

manner of such a review is similar to that which would be conducted by a reviewing court, that is, a review of the record in the case to determine if the departmental decision was unconstitutional, in excess of statutory authority, unlawful, erroneous as a matter of law, arbitrary, unsupported by the evidence in the record, or unsupported by the weight of evidence in the entire record if new evidence is received.

It is apparent that the Legislature has determined that a board of review, as its name implies, shall conduct a review of a department's fact-finding results. The review is made on the record presented; it is not to be an independent, original decision on the evidence in the case. The boards are usually composed of laymen who thus serve as a check on the agency's power.

Senate Bill 960 proposes to broaden substantially the scope of review of the Natural Resources Board of Review by authorizing a de novo review. I cannot agree with the General Assembly's decision in this matter for several reasons.

First, the provisions of Senate Bill 960 conflict with the policy decision made by my Administration and by the Legislature in the 1969 reorganization. The reasons for that policy decision have not changed. I believe it is essential that the responsibility delegated to administrative agencies by the Legislature be implemented by those agencies. A reviewing body would be usurping the function of the administrative agency if it were able to freely develop its own record at the appeal stage. I am certain that if a court attempted to conduct such a review of an agency decision, the General Assembly would react adversely. The same philosophical problem is inherent in Senate Bill 960.

Another objection which I have to Senate Bill 960 is that it creates an exception for one board of review. There are five other such boards, each of which has been granted the same scope of review and, with one exception, the same general jurisdiction. If the nature and functions of the State's boards of review are to be altered, the six boards should be treated alike. I do not believe that any special circumstances exist as to the Natural Resources Board of Review, or any other board, to require a special exception.

The State's boards of review have been subjected to recent legislative criticism for several reasons. I have previously instructed my staff to review the statutory functions, powers, duties, and jurisdiction of these boards. This decision was prompted by the Court of Appeals decision in Montgomery County v. One Park North Associates, 275 Md. 193 (1975) which involved a question