

**SENATE BILL REPORT**

**SB 5766**

**AS OF FEBRUARY 24, 1993**

**Brief Description:** Providing a new standard for judicial review of decisions of the other branches of government.

**SPONSORS:** Senator Niemi

**SENATE COMMITTEE ON LAW & JUSTICE**

**Staff:** Tom Fender (786-7414)

**Hearing Dates:** February 25, 1993

**BACKGROUND:**

State and local governments routinely determine rights and privileges through quasi-judicial proceedings. This process is the portion of administrative law that involves the application of law or administrative rule to a citizen request or violation of a state standard. Actions by state government are subject to the state Administrative Procedure Act and local governments use a similar process enacted by local ordinance.

Decisions reached in this manner are subject to review by the superior court. One of the standards is that the decision under review has not been made in an "arbitrary or capricious" manner. If the decision is one involving real property, the standard is more expansive in that it imposes on the governmental agency that it not exceed its lawful authority and that it should reasonably know what the state of the law is in that particular matter. The application of this standard in a recent Supreme Court case has had the effect of not only granting the aggrieved property owner its rightful use of the property but also subjected the local government to liability for violation of the property owner's civil rights.

Based on this decision, there is a belief amongst certain local governments that the standard of "arbitrary and capricious" should be changed so as to facilitate the correction of good faith mistakes by the courts in the review of quasi-judicial proceedings. The replacement standard being advocated is one of "manifestly unreasonable" which would have the effect of meaning no reasonable mind would have made the determination or decision. The proponents of this change believe that it should be applied to the state Administrative Procedure Act and the judicial standards of review procedure in Title 7 while leaving in place the arbitrary and capricious standard in Title 64 regarding real property.

**SUMMARY:**

The judicial review standard for quasi-judicial proceedings pursuant to the Administrative Procedure Act and court review of local government actions is changed from "arbitrary and capricious" to "manifestly unreasonable" when determining the reasonableness of a decision.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested