

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 192

By: Daniels

AS INTRODUCED

An Act relating to the Administrative Procedures Act; amending 75 O.S. 2021, Section 318, which relates to judicial review; requiring a court or an administrative hearing officer to provide de novo interpretation of statute, rule, or other regulation; establishing guidelines for court interpretation of statute, rule, or other regulation in certain actions; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 75 O.S. 2021, Section 318, is amended to read as follows:

Section 318. A. 1. Any party aggrieved by a final agency order in an individual proceeding is entitled to certain, speedy, adequate and complete judicial review thereof pursuant to the provisions of this section and Sections 319, 320, 321, 322 and 323 of this title.

1 2. This section shall not prevent resort to other means of
2 review, redress, relief or trial de novo, available because of
3 constitutional provisions.

4 3. Neither a motion for new trial nor an application for
5 rehearing shall be prerequisite to secure judicial review.

6 B. 1. The judicial review prescribed by this section for final
7 agency orders, as to agencies whose final agency orders are made
8 subject to review, under constitutional or statutory provisions, by
9 appellate proceedings in the Supreme Court of Oklahoma, shall be
10 afforded by such proceedings taken in accordance with the procedure
11 and under the conditions otherwise provided by law, but subject to
12 the applicable provisions of Sections 319 through ~~324~~ 323 of this
13 title, and the rules of the Supreme Court.

14 2. In all other instances, proceedings for review shall be
15 instituted by filing a petition, in the district court of the county
16 in which the party seeking review resides or at the option of such
17 party where the property interest affected is situated, naming as
18 respondents only the agency, such other party or parties in the
19 administrative proceeding as may be named by the petitioner or as
20 otherwise may be allowed by law, within thirty (30) days after the
21 appellant is notified of the final agency order as provided in
22 Section 312 of this title.

23 C. Copies of the petition shall be delivered in person or
24 mailed, postage prepaid, to the agency and all other parties of
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1 record, and proof of such delivery or mailing shall be filed in the
2 court within ten (10) days after the filing of the petition. Any
3 party not named as a respondent in the petition is entitled to
4 respond within ten (10) days of receipt of service. The court, in
5 its discretion, may permit other interested persons to intervene.

6 D. In any proceedings for review brought by a party aggrieved
7 by a final agency order:

8 1. The agency whose final agency order was made subject to
9 review may be entitled to recover against such aggrieved party any
10 court costs, witness fees and reasonable attorney fees if the court
11 determines that the proceeding brought by the party is frivolous or
12 was brought to delay the effect of said final agency order.

13 2. The party aggrieved by the final agency order may be
14 entitled to recover against such agency any court costs, witness
15 fees, and reasonable attorney fees if the court determines that the
16 proceeding brought by the agency is frivolous.

17 E. In the interpretation of a state statute, administrative
18 rule, or other regulation, a court of this state or an officer
19 hearing an administrative action shall not defer to the
20 interpretation of a state agency and shall interpret the meaning and
21 effect de novo. In an action brought by or against a state agency,
22 after applying all customary tools of interpretation, the court or
23 hearing officer shall exercise any remaining doubt in favor of a
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1 reasonable interpretation which limits agency power and maximizes
2 individual liberty.

3 SECTION 2. This act shall become effective November 1, 2023.

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