

SENATE BILL REPORT

SB 5373

As of January 28, 2015

Title: An act relating to modifying limitations on new evidence taken on judicial review of administrative actions.

Brief Description: Modifying limitations on new evidence taken on judicial review of administrative actions.

Sponsors: Senators Dansel, Hobbs, Honeyford and Roach.

Brief History:

Committee Activity: Law & Justice: 1/27/15.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tim Ford (786-7423)

Background: The Administrative Procedure Act (APA) establishes the procedures for agency rulemaking, agency administrative hearings, and judicial review of agency actions. Generally a person challenging an agency rule or agency action may file a petition for judicial review under APA only after exhausting all administrative remedies available within the agency whose action is being challenged, or other agency authorized to exercise administrative review. Administrative review before an agency affords the parties an opportunity to create a record of relevant facts and issues in dispute. The agency keeps an official record of the review including an order with findings of fact and conclusions of law. Judicial review of disputed issues of fact are confined to the agency record. The court may receive additional evidence not contained in the agency record of review, only if it relates to the validity of the agency action at the time it was taken and is needed to decide disputed issues.

Summary of Bill: The court may receive additional evidence not in the agency record whenever it relates to the validity of the agency action at the time it was taken, is necessary to avoid injustice, or is needed to decide disputed issues.

Appropriation: None.

Fiscal Note: Not requested.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill will bring more fairness, transparency, and accountability to agency actions on appeal before a judge. Evidence that is related to the validity of agency actions should be admitted as evidence by a superior court judge where necessary to avoid an injustice, even if it wasn't part of the factual record during an agency hearing. All relevant facts and evidence should be included in the record.

CON: DSHS transforms clients lives for the better. There is easy access to administrative hearings. The Administrative Procedure Act appropriately limits evidence and the courts on appeal may remand for further fact findings. The changes required by this bill will add delay and raise costs for agencies.

OTHER: There is already ample opportunity to supplement the record. The Department of Employment Security (DES) has the largest number of administrative cases of any program. This bill may affect the claimants' ability to get paid in a timely manner.

Persons Testifying: PRO: Senator Dansel, prime sponsor; Representative Shea; Cindy Alia; citizen.

CON: Dana Phelps, Department of Social Health Services.

OTHER: Neil Gorrell, DES.