

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND  
Legislative Session 2013, Legislative Day No. 2

Bill No. 7-13

---

Mr. Tom Quirk, Chairman  
By Request of County Executive

---

By the County Council, January 22, 2013

---

A BILL  
ENTITLED

AN ACT concerning

Administrative Procedure - Retirement Matters

FOR the purpose of expanding the jurisdiction of the Office of Administrative Hearing (OAH) to include certain decisions of the Employees' Retirement System Board of Trustees; providing for the procedure before the OAH; providing for the procedure before the County Board of Appeals (CBA) including providing that appeal to the CBA will be on the record created before OAH; providing for the remedies determined by the CBA; and generally relating to the expansion of the jurisdiction of the Office of Administrative Hearings.

By adding

Section 5-1-220.2

---

EXPLANATION:      CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
                          [Brackets] indicate matter stricken from existing law.  
                          ~~Strike out~~ indicates matter stricken from bill.  
                          Underlining indicates amendments to bill.

Article 5. Pensions and Retirement  
Baltimore County Code, 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL FOR BALTIMORE  
2 COUNTY, MARYLAND, that the Laws of Baltimore County shall read as follows:

3 Article 5. Pensions and Retirement

4 § 5-1-220.2

5 (A)(1) A MEMBER MAY APPEAL A DECISION OF THE BOARD OF TRUSTEES  
6 UNDER THIS TITLE TO THE COUNTY OFFICE OF ADMINISTRATIVE HEARINGS, IN  
7 WRITING, WITHIN 30 DAYS AFTER THE FINAL ACTION APPEALED.

8 (2) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL HEAR AND  
9 DECIDE THE APPEAL DE NOVO.

10 (B)(1) IF THE BOARD OF TRUSTEES, A MEMBER, OR A BENEFICIARY IS  
11 AGGRIEVED BY A DECISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS, THE  
12 BOARD OF TRUSTEES, MEMBER OR BENEFICIARY MAY APPEAL THE DECISION TO  
13 THE BOARD OF APPEALS.

14 (2) THE NOTICE OF APPEAL SHALL BE FILED WITH THE OFFICE OF  
15 ADMINISTRATIVE HEARINGS WHICH SHALL FORWARD THE FILE TO THE BOARD  
16 OF APPEALS.

17 (3) THE BOARD OF TRUSTEES, MEMBER, OR BENEFICIARY SHALL

1 FILE A PETITION WITH THE NOTICE OF APPEAL SETTING FORTH WITH  
2 REASONABLE PARTICULARITY THE GROUNDS FOR THE APPEAL, INCLUDING:

3 (I) THE ERROR COMMITTED BY THE OFFICE OF  
4 ADMINISTRATIVE HEARINGS;

5 (II) THE RELIEF SOUGHT; AND

6 (III) THE REASONS WHY THE RELIEF SOUGHT SHOULD BE  
7 GRANTED.

8 (4) (I) EXCEPT AS PROVIDED PARAGRAPH (5) OF THIS  
9 SUBSECTION, THE BOARD OF APPEALS HEARING SHALL BE LIMITED TO THE  
10 RECORD CREATED BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS, WHICH  
11 SHALL INCLUDE:

12 1. THE RECORDING OF THE TESTIMONY PRESENTED  
13 TO THE OFFICE OF ADMINISTRATIVE HEARINGS;

14 2. ALL EXHIBITS AND OTHER PAPERS FILED WITH  
15 THE OFFICE OF ADMINISTRATIVE HEARINGS; AND

16 3. THE WRITTEN AND FINAL ORDER FINDINGS OF  
17 THE OFFICE OF ADMINISTRATIVE HEARINGS.

18 (II) IF THE MEMBER OR BENEFICIARY OR THE BOARD OF  
19 TRUSTEES REQUESTS A TRANSCRIPTION OF THE RECORDING, THE MEMBER OR  
20 BENEFICIARY OR BOARD OF TRUSTEES SHALL PAY THE COST OF THE

1 TRANSCRIPTION.

2 (III) THE UNAVAILABILITY OF A RECORDING OF THE HEARING  
3 IS NOT GROUNDS FOR REVERSAL OF THE FINAL ORDER.

4 (5)(I) IF THE MEMBER OR BENEFICIARY AND BOARD OF TRUSTEES  
5 AGREE THAT THE QUESTIONS PRESENTED FOR BOARD REVIEW CAN BE  
6 DETERMINED WITHOUT AN EXAMINATION OF THE ENTIRE RECORD, THEY MAY  
7 FILE A SINGLE JOINT STATEMENT THAT:

8 1. STATES THE ISSUES AND HOW THEY WERE  
9 DECIDED BY THE OFFICE OF ADMINISTRATIVE HEARINGS; AND

10 2. INCLUDES A RECITATION OF ONLY THOSE FACTS  
11 OR ALLEGATIONS THAT ARE ESSENTIAL TO A DECISION OF THE ISSUES  
12 PRESENTED.

13 (II) THE STATEMENT, ANY EXHIBITS ACCOMPANYING IT,  
14 AND THE FINAL ORDER OF THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL  
15 CONSTITUTE THE RECORD IN THE ACTION FOR BOARD REVIEW.

16 (6) IN A PROCEEDING UNDER THIS SECTION, THE BOARD OF APPEALS  
17 MAY:

18 (I) REMAND THE CASE TO THE OFFICE OF  
19 ADMINISTRATIVE HEARINGS;

20 (II) AFFIRM THE FINAL ORDER OF THE OFFICE OF

1 ADMINISTRATIVE HEARINGS; OR

2 (III) REVERSE OR MODIFY THE FINAL ORDER IF A FINDING,  
3 CONCLUSION, OR DECISION OF THE BOARD OF TRUSTEES OR THE OFFICE OF  
4 ADMINISTRATIVE HEARINGS:

5 1. EXCEEDS THE STATUTORY AUTHORITY OR  
6 JURISDICTION OF THE BOARD OF TRUSTEES OR THE OFFICE OF ADMINISTRATIVE  
7 HEARINGS;

8 2 IS AFFECTED BY ANY OTHER ERROR OF LAW;

9 3. SUBJECT TO PARAGRAPH (4)(III) OF THIS  
10 SUBSECTION, IS UNSUPPORTED BY COMPETENT, MATERIAL, AND SUBSTANTIAL  
11 EVIDENCE IN LIGHT OF THE ENTIRE RECORD AS SUBMITTED; OR

12 4. IS ARBITRARY OR CAPRICIOUS.

13 SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall apply to an appeal  
14 of a decision of the Employees' Retirement System Board of Trustees that is filed under § 5-1-  
15 220.2 of the Baltimore County Code, 2003 after the effective date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, that this Act, having been passed by  
17 the affirmative vote of five members of the County Council, shall take effect on March 4, 2013.