

By: Senator(s) Tollison, Dearing, Frazier,
Harden, Jackson (11th), Jordan, Walls, White

To: Judiciary, Division B

SENATE BILL NO. 2760
(As Sent to Governor)

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

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

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 predisiplinary 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. An officer who is
27 terminated due to a criminal charge or who is placed on leave
28 without pay due to a criminal charge and who is not found guilty
29 of the criminal offense may be eligible for back pay upon
30 reinstatement to duty.

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

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

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

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

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

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

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

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

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

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