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By: **Senators Stone, Conway, Frosh, Garagiola, Giannetti, Jimeno, and Pinsky**

Introduced and read first time: February 3, 2006

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 29, 2006

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CHAPTER \_\_\_\_\_

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 a contested case under the Administrative Procedure  
6 Act; and generally relating to judicial review of an administrative decision.

7 BY repealing and reenacting, without amendments,  
8 Article - State Government  
9 Section 10-222(a)  
10 Annotated Code of Maryland  
11 (2004 Replacement Volume and 2005 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article - State Government  
14 Section 10-222(h)  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2005 Supplement)

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

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**Article - State Government**

2 10-222.

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

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

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

10 (1) remand the case for further proceedings;

11 (2) affirm the final decision; or

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

14 (i) is unconstitutional;

15 (ii) exceeds the statutory authority or jurisdiction of the final  
16 decision maker;

17 (iii) results from an unlawful procedure;

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

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

21 (vi) IS AN ABUSE OF DISCRETION;

22 (VII) FAILS TO COMPLY WITH THE AGENCY'S ESTABLISHED RULES  
23 AND REGULATIONS;

24 (VIII) IN THE CASE OF A PENALTY OR SANCTION,;

25 ~~1. IS DISPROPORTIONATE TO THE OFFENSE; OR~~

26 ~~2. FAILS TO REASONABLY STATE THE BASIS FOR THE~~  
27 NATURE AND EXTENT OF THE PENALTY OR SANCTION; OR

28 (IX) is arbitrary or capricious.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2006.

