

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 943

By: Anderson of the Senate

and

Grau of the House

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10                                   COMMITTEE SUBSTITUTE

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

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

18                   SECTION 1.           AMENDATORY           75 O.S. 2001, Section 318, is  
19 amended to read as follows:

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

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UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

14        2. In all other instances, proceedings for review shall be  
15 instituted by filing a petition, in the district court of the county  
16 in which the party seeking review resides or at the option of such  
17 party where the property interest affected is situated, naming as  
18 respondents the agency and all other applicable parties, within  
19 thirty (30) days after the appellant is notified of the final agency  
20 order as provided in Section 312 of this title.

21        C. Copies of the petition shall be ~~served upon~~ delivered in  
22 person or mailed, postage prepaid, to the agency and all other  
23 parties of record, and proof of such ~~service~~ delivery or mailing

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1 shall be filed in the court within ten (10) days after the filing of  
2 the petition. Any party not named as a respondent in the petition  
3 is entitled to respond within ten (10) days of receipt of service.

4 The court, in its discretion, may permit other interested persons to  
5 intervene.

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

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

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

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

19 Section 320. Within ~~thirty (30)~~ sixty (60) days after service  
20 of the petition for review or equivalent process upon it, or within  
21 such further time as the reviewing court, upon application for good  
22 cause shown, may allow, the agency shall transmit to the reviewing  
23 court the original or a certified copy of the entire record of the

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-22-2011 - DO  
11 PASS, As Amended.

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