

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 943

By: Anderson of the Senate

3 and

4 Grau of the House

5

6

7 [judicial review - petition - service - effective
8 date]

9

10 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
11 entire bill and insert

12

13 "An Act relating to statutes and reports; amending 75
14 O.S. 2001, Sections 318 and 320, which relate to the
15 Administrative Procedures Act; modifying notice
16 requirements for review proceedings and petitions;
17 increasing number of days for agencies to transmit
18 certain records; and providing an effective date.

17

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 75 O.S. 2001, Section 318, is

20 amended to read as follows:

21 Section 318. A. 1. Any party aggrieved by a final agency
22 order in an individual proceeding is entitled to certain, speedy,
23 adequate and complete judicial review thereof pursuant to the

24

1 provisions of this section and Sections 319, 320, 321, 322 and 323
2 of this title.

3 2. This section shall not prevent resort to other means of
4 review, redress, relief or trial de novo, available because of
5 constitutional provisions.

6 3. Neither a motion for new trial nor an application for
7 rehearing shall be prerequisite to secure judicial review.

8 B. 1. The judicial review prescribed by this section for final
9 agency orders, as to agencies whose final agency orders are made
10 subject to review, under constitutional or statutory provisions, by
11 appellate proceedings in the Supreme Court of Oklahoma, shall be
12 afforded by such proceedings taken in accordance with the procedure
13 and under the conditions otherwise provided by law, but subject to
14 the applicable provisions of Sections 319 through 324 of this title,
15 and the rules of the Supreme Court.

16 2. In all other instances, proceedings for review shall be
17 instituted by filing a petition, in the district court of the county
18 in which the party seeking review resides or at the option of such
19 party where the property interest affected is situated, naming as
20 respondents only the agency, such other party or parties in the
21 administrative proceeding as may be named by the petitioner or as
22 otherwise may be allowed by law, within thirty (30) days after the
23 appellant is notified of the final agency order as provided in
24 Section 312 of this title.

1 C. Copies of the petition shall be ~~served upon~~ delivered in
2 person or mailed, postage prepaid, to the agency and all other
3 parties of record, and proof of such ~~service~~ delivery or mailing
4 shall be filed in the court within ten (10) days after the filing of
5 the petition. Any party not named as a respondent in the petition
6 is entitled to respond within ten (10) days of receipt of service.
7 The court, in its discretion, may permit other interested persons to
8 intervene.

9 D. In any proceedings for review brought by a party aggrieved
10 by a final agency order:

11 1. The agency whose final agency order was made subject to
12 review may be entitled to recover against such aggrieved party any
13 court costs, witness fees and reasonable attorney fees if the court
14 determines that the proceeding brought by the party is frivolous or
15 was brought to delay the effect of said final agency order.

16 2. The party aggrieved by the final agency order may be
17 entitled to recover against such agency any court costs, witness
18 fees, and reasonable attorney fees if the court determines that the
19 proceeding brought by the agency is frivolous.

20 SECTION 2. AMENDATORY 75 O.S. 2001, Section 320, is
21 amended to read as follows:

22 Section 320. Within ~~thirty (30)~~ sixty (60) days after service
23 of the petition for review or equivalent process upon it, or within
24 such further time as the reviewing court, upon application for good

1 cause shown, may allow, the agency shall transmit to the reviewing
2 court the original or a certified copy of the entire record of the
3 proceeding under review. For purposes of this section, "record"
4 shall include such information as specified by Section 309 of this
5 title. By stipulation of all parties to the review proceeding, the
6 record may be shortened. Any party unreasonably refusing to
7 stipulate to limit the record may be taxed by the court for the
8 additional costs resulting therefrom. The court may require or
9 permit subsequent corrections or additions to the record when deemed
10 desirable.

11 SECTION 3. This act shall become effective November 1, 2011."

12 Passed the House of Representatives the 28th day of March, 2011.

13

14

15

Presiding Officer of the House of
Representatives

16

17

Passed the Senate the ____ day of _____, 2011.

