

**State of Maryland**  
**Department of State Police**  
*Government Affairs Division*  
*Annapolis Office (410) 260-6100*

**POSITION ON PROPOSED LEGISLATION**

Department of State Police are frequently requested to conduct hearing boards for local agencies. This legislation would require these agencies to try to learn and apply new procedures for the conduct of hearing boards in every jurisdiction that enacts enabling legislation and the standardized rules of LEOBR would not apply.

Additionally, allowing binding arbitration at the local level would establish the opportunity for a wide range of procedures and interpretations on conducting these boards. The application of local negotiations and rules, absent some form of legal or consistent standard of conduct would cause these rules and subsequent procedures to become arbitrary and would go from one extreme to the other depending upon the jurisdictional area and type of representation. These local decisions and potentially wide ranging interpretations could form the basis for appeals. The decisions in these appeals would, in fact, affect every law enforcement agency in the State, not just the local agency. A single local agency through poor decision making or unfair application of these arbitrary standards could have a significant impact on all of the other agencies who conduct these hearings.

The rules of conducting hearing boards have been in place and have worked effectively since 1974. They have been fair and consistently interpreted, applied and understood throughout the State. Changing existing law to allow for binding arbitration would water down the current statewide system and ensure that it was inconsistent in both interpretation, understanding and its application which would have far reaching effects.

For these reasons, the Department of State Police urges the Committee to give Senate Bill 420 an unfavorable report.



# BALTIMORE COUNTY POLICE DEPARTMENT

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Terrence B. Sheridan  
Chief of Police

BILL NO.: SB 420

TITLE: Law Enforcement Officers' Bill of Rights  
Hearing Boards – Binding Arbitration

SPONSOR: Senator Frösh, et al.

COMMITTEE: Appropriations

POSITION: OPPOSE

The Baltimore County Police Department OPPOSES the passage of Senate Bill 420. This bill amends the Law Enforcement Officers' Bill of Rights by permitting the composition of hearing board to go to binding arbitration and would take away the right of a police chief to make the final decision on the punishment of a police officer found guilty by a hearing board.

This bill strikes at the heart of a police chief's ability to manage a police department by taking away the right to fire police officers who do not deserve to be police officers. Under this bill, the hearing board would have the final authority over punishing a police officer, which would include terminating the officer. Under the current system, the police chief reviews the decision of the hearing board. The police chief can accept the decision, increase or decrease the punishment recommended by the hearing board. SB 420 also takes away the option of a police chief to decrease punishment and give a police officer another chance.

The bill would also permit the composition of a hearing board to go to binding arbitration. This could result in the composition of a hearing board that neither side agrees with.

Accordingly, the Baltimore County Police Department requests an UNFAVORABLE report on Senate Bill 420. For more information, please contact Gregory R. Rothwell, Esq., Legislative Liaison at 410-887-2211.

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## THE PRINCE GEORGE'S COUNTY GOVERNMENT

### LEGISLATIVE POSITION

- SB 420:** Law Enforcement Officers' Bill of Rights-Hearing Boards-Binding Arbitration
- Sponsors:** Senators Frosh, Garagiola, Green, and Jimeno
- Position:** OPPOSE
- Issue:** The current Law Enforcement Officers' Bill of Rights reads that a law enforcement agency or the government authority that has collective bargaining authority for the law enforcement agency may negotiate with the union an alternate hearing board from that provided by the statute. The statute currently gives the Chief of Police the ability to pick the members of the hearing board from the sworn members of the Department. The statute currently states that the information of a hearing board "is not subject to collective bargaining." This bill would change that language to read, "If authorized by local law, this paragraph is subject to binding arbitration."
- Objection:** The County opposes this legislation. The bill, if passed, would start police agencies that have collective bargaining on the path to losing control of the disciplinary process within their respective departments. The bill would permit a bargaining agent such as the Fraternal Order of Police (FOP) to raise the makeup of hearing boards and the Chief's authority to discipline in the collective bargaining process. When an agreement cannot be reached on the FOP's request, the matter would go to arbitration and the arbitrator's ruling would be binding on the police department. Experience with at least one department, which has an alternative hearing board, has been negative. The hearing board for that County department is made up of a chief's appointment, an FOP appointment and an arbitrator. Needless to say, that agency's experience has not been conducive to holding officers accountable to the department's rules and regulations. The Maryland Sheriffs' Association and the Maryland Chiefs' Association also oppose this legislation.
- Fiscal Impact:** The bill's changes would not significantly affect local operations or finances. Any future impacts arising from decisions of arbitration processes, rather than currently constituted hearing boards, cannot be reliably predicted.
- Committee:** APPROPRIATIONS
- Hearing Date:** April 4, 2006; 1:00 PM
- Prepared by:** Prince George's County Office of Legislative Affairs



