

SENATE BILL 265

P3
SB 47/07 – JPR

8lr1945

By: **Senators Stone, Frosh, Gladden, Muse, and Raskin**

Introduced and read first time: January 24, 2008

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2008

CHAPTER _____

1 AN ACT concerning

2 ~~State Government – Administrative Procedure Act – Scope of Judicial~~
3 ~~Review~~
4 Task Force on the Administrative Procedure Act

5 FOR the purpose of establishing the Task Force on the Administrative Procedure Act;
6 providing for the membership and chair of the Task Force; requiring the
7 Department of Legislative Services to provide staff for the Task Force;
8 prohibiting a member of the Task Force from receiving certain compensation
9 but entitling members to reimbursement for certain expenses; providing for the
10 duties of the Task Force; requiring the Task Force to submit a certain report to
11 the Governor and the General Assembly on or before a certain date; providing
12 for the termination of this Act; and generally relating to the Task Force on the
13 Administrative Procedure Act. ~~expanding the circumstances under which a~~
14 ~~court may reverse or modify a final decision in certain contested cases under the~~
15 ~~Administrative Procedure Act; and generally relating to judicial review of an~~
16 ~~administrative decision.~~

17 ~~BY repealing and reenacting, without amendments,~~
18 ~~Article – State Government~~
19 ~~Section 10-222(a)~~
20 ~~Annotated Code of Maryland~~
21 ~~(2004 Replacement Volume and 2007 Supplement)~~

22 ~~BY repealing and reenacting, with amendments,~~
23 ~~Article – State Government~~
24 ~~Section 10-222(h)~~

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.



~~Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)~~

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

(a) There is a Task Force on the Administrative Procedure Act.

(b) The Task Force consists of the following members:

(1) one member of the House of Delegates, appointed by the Speaker of the House;

(2) one member of the Senate of Maryland, appointed by the President of the Senate;

(3) the Attorney General, or the Attorney General's designee;

(4) the Chief Administrative Law Judge of the Office of Administrative Hearings, or the Chief Administrative Law Judge's designee;

(5) a Maryland judge, appointed by the Chief Judge of the Court of Appeals;

(6) the secretary of an executive branch department, appointed by the Governor, or the secretary's designee;

(7) one member each from a pharmacy, dental, and medical professional organization;

(8) two representatives of the Administrative Law section of the Maryland State Bar Association who are familiar with administrative law but who do not work for the government, appointed by the Bar Association;

(9) a representative of the American Federation of State, County, and Municipal Employees, appointed by the officers of the American Federation of State, County and Municipal Employees;

(10) a representative of the Firefighters Union; and

(11) two law professors who specialize in administrative law, one appointed by the Dean of the University of Maryland and one by the Dean of the University of Baltimore Law Schools.

(c) The members of the Task Force shall reflect the geographic, ethnic, and cultural diversity of the State.

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

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

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

6 ~~1. IS AN ABUSE OF DISCRETION;~~

7 ~~2. FAILS TO COMPLY WITH THE AGENCY'S~~
8 ~~ESTABLISHED RULES AND REGULATIONS; OR~~

9 ~~3. FAILS TO STATE REASONABLY THE BASIS FOR THE~~
10 ~~NATURE AND EXTENT OF A PENALTY OR SANCTION; OR~~

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2008. It shall remain effective for a period of 1 year and 6 months and, at
14 the end of March 31, 2010, with no further action required by the General Assembly,
15 this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.