

personnel policy in the same manner that all other agencies were to have final decision making authority on issues under their respective jurisdictions. The report emphasized that the purpose underlying the establishment of a consolidated administrative hearing office was to create "an independent fact finding tribunal and proposer of decisions without sacrificing the ultimate agency responsibility for final decision making." The report went on to say that "agency heads will retain the ultimate decision making authority which the law mandates be theirs."

Senate Bill 252 would fundamentally alter the intended role of the OAH within State government by making it the final policy-making body for personnel policy in Maryland.

This is not appropriate, it is not what I intended when I agreed to the creation of OAH in 1990, and I do not support this change now. No matter how skilled Administrative Law Judges may be in administrative procedures, it is not their role to establish the State's personnel policies. Their function is to apply existing laws and policies to specific cases. I note also that the provisions of Senate Bill 252 would create in Maryland a role for administrative law judges that is not found in any of the other states that have this type of centralized hearing procedure. Senate Bill 252 does not represent sound public policy.

Chief Administrative Law Judge John Hardwicke believes that this bill represents "an inappropriate extension of the OAH's authority" and should not be signed. Opponents to Senate Bill 252 wisely attempted to narrow its application, and were successful in adding the exception to the grant of final decision-making authority to OAH for issues relating to the severity of the punishment or discipline imposed on an employee.

Nevertheless, the Attorney General has concluded that the exception would create serious legal problems. Particularly, he states that Senate Bill 252 "simply does not address" such "core questions" as the scope of the Secretary of Personnel's authority under this provision.

Nor is it free from doubt on what basis the courts would evaluate decisions where the Secretary reaches a decision different than OAH's. A copy of the Attorney General's letter is attached. The Attorney General has gone beyond simply identifying these serious legal problems, but in fact urges that serious consideration be given to vetoing Senate Bill 252. I agree that the legal problems identified by the Attorney General are fatal to Senate Bill 252. However, because I also view Senate Bill 252 as flawed on policy grounds, I am compelled to issue this veto. I ask the General Assembly to reconsider its position on this issue, and evaluate the role of the Office of Administrative Hearings in the broad context of state government. Mandating the removal of the final decision making power over substantive issues from one agency would set an extremely dangerous precedent.

For those reasons, I have today vetoed Senate Bill 252.

Sincerely,
William Donald Schaefer
Governor