

SB167 ENGROSSED



1 SB167
2 SLZTI85-2
3 By Senator Orr
4 RFD: Finance and Taxation General Fund
5 First Read: 14-Jan-26



SB167 Engrossed

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Administrative Procedure Act;
to amend Section 41-22-20, Code of Alabama 1975; to revise the
standard of judicial review of agency rulings.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 41-22-20 of the Code of Alabama
1975, is amended to read as follows:

"§41-22-20

(a) A person who has exhausted all administrative
remedies available within the agency, other than rehearing,
and who is aggrieved by a final decision in a contested case
is entitled to judicial review under this chapter. A
preliminary, procedural, or intermediate agency action or
ruling is immediately reviewable if review of the final agency
decision would not provide an adequate remedy.

(b) All proceedings for review may be instituted by
filing of notice of appeal or review and a cost bond with the
agency to cover the reasonable costs of preparing the
transcript of the proceeding under review, unless waived by
the agency or the court on a showing of substantial hardship.
A petition shall be filed either in the Circuit Court of



SB167 Engrossed

Montgomery County or in the circuit court of the county in which the agency maintains its headquarters, or unless otherwise specifically provided by statute, in the circuit court of the county where a party other than an intervenor~~r~~ resides~~,~~ or if a party, other than an intervenor, is a corporation, domestic or foreign, having a registered office or business office in this state, then in the county of the registered office or principal place of business within this state.

(c) The filing of the notice of appeal or the petition does not itself stay enforcement of the agency decision. If the agency decision has the effect of suspending or revoking a license, a stay or supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless the reviewing court, upon petition of the agency, determines that a stay or supersedeas would constitute a probable danger to the public health, safety, or welfare. In all other cases, the agency may grant, or the reviewing court may order, a stay upon appropriate terms, but, in any event, the order shall specify the conditions upon which the stay or supersedeas is granted~~r~~, provided~~, however,~~ if the appeal or proceedings for review to any reviewing court is from an order of the agency increasing or reducing or refusing to increase rates, fares, or charges, or any of them, or any schedule or parts of any schedule of rates, fares, or charges, the reviewing court shall not direct or order a supersedeas or stay of the action or order to be reviewed without requiring, as a condition precedent to the granting of ~~such~~ the supersedeas, that the



SB167 Engrossed

57 party applying for supersedeas or stay shall execute and file
58 with the clerk of the court a bond as provided for and
59 required by statute or law. If the circuit court ~~shall fail~~
60 fails or ~~refuse~~ refuses to grant supersedeas or stay, the
61 party seeking ~~such~~ relief may petition the appropriate court
62 to which the appeal or review lies to order a supersedeas or
63 stay of the action or order of the agency from which review is
64 sought. After the required bond ~~shall have~~ has been filed and
65 approved by the clerk, ~~such~~ the agency order shall be stayed
66 and superseded, and it shall be lawful to charge the rates,
67 fares, or charges which have been reduced, refused, or denied
68 by the agency order, until the final disposition of the cause.
69 ~~The provisions of this~~ This subsection shall apply when
70 applicable, anything in Rule 60 of the Alabama Rules of Civil
71 Procedure restricting ~~the provisions of~~ this subsection to the
72 contrary notwithstanding.

73 (d) The notice of appeal or review shall be filed
74 within 30 days after the receipt of the notice of or other
75 service of the final decision of the agency upon the
76 petitioner or, if a rehearing is requested under Section
77 41-22-17, within 30 days after the receipt of the notice of or
78 other service of the decision of the agency thereon. The
79 petition for judicial review in the circuit court shall be
80 filed within 30 days after the filing of the notice of appeal
81 or review. Copies of the petition shall be served upon the
82 agency and all parties of record. Any person aggrieved who is
83 not a party may petition to become a party by filing a motion
84 to intervene as provided in Section 41-22-14. Failure to file



SB167 Engrossed

85 ~~such~~ the petition within the time stated shall operate as a
86 waiver of the right of ~~such~~ the person to review under this
87 chapter, except that for good cause shown, the judge of the
88 reviewing court may extend the time for filing, not to exceed
89 an additional 30 days, or, within four months after the
90 issuance of the agency order, issue an order permitting a
91 review of the agency decision under this chapter
92 notwithstanding ~~such~~ the waiver. Any notice required ~~herein~~ in
93 this subsection which is mailed by the petitioner, certified
94 mail return receipt requested, shall be deemed to have been
95 filed as of the date ~~it~~ the notice is postmarked. This section
96 shall apply to judicial review from the final order or action
97 of all agencies, and amends the judicial review statutes
98 relating to all agencies to provide a period of 30 days within
99 which to appeal or to institute judicial review.

100 (e) If there has been no hearing prior to agency action
101 and the reviewing court finds that the validity of the action
102 depends upon disputed facts, the court shall order the agency
103 to conduct a prompt fact-finding proceeding under this chapter
104 after having a reasonable opportunity to reconsider its
105 determination on the record of the proceedings.

106 (f) Unreasonable delay on the part of an agency in
107 reaching a final decision shall be justification for any
108 person whose rights, duties, or privileges are adversely
109 affected by ~~such~~ the delay to seek a court order compelling
110 action by the agency.

