

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 SENATE BILL 542

By: Daniels

4
5
6 AS INTRODUCED

7 An Act relating to the Administrative Procedures Act;
8 amending 75 O.S. 2021, Sections 307, 309, 316, 318,
9 and 320, which relate to judicial review and hearing
10 procedures; imposing time limitation for issuance or
11 refusal of certain ruling; requiring copy of notice
12 be provided to all parties in certain proceedings;
13 adding grounds for disqualification of certain
14 examiner or member; increasing award of attorney fees
15 in certain proceedings; imposing liability for treble
16 attorney fees for failure to transmit certain record;
17 making language gender neutral; updating statutory
18 language; providing an effective date; and declaring
19 an emergency.

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

21 SECTION 1. AMENDATORY 75 O.S. 2021, Section 307, is
22 amended to read as follows:

23 Section 307. Each agency shall provide by rule for the filing
24 and prompt disposition of petitions for declaratory rulings as to
25 the applicability of any rule or order of the agency. Each agency
26 shall issue or refuse to issue a declaratory ruling within one
27 hundred twenty (120) calendar days from the date the request for
28 declaratory ruling was submitted to the agency. A declaratory

1 ruling, or refusal to issue such ruling, shall be subject to a
2 judicial review in the manner provided for review of decisions in
3 individual proceedings as provided in Sections 317 through 323 of
4 this title.

5 SECTION 2. AMENDATORY 75 O.S. 2021, Section 309, is
6 amended to read as follows:

7 Section 309. A. In an individual proceeding, all parties shall
8 be afforded an opportunity for hearing after reasonable notice, and
9 all parties shall be provided with a copy of the notice given to
10 other parties.

11 B. The notice shall include:

- 12 1. A statement of the time, place and nature of the hearing;
- 13 2. A statement of the legal authority and jurisdiction under
14 which the hearing is to be held;
- 15 3. A reference to the particular sections of the statutes and
16 rules involved; and
- 17 4. A short and plain statement of the matters asserted. If the
18 agency or other party is unable to state the matters in detail at
19 the time the notice is served, the initial notice may be limited to
20 a statement of the issues involved. Thereafter upon application a
21 more definite and detailed statement shall be furnished.

22 C. Opportunity shall be afforded all parties to respond and
23 present evidence and argument on all issues involved.

1 D. Deliberations by administrative heads, hearing examiners,
2 and other persons authorized by law may be held in executive session
3 pursuant to paragraph 8 of subsection B of Section 307 of Title 25
4 of the Oklahoma Statutes.

5 E. Unless precluded by law, informal disposition may be made of
6 any individual proceeding by stipulation, agreed settlement, consent
7 order, or default.

8 F. The record in an individual proceeding shall include:

9 1. All pleadings, motions, and intermediate rulings;

10 2. Evidence received or considered at the individual
11 proceeding;

12 3. A statement of matters officially noticed;

13 4. Questions and offers of proof, objections, and rulings
14 thereon;

15 5. Proposed findings and exceptions;

16 6. Any decision, opinion, or report by the officer presiding at
17 the hearing; and

18 7. All other evidence or data submitted to the hearing examiner
19 or administrative head in connection with ~~their~~ the consideration of
20 the case, provided all parties have had access to such evidence.

21 G. Oral proceedings shall be electronically recorded. Such
22 recordings shall be maintained for such time so as to protect the
23 record through judicial review. Copies of the recordings shall be
24 provided by the agency at the request of any party to the

1 proceeding. Costs of transcription of the recordings shall be borne
2 by the party requesting the transcription. For judicial review,
3 electronic recordings of an individual proceeding, as certified by
4 the agency, may be submitted to the reviewing court by the agency as
5 part of the record of the proceedings under review without
6 transcription unless otherwise required to be transcribed by the
7 reviewing court. In such case, the expense of transcriptions shall
8 be taxed and assessed against the nonprevailing party. Parties to
9 any proceeding may have the proceedings transcribed by a court
10 reporter at their own expense.

11 H. Findings of fact shall be based exclusively on the evidence
12 received and on matters officially noticed in the individual
13 proceeding unless otherwise agreed upon by the parties on the
14 record.

15 SECTION 3. AMENDATORY 75 O.S. 2021, Section 316, is
16 amended to read as follows:

17 Section 316. A hearing examiner or agency member shall withdraw
18 from any individual proceeding in which he or she cannot accord a
19 fair and impartial hearing or consideration. Any party may request
20 the disqualification of a hearing examiner or agency member₇ on the
21 ground of ~~his~~ inability to give a fair and impartial hearing,
22 improper appointment to the agency, or failure to take the
23 constitutional oath of office and file with the Secretary of State,
24 by filing an affidavit₇ promptly upon discovery of the alleged

1 disqualification, stating with particularity the grounds upon which
2 it is claimed that a fair and impartial hearing cannot be accorded.
3 The issue shall be determined promptly by the administrative head of
4 the agency, or, if it affects a member or members of the agency, by
5 the remaining members thereof, if the number of remaining members
6 constitutes a quorum. Upon the entry of an order of
7 disqualification affecting a hearing examiner, the agency shall
8 assign another ~~in his stead~~ hearing examiner or shall conduct the
9 hearing itself. Upon the disqualification of a member of an agency,
10 the agency shall proceed with the proceeding if a quorum remains.
11 If a quorum no longer exists, ~~by virtue~~ because of the member's
12 disqualification, the Governor immediately shall appoint a member
13 pro tempore to sit in place of the disqualified member in ~~that~~ the
14 proceeding. In further action, after the disqualification of a
15 member of an agency, the provisions of Section 311 of this title
16 shall apply.

17 SECTION 4. AMENDATORY 75 O.S. 2021, Section 318, is
18 amended to read as follows:

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

1 2. ~~This~~ The provisions of this section shall not prevent resort
2 to other means of review, redress, relief, or trial de novo, that
3 are available because of 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 of this title,
13 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

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~~ treble attorney fees if the court determines
16 that the proceeding brought by the agency is frivolous.

17 SECTION 5. AMENDATORY 75 O.S. 2021, Section 320, is
18 amended to read as follows:

19 Section 320. Within sixty (60) days after service of the
20 petition for review or equivalent process upon it, or within such
21 further time as the reviewing court, upon application for good cause
22 shown, may allow, the agency shall transmit to the reviewing court
23 the original or a certified copy of the entire record of the
24 proceeding under review. For purposes of this section, "record"

1 shall include such information as specified by Section 309 of this
2 title. By stipulation of all parties to the review proceeding, the
3 record may be shortened. Any party unreasonably refusing to
4 stipulate to limit the record may be taxed by the court for the
5 additional costs resulting therefrom. The court may require or
6 permit subsequent corrections or additions to the record when deemed
7 desirable. If the agency does not timely transmit an original or
8 certified copy of the entire record of the proceeding under review,
9 it shall be liable for treble attorney fees of any party seeking the
10 filing of such record.

11 SECTION 6. This act shall become effective July 1, 2025.

12 SECTION 7. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

17 60-1-117 TEK 1/19/2025 5:38:23 AM