MARYLAND MUNICIPAL LEAGUE  
*The Association of Cities and Towns*

TESTIMONY

April 4, 2006

**Committee:** House Appropriations

**Bill:** SB 420 – Law Enforcement Officers’ Bill of Rights – Hearing Boards – Binding Arbitration

**Position:** Oppose

**Reason for Position:**

The Maryland Municipal League opposes SB 420 – Law Enforcement Officers’ Bill of Rights – Hearing Boards – Binding Arbitration. This legislation would repeal prohibitions against making actions regarding the formation of a law enforcement officers’ hearing board and decisions by a hearing board the subject of binding arbitration.

The League has consistently opposed binding arbitration as an alternative in both collective bargaining agreements and in regard to determinations of hearing boards created under the Law Enforcement Officers’ Bill of Rights. Fourteen of the 85 municipalities with police departments currently have collective bargaining agreements and could potentially be affected by SB 420.

Over 10 years ago, legislation agreed to by MML and enacted by the General Assembly addressed the concerns of the Maryland Fraternal Order of Police (FOP) with regard to the recommendations of hearing boards concerning disciplinary actions to be taken against police officers found guilty of wrongdoing. Yet the FOP periodically generates additional legislation to stretch current law to eventually include mandatory binding arbitration for certain hearing board findings. The League objects to the incremental legislative steps leading to that end and therefore respectfully requests that that this committee report SB 420 unfavorably.

**FOR MORE INFORMATION CONTACT:**

Scott A. Hancock      Executive Director  
Candace L. Donoho    Director/Government Relations  
James P. Peck         Director/Research & Information Management

FRATERNAL ORDER OF POLICE  
MONTGOMERY COUNTY LODGE 35  
SENATE BILL 420

Senate Bill 420

SUPPORT

February 22, 2006

Judicial Proceedings Committee

Law Enforcement Officer's Bill of Rights - Hearing Board - Binding Arbitration

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Six jurisdictions have authorized Binding Arbitration - Anne Arundel County, Baltimore County, Prince George's County, Montgomery County, Ocean City, and Aberdeen, Maryland.

This bill would only apply to those jurisdictions, plus any that would authorize Binding Arbitration in the future.

All jurisdictions that have Collective Bargaining Rights may now negotiate the alternative method of forming a hearing boards. This is current law.

Again, current law does not permit LEOBR issues to be subject to Binding Arbitrations. But does permit them to be subject to negotiation.

How Does The System Work Now?

- A. Police organization and management negotiate all items, which include salaries, working conditions, and pensions.
- B. If an impasse is declared the matters are referred to neutral arbitrator.
- C. If mediation fails, the arbitrator requires, both the FOP (Police Organization) and Management to submit Separate Final Offers. (Typically)
- D. These final offers must contain all issues/items that either party wants included in the new contract.
- E. The arbitrator holds hearings and at the conclusion of the hearing the arbitrator makes an award in accordance with the law.

Conclusion:

The legislation permits the hearing board and the decision of the hearing board subject to Binding Arbitration in "six jurisdictions where binding arbitration is already authorized." This legislation recognizes the fact that Police Officers risk their lives and personal safety and in turn they should be provided absolute fairness in their process of discipline and a modernization of the LEOBR.

