

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 1164  
Appropriations

(Delegate Kelly)

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Law Enforcement Officers' Bill of Rights - Hearing Board - Final Order

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This bill repeals a chief law enforcement officer's authority to increase the penalty recommended by a police hearing board and requires the chief to affirm or decrease the recommended penalty of the hearing board.

The bill applies prospectively to any penalty recommended by a hearing board after the bill's October 1, 2005 effective date.

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Fiscal Summary

**State Effect:** None. These changes to provisions relating to the Law Enforcement Officers' Bill of Rights (LEOBR), and any accompanying modifications of hearing procedures and schedules used in disciplinary actions, are not expected to materially affect governmental operations or finances.

**Local Effect:** None – see above.

**Small Business Effect:** None.

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Analysis

**Current Law:** After a disciplinary hearing and finding of guilt, the hearing board makes a written recommendation of an appropriate penalty including: demotion, dismissal, transfer, loss of pay, reassignment, or other action that is considered punitive. Within 30 days after the receipt of the recommendation of the hearing board, the chief must review the findings, conclusions, and recommendations of the board and issue a final order. The

final order and decision of the chief is binding and then may be appealed. The board's recommendation of a penalty is not binding on the chief and the chief may consider past job performance as a factor before imposing a penalty. The chief may increase the penalty recommended by the board, only if the chief personally:

- reviews the entire record of the hearing board proceedings;
- meets with the officer and allows the officer to be heard on the record;
- discloses and provides, in writing, at least 10 days before the meeting, any oral or written communication that was not included in the record on which the decision to consider a penalty increase is based; and
- states on the record the substantial evidence relied on to support the increase of the recommended penalty.

**Background:** LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to officers of the following State and local agencies:

- the Department of State Police;
- the Baltimore City Police Department;
- the Baltimore City School Police Force;
- the Baltimore City Watershed Police Force;
- the police department, bureau, or force of any county;
- the police department, bureau, or force of any incorporated city or town;
- the office of the sheriff of any county or Baltimore City;
- the police department, bureau, or force of any bi-county agency;
- the Maryland Transportation Authority Police and the police forces of the Maryland Department of Transportation;
- the police officers of the Department of Natural Resources;
- the Field Enforcement Division of the Comptroller's Office;
- the Housing Authority of Baltimore City Police Force;
- the Crofton Police Department;
- the police officers of the Department of Health and Mental Hygiene;
- the police officers of the Department of General Services;
- the police officers of the Department of Labor, Licensing, and Regulation;
- the State Fire Marshal or a full-time investigative and inspection assistant of the Office of the State Fire Marshal;

- the police officers of the University System of Maryland; and
- the police officers of Morgan State University.

**Additional Comments:** The Department of State Police failed to respond to requests for information.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 824 (Senator Stone) – Rules.

**Information Source(s):** Cecil County, Montgomery County, Prince George’s County, Harford County, Queen Anne’s County, St. Mary’s County, Carroll County, Maryland Department of Transportation, Department of Natural Resources, Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2005  
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