER THE CLOSE OF THE HEARING RECORD,
8 THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ISSUE A WRITTEN DECISION TO
9 THE PARTIES AND MAY GRANT ANY APPROPRIATE REMEDY.

10 (III) THE WRITTEN DECISION ISSUED BY THE OFFICE OF
11 ADMINISTRATIVE HEARINGS IS THE FINAL FINDING OF FACT AND CONCLUSION OF
12 LAW AND BINDING ON ALL PARTIES AND IS NOT SUBJECT TO JUDICIAL REVIEW.

13 SECTION 2. AND BE IT FURTHER ENACTED, That any pending appeal by a
14 local school system to the Secretary of Budget and Management involving the appeal
15 of alleged overpayments of social security or retirement contributions in which a
16 decision has not been rendered by a hearing examiner before the effective date of this
17 Act is to be referred to the Office of Administrative Hearings for adjudication in
18 accordance with Section 1 of this Act.

19 SECTION 3. AND BE IT FURTHER ENACTED, That all laws or parts of laws,
20 public general or public local, inconsistent with this Act, are repealed to the extent of
21 the inconsistency.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 June 1, 1998.