

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2265

By: Cox

4
5
6 AS INTRODUCED

7 An Act relating to statutes and reports; amending 75
8 O.S. 2011, Section 309, which relates to the
9 Administrative Procedures Act; restricting the
10 removal of certain actions from the administrative
11 process; providing exceptions; providing for attorney
12 fees and costs to prevailing party; providing an
13 effective date; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 75 O.S. 2011, Section 309, is
16 amended to read as follows:

17 Section 309. A. In an individual proceeding, all parties shall
18 be afforded an opportunity for hearing after reasonable notice.

19 B. The notice shall include:

- 20 1. A statement of the time, place and nature of the hearing;
- 21 2. A statement of the legal authority and jurisdiction under
22 which the hearing is to be held;
- 23 3. A reference to the particular sections of the statutes and
24 rules involved; and

1 4. A short and plain statement of the matters asserted. If the
2 agency or other party is unable to state the matters in detail at
3 the time the notice is served, the initial notice may be limited to
4 a statement of the issues involved. Thereafter upon application a
5 more definite and detailed statement shall be furnished.

6 C. Opportunity shall be afforded all parties to respond and
7 present evidence and argument on all issues involved.

8 D. Deliberations by administrative heads, hearing examiners,
9 and other persons authorized by law may be held in executive session
10 pursuant to paragraph 8 of subsection B of Section 307 of Title 25
11 of the Oklahoma Statutes.

12 E. Unless precluded by law, informal disposition may be made of
13 any individual proceeding by stipulation, agreed settlement, consent
14 order, or default.

15 F. The record in an individual proceeding shall include:

- 16 1. All pleadings, motions and intermediate rulings;
- 17 2. Evidence received or considered at the individual
18 proceeding;
- 19 3. A statement of matters officially noticed;
- 20 4. Questions and offers of proof, objections, and rulings
21 thereon;
- 22 5. Proposed findings and exceptions;
- 23 6. Any decision, opinion, or report by the officer presiding at
24 the hearing; and

1 7. All other evidence or data submitted to the hearing examiner
2 or administrative head in connection with their consideration of the
3 case provided all parties have had access to such evidence.

4 G. Oral proceedings shall be electronically recorded. Such
5 recordings shall be maintained for such time so as to protect the
6 record through judicial review. Copies of the recordings shall be
7 provided by the agency at the request of any party to the
8 proceeding. Costs of transcription of the recordings shall be borne
9 by the party requesting the transcription. For judicial review,
10 electronic recordings of an individual proceeding, as certified by
11 the agency, may be submitted to the reviewing court by the agency as
12 part of the record of the proceedings under review without
13 transcription unless otherwise required to be transcribed by the
14 reviewing court. In such case, the expense of transcriptions shall
15 be taxed and assessed against the nonprevailing party. Parties to
16 any proceeding may have the proceedings transcribed by a court
17 reporter at their own expense.

18 H. Findings of fact shall be based exclusively on the evidence
19 received and on matters officially noticed in the individual
20 proceeding unless otherwise agreed upon by the parties on the
21 record.

22 I. Once an individual proceeding has commenced, no action shall
23 be filed in any other court concerning the individual proceeding,
24 until the matter has been concluded, except for an action

1 challenging subject matter jurisdiction or personal jurisdiction.
2 The prevailing party may request the assessment of attorney fees and
3 costs associated with filing or defending the action. The court
4 shall review the request for attorney fees and costs and the court
5 shall assess a reasonable amount of attorney fees and costs to the
6 prevailing party.

7 SECTION 2. This act shall become effective July 1, 2012.

8 SECTION 3. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12

13 53-2-8501 LRB 12/12/11

14

15

16

17

18

19

20

21

22

23

24