

SENATE BILL 859

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2000 Regular Session
0lr3029
CF 0lr2866

By: **Senators Hoffman, Ruben, Stone, Middleton, Lawlah, Madden,
McFadden, Currie, Munson, Kasemeyer, Stoltzfus, Neall, Hogan, and
Van Hollen**

Introduced and read first time: February 23, 2000
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement Agency - Reimbursement for Retirement Contributions**

3 FOR the purpose of providing that the State Retirement Agency may not seek
4 reimbursement for retirement contributions made after a certain date on the
5 basis of certain sources of payment of the salary of certain members of the
6 Teachers' Retirement System or Teachers' Pension System.

7 BY repealing and reenacting, with amendments,
8 Article - Education
9 Section 5-203, 16-306, and 23-504
10 Annotated Code of Maryland
11 (1999 Replacement Volume)

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

14 **Article - Education**

15 5-203.

16 (a) In this section, "Agency" means the State Retirement Agency.

17 (b) The Agency may at any time examine the records of local school systems to
18 determine whether the State's payments for retirement contributions for employees of
19 the school systems are in accordance with the provisions of Division II of the State
20 Personnel and Pensions Article.

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 who is an attorney.

1 (ii) The hearing examiner shall make recommendations to the
2 Secretary of Budget and Management who shall make a determination regarding the
3 amount, if any, of the State overpayment.

4 (iii) Should a local school system request a transcript of an audit
5 appeals hearing, the local school system shall provide and pay for the production of
6 the transcript.

7 (2) At the request of the Department of Education the moneys owed shall
8 be deducted from any other State funds that would otherwise be paid to the school
9 system if:

10 (i) A local school system does not appeal to the Secretary of Budget
11 and Management or to the Office of Administrative Hearings; or

12 (ii) The Office of Administrative Hearings determines that the
13 State is due reimbursement for excess payments as provided in paragraph (3) of this
14 subsection.

15 (3) (i) The local school system may appeal to the Office of
16 Administrative Hearings a determination by the Secretary of the Department of
17 Budget and Management regarding the amount, if any, of the State overpayment.

18 (ii) Within 45 days after the close of the hearing record, the Office
19 of Administrative Hearings shall issue a written decision to the parties and may grant
20 any appropriate remedy.

21 (iii) The written decision issued by the Office of Administrative
22 Hearings is the final finding of fact and conclusion of law and binding on all parties
23 and is not subject to judicial review.

24 (d) Any reimbursements which result from audits under this section:

25 (1) Shall be applied first to reimburse the Agency for the expenses of the
26 audits; and

27 (2) After reimbursement to the Agency under item (1) of this subsection,
28 shall be credited to the General Fund.

29 (E) THE AGENCY MAY NOT SEEK REIMBURSEMENT FOR RETIREMENT
30 CONTRIBUTIONS MADE AFTER JUNE 30, 2000, ON THE BASIS THAT THE SALARY OF AN
31 ELIGIBLE MEMBER OF THE TEACHERS' RETIREMENT SYSTEM OR TEACHERS' PENSION
32 SYSTEM IS PAID IN PART OR IN WHOLE FROM:

33 (1) STATE AID, WHETHER GENERAL OR CATEGORICAL IN NATURE; OR

34 (2) FEDERAL FUNDS, WHETHER PAID DIRECTLY TO A LOCAL SCHOOL
35 SYSTEM OR PASSED THROUGH A UNIT OF STATE GOVERNMENT.

1 16-306.

2 (a) In this section, "Agency" means the State Retirement Agency.

3 (b) The Agency may at any time examine the records of public junior or
4 community colleges to determine whether the State's payments for retirement
5 contributions for employees of the public junior or community colleges are in
6 accordance with the provisions of Division II of the State Personnel and Pensions
7 Article.

8 (c) (1) (i) If an examination of the records of a public junior or community
9 college shows that the State has paid more than is required under Division II of the
10 State Personnel and Pensions Article, within 30 days after the date of the notice to
11 the junior or community college of the State overpayment, the junior or community
12 college may appeal the notice of State overpayment to the Secretary of Budget and
13 Management who shall appoint a hearing examiner.

14 (ii) The hearing examiner shall make recommendations to the
15 Secretary of Budget and Management who shall make a final determination
16 regarding the amount, if any, of the State overpayment.

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

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

25 (d) Any reimbursements which result from audits under this section:

26 (1) Shall be applied first to reimburse the Agency for the expenses of the
27 audits; and

28 (2) After reimbursement to the Agency under item (1) of this subsection,
29 shall be credited to the General Fund.

30 (E) THE AGENCY MAY NOT SEEK REIMBURSEMENT FOR RETIREMENT
31 CONTRIBUTIONS MADE AFTER JUNE 30, 2000, ON THE BASIS THAT THE SALARY OF AN
32 ELIGIBLE MEMBER OF THE TEACHERS' RETIREMENT SYSTEM OR TEACHERS' PENSION
33 SYSTEM IS PAID IN PART OR IN WHOLE FROM:

34 (1) STATE AID, WHETHER GENERAL OR CATEGORICAL IN NATURE; OR

35 (2) FEDERAL FUNDS, WHETHER PAID DIRECTLY TO A PUBLIC JUNIOR OR
36 COMMUNITY COLLEGE OR PASSED THROUGH A UNIT OF STATE GOVERNMENT.

1 23-504.

2 (a) In this section, "Agency" means the State Retirement Agency.

3 (b) The Agency may at any time examine the records of public libraries to
4 determine whether the State's payments for retirement contributions for employees of
5 the public libraries are in accordance with the provisions of Division II of the State
6 Personnel and Pensions Article.

7 (c) (1) (i) If an examination of the records of a public library shows that
8 the State has paid more than is required under Division II of the State Personnel and
9 Pensions Article, within 30 days after the date of the notice to the library of the State
10 overpayment, the public library may appeal the notice of State overpayment to the
11 Secretary of Budget and Management who shall appoint a hearing examiner.

12 (ii) The hearing examiner shall make recommendations to the
13 Secretary of Budget and Management who shall make a final determination
14 regarding the amount, if any, of the State overpayment.

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

21 (3) For purposes of the Administrative Procedure Act, an appeal taken
22 under this section is not a contested case.

23 (d) Any reimbursements which result from audits under this section:

24 (1) Shall be applied first to reimburse the Agency for the expenses of the
25 audits; and

26 (2) After reimbursement to the Agency under item (1) of this subsection,
27 shall be credited to the General Fund.

28 (E) THE AGENCY MAY NOT SEEK REIMBURSEMENT FOR RETIREMENT
29 CONTRIBUTIONS MADE AFTER JUNE 30, 2000, ON THE BASIS THAT THE SALARY OF AN
30 ELIGIBLE MEMBER OF THE TEACHERS' RETIREMENT SYSTEM OR TEACHERS' PENSION
31 SYSTEM IS PAID IN PART OR IN WHOLE FROM:

32 (1) STATE AID, WHETHER GENERAL OR CATEGORICAL IN NATURE; OR

33 (2) FEDERAL FUNDS, WHETHER PAID DIRECTLY TO A PUBLIC LIBRARY
34 OR PASSED THROUGH A UNIT OF STATE GOVERNMENT.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 July 1, 2000.