

1 AN ACT relating to judicial review of state agency action.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO
4 READ AS FOLLOWS:

5 **(1) Any court reviewing an appeal from any case involving a statute, executive order,**
6 **administrative regulation, or order of any cabinet, program cabinet, or**
7 **department established under KRS Chapter 12 shall decide all questions of law de**
8 **novo and shall not defer to a state agency's interpretation of any statute,**
9 **administrative regulation, or order.**

10 **(2) In actions brought by or against any state agency, after applying all customary**
11 **tools of interpretation, the court shall resolve any remaining ambiguity against**
12 **increased agency authority.**

13 ➔Section 2. KRS 13B.150 is amended to read as follows:

14 (1) **(a)** Except as provided in KRS 452.005, review of a final order shall be
15 conducted by the court without a jury and shall be confined to the record,
16 unless there is fraud or misconduct involving a party engaged in
17 administration of this chapter.

18 **(b)** The court, upon request, may hear oral argument and receive written briefs.

19 **(c)** Challenges to the constitutionality of a final order shall be reviewed in
20 accordance with KRS 452.005.

21 **(d) The court shall decide all questions of law de novo as provided in Section 1**
22 **of this Act.**

23 (2) The court shall not substitute its judgment for that of the agency as to the weight of
24 the evidence on questions of fact. The court may affirm the final order or it may
25 reverse the final order, in whole or in part, and remand the case for further
26 proceedings if it finds the agency's final order is:

27 (a) In violation of constitutional or statutory provisions;

- 1 (b) In excess of the statutory authority of the agency;
- 2 (c) Without support of substantial evidence on the whole record;
- 3 (d) Arbitrary, capricious, or characterized by abuse of discretion;
- 4 (e) Based on an ex parte communication which substantially prejudiced the rights
- 5 of any party and likely affected the outcome of the hearing;
- 6 (f) Prejudiced by a failure of the person conducting a proceeding to be
- 7 disqualified pursuant to KRS 13B.040(2); or
- 8 (g) Deficient as otherwise provided by law.