February 16, 2006

Thomas B. Stone, Jr.  
Representing Montgomery County FOP 35  
301 - 762 - 8800



**MARYLAND STATE LODGE  
FRATERNAL ORDER OF POLICE®,  
LEGISLATIVE COMMITTEE**

**BILL NO:** SB 420

**TITLE:** Law Enforcement Officers' Bill of Rights – Hearing  
Boards – Binding Arbitration

**SPONSORS:** Senators Frosh, Garagiola, Green, and Jimeno

**COMMITTEE:** Judicial Proceedings

**POSITION:** Support

The Maryland Fraternal Order of Police strongly supports Senate Bill 420, which would allow negotiations regarding hearing boards, if authorized by local law, to be subject to binding arbitration. This bill only applies to jurisdictions where voters have elected to grant binding arbitration as part of the collective bargaining process. Therefore this bill only affects Anne Arundel County, Baltimore County, Prince George's County, Montgomery County, Ocean City, and Elkton.

The disciplinary process has always been subject to negotiations at the local level. This bill will allow for local lodges to negotiate that process in jurisdictions that now have the arbitration aspect as part of their negotiations process.

The Maryland State Lodge Fraternal Order of Police requests a **FAVORABLE REPORT** on **SB 420**.

Contacts: Errol Etting  
Legislative Chairman  
410-404-8335

Officer O'Brien Atkinson, IV  
2<sup>nd</sup> Vice President, MD FOP  
410-320-6557

**FRATERNAL ORDER OF POLICE**  
**MONTGOMERY COUNTY LODGE 35**  
**SENATE BILL - 420**

Senate Bill 420  
April 04, 2006

**SUPPORT**  
**Appropriations Committee**

**Law Enforcement Officer's Bill of Rights - Hearing Board - Binding Arbitration**

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Six jurisdictions have authorized Binding Arbitration - Anne Arundel County, Baltimore County, Prince George's County, Montgomery County, Ocean City and Elton, Maryland.

This bill would only apply to those jurisdictions, plus any that would authorize Binding Arbitration in the future. (Presumably by Referendum)

All jurisdictions that have Collective Bargaining Rights may now negotiate the alternative method of forming a hearing board. This is current law.

Again, current law does not permit LEOBR issues to be subject to Binding Arbitrations. But does not permit them to be subject to negotiation.

How Does the System Work Now?

- A. Police organization and management negotiate all items, which include salaries, working conditions, and pensions.
- B. If an impasse is declared the matters are referred to neutral arbitrator.
- C. If mediation fails, the arbitrator requires, both the FOP (Police Organization) and Management to submit Separate Final Offers. (Typically)
- D. These final offers must contain all issues/items that either party wants included in the new contract.
- E. The arbitrator holds hearings and at the conclusion of the hearing the arbitrator makes an award in accordance with the law.

Conclusion:

The legislation permits the hearing board and the decision of the hearing board subject to Binding Arbitration in "six jurisdictions where binding arbitration is already authorized." Should local jurisdictions that presently have Binding Arbitration do not wish it to be extended to panel etc. they have local option to do so. This legislation recognizes the fact that Police Officers risk their lives and personal safety and in turn they should be provided absolute fairness in their process of discipline and a modernization of the LEOBR.

April 04, 2006

Thomas B. Stone, Jr.  
Representing Montgomery County FOP 35  
301-762-8800

*non delegated  
document  
making  
legislation*

*Local Bill*

*NO  
indications  
of problem  
in process*



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**SUPPORT**  
**SB420—Law Enforcement Officers' Bill of Rights—Hearing Boards—Binding Arbitration**

Mr. Chairman and Members of the Judicial Proceedings Committee, Progressive Maryland strongly supports SB420 and urges a favorable report.

Progressive Maryland is a statewide grassroots advocacy organization that fights for legislation to improve the lives of working families. Our support comes from 25,000 individual dues-paying members, and our partnership with more than 50 of Maryland's largest community, faith-based, labor, and civil rights groups.

While all State police departments are currently covered by collective bargaining agreements, this bill would remove the prohibition against binding arbitration for future contract negotiations. As it stands now, the disciplinary hearing board and/or disciplinary hearing is heavily weighted against an officer. Allowing binding arbitration as an alternative is a basic civil and worker's right, one that adds balance to negotiations that are otherwise tilted toward the employer.

Progressive Maryland urges a favorable report on SB420.





