

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE
Revised

House Bill 1212 (Delegate Heller. *et al.*)

Appropriations

Retirement Contributions - Local School Systems - Review of Audit Determinations

This bill enables a local school system to appeal a determination by the Secretary of the Department of Budget and Management regarding an audit determination of State payments of local school retirement contributions to the Office of Administrative Hearings (OAH). OAH's decision is final and is not subject to judicial review. Under current law, the decision of the Secretary of Budget and Management is final.

The bill requires that any pending appeal by a local school system to the Secretary of Budget and Management involving alleged overpayments of Social Security or retirement contributions in which a decision has not been rendered by a hearing examiner before June 1, 1998 be referred to OAH. This bill takes effect June 1, 1998.

Fiscal Summary

State Effect: None. The bill's provisions could be handled with existing resources.

Local Effect: None. The bill would not directly affect local government finances.

Small Business Effect: None.

Fiscal Analysis

Background: Under current law, the State is responsible for paying the retirement contributions for certain school employees in the Maryland State Retirement and Pension System. Eligible employees include teachers, teacher aides, principals, food service workers, staff psychologists, and registered nurses. Periodically, the State Retirement Agency conducts an audit to determine whether the State has erroneously made contributions for school employees who are not eligible for State payment. Upon determination that the State has paid the retirement contribution for a non-eligible employee, the local school system must either reimburse the State or file an appeal with the Secretary of Budget and Management. In recent years, seven school systems (Baltimore City and Anne Arundel, Baltimore, Calvert, Montgomery, Prince George's, and Washington counties) have filed appeals with the Secretary of Budget and Management, with one case (Montgomery County) still pending.

Even though under current law the decision of the Secretary of Budget and Management is final, Montgomery County decided to challenge the Secretary's decision in court. The Maryland Court of Appeals subsequently ruled that local boards of education could not challenge audit findings because the disputes were not considered to be contested cases subject to judicial review.

Information Source(s): Office of Administrative Hearings, Maryland Association of Boards of Education, Department of Budget and Management, Maryland State Department of Education, State Retirement Agency

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