

SB167 ENGROSSED



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



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A BILL

TO BE ENTITLED

AN ACT

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 41-22-20 of the Code of Alabama
14 1975, is amended to read as follows:

15 "§41-22-20

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

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



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

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



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



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,



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

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

125 (1) The nature of the agency action which is the
126 subject of the petition;

127 (2) The particular agency action appealed from;

128 (3) The facts and law on which jurisdiction and venue
129 are based;

130 (4) The grounds on which relief is sought; and

131 (5) The relief sought.

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



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

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



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

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

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

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



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

201 (1) In violation of constitutional or statutory
202 provisions.✓

203 (2) In excess of the statutory authority of the
204 agency.✓

205 (3) In violation of any pertinent agency rule.✓

206 (4) Made upon unlawful procedure.✓

207 (5) Affected by other error of law.✓

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

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

213 (1) During the review, when interpreting any statute or
214 rule, the court may consider, but shall not defer to, an
215 agency's interpretation and shall instead interpret its
216 meaning and effect without any presumption as to correctness.

217 In an action brought by or against an agency, after applying
218 all customary tools of interpretation, the court shall
219 exercise any remaining doubt in favor of a reasonable
220 interpretation.

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



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



227
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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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