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

Introduced and read first time: February 13, 1998

Assigned to: Ways and Means

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A BILL ENTITLED

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; providing for the application of this Act;  
9 providing for the repeal of laws inconsistent with this Act; and generally relating  
10 to audit determinations of retirement contributions for employees of local school  
11 systems.

12 BY repealing and reenacting, with amendments,  
13 Article - Education  
14 Section 5-203(c)  
15 Annotated Code of Maryland  
16 (1997 Replacement Volume and 1997 Supplement)

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

19 **Article - Education**

20 5-203.

21 (c) (1) (i) If an examination of the records of a local school system shows  
22 that the State has paid more than is required under Division II of the State Personnel  
23 and Pensions Article, within 30 days after the date of the notice to the school system  
24 of the State overpayment, the school system may appeal the notice of State  
25 overpayment to the Secretary of Budget and Management who shall [appoint a  
26 hearing examiner] REFER THE APPEAL TO THE OFFICE OF ADMINISTRATIVE  
27 HEARINGS FOR ASSIGNMENT TO AN ADMINISTRATIVE LAW JUDGE.

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

4 [(ii)] (III) The [hearing examiner] ADMINISTRATIVE LAW JUDGE  
5 shall make recommendations, INCLUDING PROPOSED FINDINGS OF FACT AND  
6 CONCLUSIONS OF LAW, to the Secretary of Budget and Management who shall make  
7 a final determination regarding the amount, if any, of the State overpayment.

8 (2) If a local school system does not appeal to the Secretary of Budget  
9 and Management or if the Secretary of Budget and Management determines that the  
10 State is due reimbursement for excess payments as provided in paragraph (1) of this  
11 subsection, at the request of the Department of Education the moneys owed shall be  
12 deducted from any other State funds that would otherwise be paid to the school  
13 system.

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

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

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

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