

By: Senator(s) Tollison

To: Municipalities;
Judiciary, Division B

SENATE BILL NO. 2133

1 AN ACT TO REQUIRE MUNICIPALITIES TO PROVIDE A
2 PRE-DISCIPLINARY HEARING PRIOR TO THE SUSPENSION OR TERMINATION OF
3 ANY LAW ENFORCEMENT OFFICER; ESTABLISH A MINIMUM LEVEL OF WRITTEN
4 DUE PROCESS PROCEDURES; TO SPECIFY WHAT NOTICE SHALL BE PROVIDED
5 TO THE OFFICER; TO PROVIDE THAT THE OFFICER MAY ATTEND THE
6 HEARING, MAY BE REPRESENTED BY COUNSEL, MAY PRESENT EVIDENCE ON
7 HIS OWN BEHALF, QUESTION WITNESSES AGAINST HIM, AND MAY REQUEST
8 THAT THE EVIDENTIARY PHASE OF THE HEARING BE HELD IN EXECUTIVE
9 SESSION; TO PROVIDE THAT FINAL ADJUDICATION SHALL BE HELD IN OPEN
10 MEETING; TO PROVIDE THAT A MUNICIPALITY MAY ENACT PROCEDURES THAT
11 PROVIDE GREATER PROTECTIONS TO LAW ENFORCEMENT OFFICERS THAN THE
12 MINIMUM REQUIRED BY THE ACT; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** This act shall be known and cited as the "Law
15 Enforcement Employment Procedures Act of 2005."

16 It is the intent of the Legislature to provide a fair and
17 impartial hearing to law enforcement officers employed by
18 municipalities prior to the disciplinary suspension or termination
19 of those officers.

20 **SECTION 2.** (1) A municipality shall provide by ordinance or
21 policy a pre-disciplinary hearing prior to the suspension or
22 termination of a law enforcement officer employed by the
23 municipality.

24 (2) Nothing in this act shall be construed to prohibit a
25 municipality from placing a law enforcement officer on leave with
26 pay until the entity charged with the responsibility of conducting
27 the hearing has rendered a decision in the matter.

28 **SECTION 3.** A municipality shall establish written due
29 process procedures applicable to the pre-disciplinary hearing. At
30 a minimum, this due process shall consists of:

31 (a) Written notice to the officer of the reason or
32 reasons for the termination or suspension. This notice shall be

33 issued by the person or persons with authority to suspend or
34 terminate the law enforcement officer. The notice shall also
35 inform the officer that the officer, within five (5) days, may
36 request a hearing in writing and where such written request should
37 be filed. If the officer fails to request a hearing within five
38 (5) days after receiving written notice of the suspension or
39 termination, the right to such hearing shall be deemed waived.

40 (b) The accused officer shall have the right to appear
41 at the hearing and to be represented at the officer's own expense.
42 The officer or representative shall have the right to address any
43 charges against the officer. If the officer has a representative,
44 the officer may also be present at the hearing.

45 (c) The officer or the officer's representative shall
46 have the right to present evidence and question witnesses who
47 testify in the proceeding.

48 **SECTION 4.** A municipality may also hold a separate
49 post-disciplinary hearing on the suspension or termination of the
50 law enforcement officer. If the municipality holds a separate
51 post-disciplinary hearing, the officer or officer's representative
52 may present evidence and question witnesses.

53 **SECTION 5.** The hearing shall be conducted by an impartial
54 hearing officer or body. If the hearing is before the municipal
55 governing body, the hearing may be conducted in an executive
56 session at the officer's election, provided that final
57 adjudication shall occur in an open session.

58 **SECTION 6.** Nothing contained in this act shall prohibit a
59 municipality from enacting an ordinance or adopting procedures
60 which exceed the requirements of this act.

61 **SECTION 7.** The rules of evidence and rules of discovery
62 shall not apply to hearings held pursuant to this act.

63 **SECTION 8.** This act shall take effect and be in force from
64 and after July 1, 2005.