

Department of Legislative Services

Maryland General Assembly

2006 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 516

(Senator Stone, *et al.*)

Judicial Proceedings

Health and Government Operations

State Government - Administrative Procedure Act - Scope of Judicial Review

This bill expands the circumstances under which a court may reverse or modify a final decision in a contested case under the Administrative Procedure Act. Under the bill, the court may reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision: (1) is an abuse of discretion; (2) fails to comply with the agency's established rules and regulations; or (3) in the case of a penalty or sanction, fails to reasonably state the basis for the nature and extent of the penalty or sanction.

Fiscal Summary

State Effect: Potential operational impact on the circuit and appellate courts. Potential increase in State expenditures from an increase in administrative and litigation costs. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Generally, a party aggrieved by the final decision in a contested case is entitled to judicial review of the decision. An agency, including an agency that has delegated a contested case to the Office of Administrative Hearings (OAH), is entitled to judicial review of a decision if the agency was a party before the agency or OAH. In a judicial review proceeding, the court may remand the case for

further proceedings; affirm the final decision; or reverse or modify the decision. The court may reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision: ● is unconstitutional; ● exceeds the statutory authority or jurisdiction of the final decision maker; ● results from an unlawful procedure; ● is affected by any other error of law; ● is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or ● is arbitrary or capricious.

Unless otherwise provided in statute, a petition for judicial review must be filed with the circuit court for the county where any party resides or has a principal place of business.

In a 2005 decision, *Maryland Aviation Administration v. Noland*, 386 Md. 556, the Court of Appeals reiterated its holding in an earlier decision *MTA v. King*, 369 Md. 274 (2002), that “the grounds set forth in § 10-222(h) for reversing or modifying an adjudicatory administrative decision do not include disproportionality or abuse of discretion.” In employment disciplinary cases, the court decided that “[a]s long as an administrative sanction or decision does not exceed the agency’s authority, is not unlawful, and is supported by competent, material and substantial evidence, there can be no judicial reversal or modification of the decision based on disproportionality or abuse of discretion unless, under the facts of a particular case, the disproportionality or abuse of discretion was so extreme and egregious that the reviewing court can properly deem the decision to be ‘arbitrary or capricious.’”

State Fiscal Effect: To the extent that expanding the circumstances under which a court may reverse or modify a final decision in a contested case increases the number of cases for which judicial review is filed, there could be an operational impact on the circuit courts as well as the appellate courts. According to the Administrative Office of the Courts (AOC), it is unknown how often appeals are taken from administrative decisions; however, the number of cases resulting from the bill could increase significantly. If the number of cases increases significantly, there could be a significant operational impact on the circuit and appellate courts. Accordingly, the Attorney General’s Office advises that the bill could have a substantial fiscal impact on State agencies due to an increase in administrative and litigation costs.

Additional Comments: AOC advises that courts would be put in the position of being asked to substitute their judgment for the executive agency’s decision, notwithstanding the court’s expressed concerns in *Noland* about respecting separation of powers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Attorney General's Office, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Legislative Services

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