

## SB167 INTRODUCED



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



SYNOPSIS:

Under the Alabama Administrative Procedure Act, agency rulings in contested cases are required to be taken as prima facie just and reasonable by a reviewing court on questions of fact and the agency's interpretation of laws based on those facts.

This bill would revise the standard of judicial review to provide that a court may consider, but not defer to, an agency's interpretation of law and shall favor a reasonable interpretation that limits agency power and maximizes individual liberty.

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



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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 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<sup>7</sup> resides<sup>1</sup>, 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



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required bond ~~shall have~~ has been filed and approved by the clerk, ~~such~~ the agency order shall be stayed and superseded, and it shall be lawful to charge the rates, fares, or charges which have been reduced, refused, or denied by the agency order, until the final disposition of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



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(d) The notice of appeal or review shall be filed within 30 days after the receipt of the notice of or other service of the final decision of the agency upon the petitioner or, if a rehearing is requested under Section 41-22-17, within 30 days after the receipt of the notice of or other service of the decision of the agency thereon. The petition for judicial review in the circuit court shall be filed within 30 days after the filing of the notice of appeal or review. Copies of the petition shall be served upon the agency and all parties of record. Any person aggrieved who is not a party may petition to become a party by filing a motion to intervene as provided in Section 41-22-14. Failure to file ~~such~~ the petition within the time stated shall operate as a waiver of the right of ~~such~~ the person to review under this chapter, except that for good cause shown, the judge of the reviewing court may extend the time for filing, not to exceed an additional 30 days, or, within four months after the issuance of the agency order, issue an order permitting a review of the agency decision under this chapter notwithstanding ~~such~~ the waiver. Any notice required ~~herein in~~ this subsection which is mailed by the petitioner, certified mail return receipt requested, shall be deemed to have been filed as of the date ~~it~~ the notice is postmarked. This section shall apply to judicial review from the final order or action of all agencies, and amends the judicial review statutes relating to all agencies to provide a period of 30 days within which to appeal or to institute judicial review.

(e) If there has been no hearing prior to agency action



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and the reviewing court finds that the validity of the action depends upon disputed facts, the court shall order the agency to conduct a prompt fact-finding proceeding under this chapter after having a reasonable opportunity to reconsider its determination on the record of the proceedings.

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

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



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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 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



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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 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



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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 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.



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(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 de novo. 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 that limits agency power and maximizes individual liberty.

~~(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."

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