

REPORT OF CONFERENCE COMMITTEE

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MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2760: Law enforcement officers; provide minimum due process rights for municipal.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

23 (2) Nothing in this act shall be construed to prohibit a
24 municipality from placing a law enforcement officer on leave
25 without pay until the entity charged with the responsibility of
26 conducting the hearing has rendered a decision in the matter if
27 the officer has been charged with a criminal offense. Otherwise,
28 the officer shall be placed on leave with pay pending the
29 decision. An officer placed on leave without pay who is not found
30 guilty of the criminal offense is eligible for back pay upon
31 reinstatement to duty.

32 **SECTION 3.** A municipality shall establish written due
33 process procedures applicable to the pre-disciplinary hearing. At
34 a minimum, this due process shall consist of:

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

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

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

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

57 **SECTION 5.** The hearing shall be conducted by an impartial
58 hearing officer or body. If the hearing is before the municipal
59 governing body, the hearing may be conducted in an executive
60 session, provided that final adjudication shall occur in an open
61 session.

62 **SECTION 6.** This act shall not apply to a municipality that
63 employs five (5) or fewer full-time sworn law enforcement
64 officers.

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

67 **SECTION 8.** This act shall not apply to any municipality that
68 has a civil service commission or that has an ordinance requiring
69 a due process policy.

70 **SECTION 9.** This act shall take effect and be in force from
71 and after January 1, 2008.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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; TO ESTABLISH A MINIMUM LEVEL OF
4 WRITTEN DUE PROCESS PROCEDURES; TO SPECIFY WHAT NOTICE SHALL BE
5 PROVIDED TO THE OFFICER; TO PROVIDE THAT THE OFFICER MAY ATTEND
6 THE HEARING, MAY BE REPRESENTED BY COUNSEL, MAY PRESENT EVIDENCE
7 ON HIS OWN BEHALF AND QUESTION WITNESSES; TO PROVIDE THAT THE
8 EVIDENTIARY PHASE OF THE HEARING MAY BE HELD IN EXECUTIVE SESSION;
9 TO PROVIDE THAT FINAL ADJUDICATION SHALL BE HELD IN OPEN MEETING;
10 TO EXEMPT MUNICIPALITIES THAT HAVE A CIVIL SERVICE COMMISSION OR
11 DUE PROCESS POLICY; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE	CONFEREES FOR THE HOUSE
X (SIGNED)	X (SIGNED)
Tollison	Robinson (63rd)
X (SIGNED)	X (SIGNED)
Walls	Myers
X (SIGNED)	X (SIGNED)
Morgan	Mayo