

**SB167 ENROLLED**



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



## SB167 Enrolled

1 Enrolled, An Act,

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

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 41-22-20 of the Code of Alabama  
9 1975, is amended to read as follows:

10 "§41-22-20

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

18 (b) All proceedings for review may be instituted by  
19 filing of notice of appeal or review and a cost bond with the  
20 agency to cover the reasonable costs of preparing the  
21 transcript of the proceeding under review, unless waived by  
22 the agency or the court on a showing of substantial hardship.  
23 A petition shall be filed either in the Circuit Court of  
24 Montgomery County or in the circuit court of the county in  
25 which the agency maintains its headquarters, or unless  
26 otherwise specifically provided by statute, in the circuit  
27 court of the county where a party other than an intervenor~~r~~  
28 resides, or if a party, other than an intervenor, is a



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29 corporation, domestic or foreign, having a registered office  
30 or business office in this state, then in the county of the  
31 registered office or principal place of business within this  
32 state.

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



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57 to which the appeal or review lies to order a supersedeas or  
58 stay of the action or order of the agency from which review is  
59 sought. After the required bond ~~shall have~~ has been filed and  
60 approved by the clerk, ~~such~~ the agency order shall be stayed  
61 and superseded, and it shall be lawful to charge the rates,  
62 fares, or charges which have been reduced, refused, or denied  
63 by the agency order, until the final disposition of the cause.  
64 ~~The provisions of this~~ This subsection shall apply when  
65 applicable, anything in Rule 60 of the Alabama Rules of Civil  
66 Procedure restricting ~~the provisions of~~ this subsection to the  
67 contrary notwithstanding.

68 (d) The notice of appeal or review shall be filed  
69 within 30 days after the receipt of the notice of or other  
70 service of the final decision of the agency upon the  
71 petitioner or, if a rehearing is requested under Section  
72 41-22-17, within 30 days after the receipt of the notice of or  
73 other service of the decision of the agency thereon. The  
74 petition for judicial review in the circuit court shall be  
75 filed within 30 days after the filing of the notice of appeal  
76 or review. Copies of the petition shall be served upon the  
77 agency and all parties of record. Any person aggrieved who is  
78 not a party may petition to become a party by filing a motion  
79 to intervene as provided in Section 41-22-14. Failure to file  
80 ~~such~~ the petition within the time stated shall operate as a  
81 waiver of the right of ~~such~~ the person to review under this  
82 chapter, except that for good cause shown, the judge of the  
83 reviewing court may extend the time for filing, not to exceed  
84 an additional 30 days, or, within four months after the



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85 issuance of the agency order, issue an order permitting a  
86 review of the agency decision under this chapter  
87 notwithstanding ~~such~~ the waiver. Any notice required ~~herein~~ in  
88 this subsection which is mailed by the petitioner, certified  
89 mail return receipt requested, shall be deemed to have been  
90 filed as of the date ~~it~~ the notice is postmarked. This section  
91 shall apply to judicial review from the final order or action  
92 of all agencies, and amends the judicial review statutes  
93 relating to all agencies to provide a period of 30 days within  
94 which to appeal or to institute judicial review.

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

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

106 (g) Within 30 days after receipt of the notice of  
107 appeal or within such additional time as the court may allow,  
108 the agency shall transmit to the reviewing court the original  
109 or a certified copy of the entire record and transcript of the  
110 proceedings under review. With the permission of the court,  
111 the record of the proceedings under review may be shortened by  
112 stipulation of all parties to the review proceedings. Any



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113 party found by the reviewing court to have unreasonably  
114 refused to stipulate to limit the record may be taxed by the  
115 court for ~~such~~ the additional costs as may be occasioned by  
116 the refusal. The court may require or permit subsequent  
117 corrections or additions to the record when deemed desirable.

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

120 (1) The nature of the agency action which is the  
121 subject of the petition;

122 (2) The particular agency action appealed from;

123 (3) The facts and law on which jurisdiction and venue  
124 are based;

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

126 (5) The relief sought.

127 (i) In proceedings for judicial review of agency action  
128 in a contested case, except where appeal or judicial review is  
129 by a trial de novo, a reviewing court shall not itself hear or  
130 accept any further evidence with respect to those issues of  
131 fact whose determination was entrusted by law to the agency in  
132 that contested case proceeding; provided, however, that  
133 evidence may be introduced in the reviewing court as to fraud  
134 or misconduct of some person engaged in the administration of  
135 the agency or procedural irregularities before the agency not  
136 shown in the record and the affecting order, ruling, or award  
137 from which review is sought, and proof thereon may be taken in  
138 the reviewing court. If, before the date set for hearing a  
139 petition for judicial review of agency action in a contested  
140 case, it is shown to the satisfaction of the court that



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141 additional evidence is material and that there were good  
142 reasons for failure to present ~~it~~ that additional evidence in  
143 the contested case proceeding before the agency, the court may  
144 remand to the agency and order that the additional evidence be  
145 taken before the agency upon conditions determined by the  
146 court. The agency may modify its findings and decision in the  
147 case by reason of the additional evidence and shall file that  
148 evidence and any modification, new findings, or decision with  
149 the reviewing court and mail copies of the new findings, or  
150 decision to all parties.

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



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169 transmitted to the reviewing court as provided in subsection  
170 ~~(g) of this section~~, and, on motion of either party, shall be  
171 admitted into evidence in the trial de novo, subject to the  
172 rights of either party to assign errors, objections, or  
173 motions to exclude calling attention to any testimony or  
174 evidence in the administrative record or transcript which is  
175 deemed objectionable or inadmissible. ~~Provided further that~~

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

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

181 ~~(k) Except where judicial review is by trial de novo,~~  
182 ~~the agency order shall be taken as prima facie just and~~  
183 ~~reasonable and the court shall not substitute its judgment for~~  
184 ~~that of the agency as to the weight of the evidence on~~  
185 ~~questions of fact, except where otherwise authorized by~~  
186 ~~statute.~~ The court may affirm the agency action or remand the  
187 case to the agency for taking additional testimony and  
188 evidence or for further proceedings. The court may reverse or  
189 modify the decision or grant other appropriate relief from the  
190 agency action, equitable or legal, including declaratory  
191 relief, if the court finds that the agency action is due to be  
192 set aside or modified under standards set forth in appeal or  
193 review statutes applicable to that agency or if substantial  
194 rights of the petitioner have been prejudiced because the  
195 agency action is any one or more of the following:

196 (1) In violation of constitutional or statutory



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197 provisions~~+~~.

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

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

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

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

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

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

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

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

220 Section 2. This act shall become effective on October  
221 1, 2026.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB167

Senate 05-Feb-26

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives

Passed: 17-Mar-26

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By: Senator Orr