

1 ENGROSSED HOUSE
2 BILL NO. 2729

By: Kendrix, Maynard, Jenkins,
Lepak, Crosswhite Hader,
Stark and Hill of the House

3
4 and

Bergstrom of the Senate
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7 An Act relating to administrative law; amending 75
8 O.S. 2021, Section 318, which relates to judicial
9 review; prohibiting deference to an agency's
10 interpretation of a statute, regulation, or sub-
11 regulatory document; prescribing a de novo review
12 standard; requiring a reasonable interpretation
13 limiting agency power in certain circumstances; and
14 providing an effective date.

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

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

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

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

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

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

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

20 C. Copies of the petition shall be delivered in person or
21 mailed, postage prepaid, to the agency and all other parties of
22 record, and proof of such delivery or mailing shall be filed in the
23 court within ten (10) days after the filing of the petition. Any
24 party not named as a respondent in the petition is entitled to

1 respond within ten (10) days of receipt of service. The court, in
2 its discretion, may permit other interested persons to intervene.

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

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

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

14 E. In interpreting a state statute, regulation, or other sub-
15 regulatory document, a state court, examiner, or an officer hearing
16 an administrative action shall not defer to a state agency's
17 interpretation of the applicable statute, regulation, or sub-
18 regulatory document, and shall interpret the meaning and effect of
19 the statute, regulation, or sub-regulatory document de novo. In
20 actions brought by or against state agencies, after applying all
21 customary tools of interpretation, the court, hearing examiner, or
22 hearing officer shall exercise any remaining doubt in favor of a
23 reasonable interpretation that limits agency power and maximizes
24 individual liberty.