BALTIMORE COUNTY LODGE NO. 4  
**FRATERNAL ORDER OF POLICE**  
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COLE B. WESTON  
LODGE PRESIDENT

DAVID J. FOLDERAUER  
LODGE SECRETARY

April 4, 2006

The Honorable Norman H. Conway  
Chairman, House Appropriations Committee  
Maryland House of Delegates  
House Office Building, Room 121  
12 Bladen Street  
Annapolis, Maryland 21401-1991

Re: Senate Bill 420 – Law Enforcement Officer's Bill of Rights – Hearing  
Boards – Binding Arbitration

Dear Chairman Conway:

On behalf of the Baltimore County Fraternal Order of Police, Lodge # 4, I would like to express support for SB 420. This bill contains no mandate. It simply allows local jurisdictions to apply existing law with regard to collective bargaining and binding arbitration. Local jurisdictions that do not provide for collective bargaining and binding arbitration are not affected. Nothing in the bill requires a local jurisdiction to provide for collective bargaining or binding arbitration. Lastly, this bill applies equally to all parties who participate in the collective bargaining process.

Please consider a favorable report on SB 420.

Sincerely;

Cole B Weston  
President, Baltimore County  
Fraternal Order of Police, Lodge # 4

cc: Members, House Appropriations Committee



Fraternal Order of Police  
Maryland State Lodge

Senate Bill 420

Senate Bill 420

SUPPORT

April 4, 2006

Appropriations Committee

*Law Enforcement Officers' Bill of Rights – Hearing Boards – Binding Arbitration*

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Good afternoon. I am Walter E. Bader, President of Fraternal Order of Police, Montgomery County Lodge 35 and am here to testify in support of Senate Bill 420 on behalf of the Fraternal Order of Police.

Under current law, the Law Enforcement Officers' Bill of Rights allows for collective bargaining as to an alternate method of forming a hearing board and also as to whether the decision of that board is final.

Hence, in all jurisdictions with collective bargaining these LEOBR matters are treated the same as all other subjects of collective bargaining and may be referred to impasse procedures for resolution, except that they are not subject to binding arbitration impasse procedures.

SB 420 narrowly addresses the inconsistency between current State law and local laws that authorize binding arbitration as a method of resolving bargaining impasse. Current State law prohibits binding arbitration in LEOBR matters that, were it not for State law, would be authorized subjects of collective bargaining with binding arbitration under local law.

SB 420 is a procedural bill to modernize the LEOBR by simply making it consistent with existing local binding arbitration statutes. **It does not alter the composition of hearing boards, nor does it make decisions of hearing boards final.** It continues to allow collective bargaining in these matters and it allows bargaining disputes to go to arbitration only in those jurisdictions where binding arbitration has been authorized by the voters and elected local legislative bodies.

Where disputes as to composition of hearing boards or finality of board decisions go to impasse under this bill, local officials and police chiefs are free to make proposals, oppose proposals, or support proposals before any impasse neutral before that neutral issues an award in the matter. It is the nature of binding arbitration that all positions be accorded fair and impartial consideration.

Prior legislative attempts to amend the LEOBR, such as HB 1296 introduced in 2000, prompted unwarranted concerns that binding arbitration would be created by passage, that elected official accountability for alleged "police misconduct" would be gone, and that it would violate a 1994 "deal" between the Maryland Association of Counties ["MACo"] and the Maryland State Lodge, FOP.

This bill, SB 420, is more narrowly tailored to allay reasonable concerns and makes it clear that it does not create any right to binding arbitration in any jurisdiction where it otherwise does not exist. **Only the voters and local elected governing bodies may provide that authorization before its provisions relating to binding arbitration would apply.** Further, under this bill, local elected officials could amend local laws to specifically remove the alternate method of forming a hearing board and/or the finality of decision from the scope of bargaining that is subject to binding arbitration.

The 1994 "deal" did not prevent collective bargaining over the composition of hearing boards or finality of decisions, nor did it address binding arbitration or modernization of the LEOBR. That "deal" pertained only to former Article 27 § 731 (c), now § 3-108(d) of the Public Safety Article (Senate Bill 1, 2003). This provision is left fully intact by this bill. Moreover, this twelve-year old "deal" dates back three legislative terms and predates binding arbitration laws in four of six local jurisdictions.

SB 420 is narrowly tailored, local option legislation that modernizes existing collective bargaining provisions of the LEOBR and makes them consistent with local bargaining laws only in those jurisdictions where the voters have authorized binding arbitration.

We urge your favorable consideration.

Thank you.

Walter Bader, President