18

19

20

Presiding Officer of the Senate

21

22

23

24

1 ENGROSSED SENATE
2 BILL NO. 943

By: Anderson of the Senate

3 and

4 Grau of the House

5
6
7 [judicial review - petition - service - effective
8 date]
9

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 4. AMENDATORY 75 O.S. 2001, Section 318, is
12 amended to read as follows:

13 Section 318. A. 1. Any party aggrieved by a final agency
14 order in an individual proceeding is entitled to certain, speedy,
15 adequate and complete judicial review thereof pursuant to the
16 provisions of this section and Sections 319, 320, 321, 322 and 323
17 of this title.

18 2. This section shall not prevent resort to other means of
19 review, redress, relief or trial de novo, available because of
20 constitutional provisions.

21 3. Neither a motion for new trial nor an application for
22 rehearing shall be prerequisite to secure judicial review.

23 B. 1. The judicial review prescribed by this section for final
24 agency orders, as to agencies whose final agency orders are made

1 subject to review, under constitutional or statutory provisions, by
2 appellate proceedings in the Supreme Court of Oklahoma, shall be
3 afforded by such proceedings taken in accordance with the procedure
4 and under the conditions otherwise provided by law, but subject to
5 the applicable provisions of Sections 319 through 324 of this title,
6 and the rules of the Supreme Court.

7 2. In all other instances, proceedings for review shall be
8 instituted by filing a petition, in the district court of the county
9 in which the party seeking review resides or at the option of such
10 party where the property interest affected is situated, naming as
11 respondents the agency and such other party or parties as the
12 petitioner deems appropriate, within thirty (30) days after the
13 appellant is notified of the final agency order as provided in
14 Section 312 of this title.

15 C. Copies of the petition shall be ~~served upon~~ delivered in
16 person or mailed, postage prepaid, to the agency and all other
17 parties of record, and proof of such ~~service~~ delivery or mailing
18 shall be filed in the court within ten (10) days after the filing of
19 the petition. Any party not named as a respondent in the petition
20 is entitled to respond within ten (10) days of receipt of service.
21 The court, in its discretion, may permit other interested persons to
22 intervene.

23 D. In any proceedings for review brought by a party aggrieved
24 by a final agency order:

1 1. The agency whose final agency order was made subject to
2 review may be entitled to recover against such aggrieved party any
3 court costs, witness fees and reasonable attorney fees if the court
4 determines that the proceeding brought by the party is frivolous or
5 was brought to delay the effect of said final agency order.

6 2. The party aggrieved by the final agency order may be
7 entitled to recover against such agency any court costs, witness
8 fees, and reasonable attorney fees if the court determines that the
9 proceeding brought by the agency is frivolous.

10 SECTION 5. AMENDATORY 75 O.S. 2001, Section 320, is
11 amended to read as follows:

12 Section 320. Within ~~thirty (30)~~ sixty (60) days after service
13 of the petition for review or equivalent process upon it, or within
14 such further time as the reviewing court, upon application for good
15 cause shown, may allow, the agency shall transmit to the reviewing
16 court the original or a certified copy of the entire record of the
17 proceeding under review. For purposes of this section, "record"
18 shall include such information as specified by Section 309 of this
19 title. By stipulation of all parties to the review proceeding, the
20 record may be shortened. Any party unreasonably refusing to
21 stipulate to limit the record may be taxed by the court for the
22 additional costs resulting therefrom. The court may require or
23 permit subsequent corrections or additions to the record when deemed
24 desirable.

1 SECTION 6. This act shall become effective November 1, 2011.
2 Passed the Senate the 9th day of March, 2011.

3
4 _____
5 Presiding Officer of the Senate

6 Passed the House of Representatives the ____ day of _____,
7 2011.

8
9 _____
10 Presiding Officer of the House
11 of Representatives