

HOUSE BILL 398

P3

8lr1959

By: **Delegates Nathan-Pulliam, Benson, G. Clagett, Elliott, Manno, Montgomery, Oaks, Riley, Tarrant, and V. Turner**

Introduced and read first time: January 28, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Administrative Procedure Act – Scope of Judicial**
3 **Review**

4 FOR the purpose of expanding the circumstances under which a court may reverse or
5 modify a final decision in certain contested cases under the Administrative
6 Procedure Act; and generally relating to judicial review of an administrative
7 decision.

8 BY repealing and reenacting, without amendments,
9 Article – State Government
10 Section 10–222(a)
11 Annotated Code of Maryland
12 (2004 Replacement Volume and 2007 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – State Government
15 Section 10–222(h)
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2007 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – State Government**

21 10–222.

22 (a) (1) Except as provided in subsection (b) of this section, a party who is
23 aggrieved by the final decision in a contested case is entitled to judicial review of the
24 decision as provided in this section.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) An agency, including an agency that has delegated a contested case
2 to the Office, is entitled to judicial review of a decision as provided in this section if the
3 agency was a party before the agency or the Office.

4 (h) In a proceeding under this section, the court may:

5 (1) remand the case for further proceedings;

6 (2) affirm the final decision; or

7 (3) reverse or modify the decision if any substantial right of the
8 petitioner may have been prejudiced because a finding, conclusion, or decision:

9 (i) is unconstitutional;

10 (ii) exceeds the statutory authority or jurisdiction of the final
11 decision maker;

12 (iii) results from an unlawful procedure;

13 (iv) is affected by any other error of law;

14 (v) is unsupported by competent, material, and substantial
15 evidence in light of the entire record as submitted; [or]

16 **(VI) IN A CASE INVOLVING EMPLOYEE DISCIPLINE OR**
17 **TERMINATION OF EMPLOYMENT:**

18 **1. IS AN ABUSE OF DISCRETION;**

19 **2. FAILS TO COMPLY WITH THE AGENCY'S**
20 **ESTABLISHED RULES AND REGULATIONS; OR**

21 **3. FAILS TO REASONABLY STATE THE BASIS FOR THE**
22 **NATURE AND EXTENT OF A PENALTY OR SANCTION; OR**

23 [[vi]] **(VII) is arbitrary or capricious.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2008.