

Exhibit C
**Senate Bill 91/
House Bill 687**
1989



SENATE JUDICIAL PROCEEDINGS COMMITTEE
WALTER M. BAKER, CHAIRMAN * COMMITTEE REPORT SYSTEM
Department of Legislative Reference . 1989 General Assembly of Maryland

FLOOR REPORT

HOUSE BILL 687

LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS - ELECTION OF PROCEDURES

SPONSORS:

Delegates Chasoff, Boergers, Donaldson, Weisengoff, Connelly, Shapiro, DePazzo, Hughes, Genn, and McCaffrey

COMMITTEE RECOMMENDATION: Favorable with 2 amendments.

SUMMARY OF BILL:

This bill permits a law enforcement officer against whom a complaint has been filed to choose between the method for forming a hearing board established by the Law Enforcement Officers' Bill of Rights (LEOBR) and the method for forming a hearing board set forth in a collective bargaining agreement. The officer may choose the alternative method provided in a collective bargaining agreement only if the officer is included in the collective bargaining unit.

The bill requires that the law enforcement agency inform all law enforcement officers in writing of the right to choose between the method for hearing board formation set forth in a collective bargaining agreement and the method established by § 727(a) of Article 27.

The bill prohibits the use of an alternative method for hearing board formation if the officer receives summary punishment under § 734A of Article 27.

The decision by the alternate hearing board, both to findings of fact and punishment, is final if the collective bargaining agreement specifies that it is final. The provisions of the law may not be the subject of binding arbitration.

COMMITTEE AMENDMENTS:

The Committee adopted this bill with 2 amendments.

AMENDMENT NO. 1:

This amendment adds a preamble to the bill to conform it to Senate Bill 91 as passed by the Senate.

AMENDMENT NO. 2:

This amendment makes a technical change to the bill.

BACKGROUND:

Current law provides, with the exception of hearings for officers subject to summary punishment, that a hearing board shall consist of not less than 3 members, to be

appointed by the agency chief and selected from law enforcement officers within the agency, or from another agency with the approval of the chief of the other agency, who have had no part in the investigation or interrogation of the law enforcement officer.

In 1988, a similar bill was introduced as Senate Bill 227. This bill passed both the House and Senate, but was vetoed by the Governor. Senate Bill 227 authorized law enforcement officers to waive any or all of the rights under the LEOBR and to elect, in the alternative, any of the procedural or substantive rights or guarantees under a collective bargaining agreement. The Governor vetoed Senate Bill 227 on the grounds that it would erode the uniformity that the LEOBR gives to the system of police discipline throughout the State. The Governor stressed that Senate Bill 227 was particularly objectionable because it allowed a law enforcement officer to pick and choose between any of the provisions of the LEOBR and any of the provisions of a collective bargaining agreement. Senate Bill 91 addresses this objection because it applies solely to one aspect of the LEOBR, the method by which a hearing board is formed, and does not permit an officer to "pick and choose" between other provisions of the LEOBR and a collective bargaining agreement. According to testimony, this bill represents a compromise effort of a task force set up by the Governor after his 1988 veto. The Governor's Office has issued a statement endorsing this bill because it applies only where a collective bargaining agreement provides for an alternative method of constituting a hearing board and only on the election of an officer.

This bill was crossfiled as Senate Bill 91. Senate Bill 91 was reported favorable by the Judicial Proceedings Committee, and was passed with amendments by the House. House Bill 687 was amended to make the provisions of the bill not subject to binding arbitration.

KMB/eh

*Conforms to
SB 91*

*See p 2 for
explanation*



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BILL ANALYSIS

HOUSE BILL 687

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SUMMARY OF BILL:

This bill permits a law enforcement officer against whom a complaint has been filed to choose between the method for forming a hearing board established by the Law Enforcement Officers' Bill of Rights (LEOBR) and the method for forming a hearing board set forth in a collective bargaining agreement. The officer may choose the alternative method provided in a collective bargaining agreement only if the officer is included in the collective bargaining unit.

The bill requires that the law enforcement agency inform all law enforcement officers in writing of the right to choose between the method for hearing board formation set forth in a collective bargaining agreement and the method established by § 727(a) of Article 27.

The bill prohibits the use of an alternative method for hearing board formation if the officer receives summary punishment under § 734A of Article 27.

The decision by the alternate hearing board, both to findings of fact and punishment, is final if the collective bargaining agreement specifies that it is final. The provisions of the law may not be the subject of binding arbitration.

BACKGROUND:

Current law provides, with the exception of hearings for officers subject to summary punishment, that a hearing board shall consist of not less than 3 members, to be appointed by the agency chief and selected from law enforcement officers within the agency, or from another agency with the approval of the chief of the other agency, who have had no part in the investigation or interrogation of the law enforcement officer.

In 1988, a similar bill was introduced as Senate Bill 227. This bill passed both the House and Senate, but was vetoed by the Governor. Senate Bill 227 authorized law enforcement officers to waive any or all of the rights under the LEOBR and to elect, in the alternative, any of the procedural or substantive rights or guarantees under a collective bargaining agreement. The Governor vetoed Senate Bill 227 on the grounds that it would erode the uniformity that the LEOBR gives to the system of police discipline throughout the State. The Governor stressed that Senate Bill 227 was particularly objectionable because it allowed a law enforcement officer to pick and choose between any of the provisions of the LEOBR and any of the provisions of a collective bargaining agreement. Senate Bill 91 addresses this objection because it applies solely to one aspect of the LEOBR, the method by which a hearing board is formed, and does not permit

an officer to "pick and choose" between other provisions of the LEOBR and a collective bargaining agreement. According to testimony, this bill represents a compromise effort of a task force set up by the Governor after his 1988 veto. The Governor's Office has issued a statement endorsing this bill because it applies only where a collective bargaining agreement provides for an alternative method of constituting a hearing board and only on the election of an officer.

Ten witnesses testified in support of this bill.

This bill has been crossfiled as Senate Bill 91. The House bill was amended to make the provisions of the bill not subject to binding arbitration.

KMB/sb