

HOUSE BILL 1212

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K4

1998 Regular Session
8r1364

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

Reassigned: Appropriations, February 20, 1998

Committee Report: Favorable

House action: Adopted

Read second time: March 28, 1998

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; 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:

1

Article - Education

2 5-203.

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

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

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

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

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

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

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

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

