



Senate

General Assembly

File No. 257

February Session, 2004

Substitute Senate Bill No. 293

Senate, March 25, 2004

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING JUDICIAL REVIEW UNDER THE UNIFORM ADMINISTRATIVE PROCEDURE ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (2) of section 4-166 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2004*):

4 (2) "Contested case" means a proceeding, including but not
5 restricted to rate-making, price fixing and licensing, in which the legal
6 rights, duties or privileges of a party are required by state statute or
7 regulation to be determined by an agency after an opportunity for
8 hearing or in which a hearing is in fact held, but does not include
9 proceedings on a petition for a declaratory ruling under section 4-176,
10 [or] hearings referred to in section 4-168 or hearings conducted by the
11 Department of Correction or the Board of Parole.

This act shall take effect as follows:

Section 1	October 1, 2004
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JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Attorney General	GF - Cost	51,182	65,576
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	9,476	28,616
Total State Cost	GF - Cost	60,658	94,192

Note: GF=General Fund

Municipal Impact: None

Explanation

By expanding the definition of “contested case” to include hearings held by authority of state regulations, the bill increases the number of hearings held by state agencies that could be subject to appeal. This change results in a potential workload increase for various state agencies to prepare their defense; any such workload increase could be accommodated without additional appropriations. However, the Office of the Attorney General, which would represent state agencies in these actions, would require one additional Assistant Attorney General at an annual state cost of approximately \$94,000 (including salary, fringe benefits and other expenses).¹

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The total fringe benefit reimbursement rate as a percentage of payroll is 45.82%, effective July 1, 2003. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 20.23% in FY 05. The state’s pension contribution is based upon the prior year’s certification by the actuary for the State Employees Retirement System.

OLR Bill Analysis

sSB 293

AN ACT CONCERNING JUDICIAL REVIEW UNDER THE UNIFORM ADMINISTRATIVE PROCEDURE ACT**SUMMARY:**

Under the Uniform Administrative Procedures Act (UAPA), only an agency's final decision can be appealed to Superior Court. Final decisions are those resulting from a "contested case" where the affected party is given a right to a hearing. This bill prevents parties from appealing Department of Correction or Parole Board decisions to Superior Court by exempting these agencies' hearings from the definition of a "contested case" under the UAPA. It makes state regulations one authority for administrative hearings that constitute contested cases. It specifies that state statutes are the only other authority.

EFFECTIVE DATE: October 1, 2004

BACKGROUND***Contested Cases Under the UAPA***

A "contested case" is an agency proceeding where a person's legal rights, duties, or privileges are determined by statute. UAPA regulates how agencies conduct contested cases, including (1) determining the parties, (2) setting notice requirements, (3) guiding the conduct and record of the hearing, and (4) setting rules for appeals.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 1