# An Act

ENROLLED SENATE
BILL NO. 943

By: Anderson of the Senate

and

Grau of the House

An Act relating to statutes and reports; amending 75 O.S. 2001, Sections 318 and 320, which relate to the Administrative Procedures Act; modifying notice requirements for review proceedings and petitions; increasing number of days for agencies to transmit certain records; and providing an effective date.

SUBJECT: Administrative Procedures Act

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

SECTION 1. AMENDATORY 75 O.S. 2001, 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.

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

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

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

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

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

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

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

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

SECTION 2. AMENDATORY 75 O.S. 2001, Section 320, is amended to read as follows:

Section 320. Within ~~thirty (30)~~ sixty (60) days after service of the petition for review or equivalent process upon it, or within such further time as the reviewing court, upon application for good cause shown, may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. For purposes of this section, "record" shall include such information as specified by Section 309 of this title. By stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs resulting therefrom. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

SECTION 3. This act shall become effective November 1, 2011.

Passed the Senate the 2nd day of May, 2011.

Presiding Officer of the Senate

Passed the House of Representatives the 28th day of March, 2011.

Presiding Officer of the House of Representatives

**OFFICE OF THE GOVERNOR**

Received by the Governor this 3rd

day of May, 20 11,

at 12:32 o'clock P M.

By: Jessica R. Dryer

Approved by the Governor of the State of Oklahoma the 9th day of

May, 20 11, at 10:54 o'clock PM.

Mary Fallin

Governor of the State of Oklahoma

**OFFICE OF THE SECRETARY OF STATE**

Received by the Secretary of State this

9th day of May, 20 11,

at 1:20 o'clock P M.

By: Michelle Day