

1 **SENATE FLOOR VERSION**

2 March 1, 2011

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 943

By: Anderson of the Senate

and

6 Grau of the House

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

11
12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

21 2. This section shall not prevent resort to other means of
22 review, redress, relief or trial de novo, available because of
23 constitutional provisions.
24

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

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

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

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

1 The court, in its discretion, may permit other interested persons to
2 intervene.

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

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

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

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

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

1 stipulate to limit the record may be taxed by the court for the
2 additional costs resulting therefrom. The court may require or
3 permit subsequent corrections or additions to the record when deemed
4 desirable.

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

6 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 2-23-11 - DO PASS, As
7 Amended and Coauthored.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24