111 (g) Within 30 days after receipt of the notice of
112 appeal or within such additional time as the court may allow,



SB167 Engrossed

the agency shall transmit to the reviewing court the original or a certified copy of the entire record and transcript of the proceedings under review. With the permission of the court, the record of the proceedings under review may be shortened by stipulation of all parties to the review proceedings. Any party found by the reviewing court to have unreasonably refused to stipulate to limit the record may be taxed by the court for ~~such~~ the additional costs as may be occasioned by the refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(h) The petition for review shall name the agency as respondent and shall contain a concise statement of:

- (1) The nature of the agency action which is the subject of the petition;
- (2) The particular agency action appealed from;
- (3) The facts and law on which jurisdiction and venue are based;
- (4) The grounds on which relief is sought; and
- (5) The relief sought.

(i) In proceedings for judicial review of agency action in a contested case, except where appeal or judicial review is by a trial de novo, a reviewing court shall not itself hear or accept any further evidence with respect to those issues of fact whose determination was entrusted by law to the agency in that contested case proceeding; provided, however, that evidence may be introduced in the reviewing court as to fraud or misconduct of some person engaged in the administration of the agency or procedural irregularities before the agency not



SB167 Engrossed

shown in the record and the affecting order, ruling, or award from which review is sought, and proof thereon may be taken in the reviewing court. If, before the date set for hearing a petition for judicial review of agency action in a contested case, it is shown to the satisfaction of the court that additional evidence is material and that there were good reasons for failure to present ~~it~~ that additional evidence in the contested case proceeding before the agency, the court may remand to the agency and order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision in the case by reason of the additional evidence and shall file that evidence and any modification, new findings, or decision with the reviewing court and mail copies of the new findings, or decision to all parties.

(j) (1) The review shall be conducted by the court without a jury and, except as ~~herein provided~~ in subdivision (2), shall in the review of contested cases be confined to the record and the additions thereto as may be made under subsection (i) ~~of this section~~. Judicial review shall be by trial de novo in the circuit court where review is sought from tax assessments, tax determinations, or tax redeterminations, rulings of the ~~Revenue Department~~ of Revenue granting, denying, or revoking licenses, or rulings on petitions for tax refunds, or, unless a subsequent agency statute provides otherwise, where an agency statute existing on the effective date of Act No. 81-855, 1981 Acts of Alabama, or thereafter enacted provides for a trial de novo on appeal to or review by



SB167 Engrossed

the courts; ~~provided, however, . in~~ In the review of tax assessments, tax determinations, or tax redeterminations, rulings of the ~~Revenue Department~~ of Revenue granting, denying, or revoking licenses, or rulings on petitions for tax refunds, the administrative record and transcript shall be transmitted to the reviewing court as provided in subsection (g) ~~of this section~~, and, on motion of either party, shall be admitted into evidence in the trial de novo, subject to the rights of either party to assign errors, objections, or motions to exclude calling attention to any testimony or evidence in the administrative record or transcript which is deemed objectionable or inadmissible. ~~Provided further that~~

(2) Notwithstanding subdivision (1), with the consent of all parties, judicial review may be on the administrative record and transcript.

(3) The court, upon request, shall hear oral argument and receive written briefs.

(k) ~~Except where judicial review is by trial de novo, the agency order shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, except where otherwise authorized by statute.~~ The court may affirm the agency action or remand the case to the agency for taking additional testimony and evidence or for further proceedings. The court may reverse or modify the decision or grant other appropriate relief from the agency action, equitable or legal, including declaratory relief, if the court finds that the agency action is due to be



SB167 Engrossed

set aside or modified under standards set forth in appeal or review statutes applicable to that agency or if substantial rights of the petitioner have been prejudiced because the agency action is any one or more of the following:

(1) In violation of constitutional or statutory provisions~~+~~.

(2) In excess of the statutory authority of the agency~~+~~.

(3) In violation of any pertinent agency rule~~+~~.

(4) Made upon unlawful procedure~~+~~.

(5) Affected by other error of law~~+~~.

(6) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record~~+~~~~or~~.

(7) Unreasonable, arbitrary, or capricious, or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

(1) During the review, when interpreting any statute or rule, the court may consider, but shall not defer to, an agency's interpretation and shall instead interpret its meaning and effect without any presumption as to correctness. In an action brought by or against an agency, after applying all customary tools of interpretation, the court shall exercise any remaining doubt in favor of a reasonable interpretation.

~~(1)~~ (m) Unless the court affirms the decision of the agency, the court shall set out in writing, which writing shall become a part of the record, the reasons for its decision."



SB167 Engrossed

225 Section 2. This act shall become effective on October
226 1, 2026.



SB167 Engrossed

227
228
229 Senate

230 Read for the first time and referred14-Jan-26
231 to the Senate committee on Finance
232 and Taxation General Fund
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234 Read for the second time and placed21-Jan-26
235 on the calendar:
236 1 amendment
237

238 Read for the third time and passed05-Feb-26
239 as amended

240 Yeas 34
241 Nays 0
242 Abstains 0
243
244

245 Patrick Harris,
246 Secretary.
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