

SENATE BILL 47

P3
SB 516/06 – JPR

7lr1058

By: **Senators Stone, Frosh, Gladden, Pinsky, Raskin, and Rosapepe**

Introduced and read first time: January 18, 2007

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 2007

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~~ certain contested cases under the
6 Administrative Procedure Act; and generally relating to judicial review of an
7 administrative 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 2006 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 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

Article – State Government

10–222.

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

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

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

(1) remand the case for further proceedings;

(2) affirm the final decision; or

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

(i) is unconstitutional;

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

(iii) results from an unlawful procedure;

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

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

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

1. IS AN ABUSE OF DISCRETION;

1 ~~(VII)~~ 2. FAILS TO COMPLY WITH THE AGENCY'S
2 ESTABLISHED RULES AND REGULATIONS; OR

3 ~~(VIII)~~ 3. IN THE CASE OF A PENALTY OR SANCTION, FAILS
4 TO REASONABLY STATE THE BASIS FOR THE NATURE AND EXTENT OF THE
5 PENALTY OR SANCTION; OR

6 [(vi)] ~~(IX)~~ (VII) is arbitrary or capricious.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2007.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.