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HEALTH Human Resources: Final Order/Action: Amended Appeal Provisions

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HEALTH

Human Resources: Amended Appeal Provisions

CODE SECTION: O.C.G.A. § 31-5-3 (amended)
BILL NUMBER: HB 1315
ACT NUMBER: 1617
SUMMARY: The Act eliminates de novo review of Department of Human Resources actions by courts and restricts the scope of judicial review of that agency's decisions.
EFFECTIVE DATE: April 9, 1986

History

Prior law provided for de novo judicial review when a decision of the Department of Human Resources (DHR) was appealed.¹ However, in 1978 the Georgia Supreme Court declared the de novo appeal of local government administrative agency rulings on zoning and land use matters unconstitutional for violation of the separation of powers doctrine because it “burden[ed] the courts with a nonjudicial function.”² The Code section allowing de novo zoning decisions was subsequently dropped from the Code.³

In 1984 the Georgia Supreme Court noted that the “constitutionality of the standard of review” in O.C.G.A. § 31-5-1(a)(3) was “open to serious question” because of the court’s rejection of the similar standard of review in zoning cases.⁴ HB 1315 was introduced to conform O.C.G.A. § 31-5-3(a)(3) to a constitutionally acceptable scope of review.⁵

HB 1315

In its original form, HB 1315 provided for non-jury review of DHR decisions and limited review to the DHR’s record. It further provided that

1. O.C.G.A. § 31-5-3 (1982).

2. *Bentley v. Chastain*, 242 Ga. 348, 351-52, 249 S.E.2d 38, 41 (1978); *see also* *Geron v. Calibre Companies*, 250 Ga. 213, 218, 296 S.E.2d 602, 607 (1982) (invalidating the de novo appeal provision of the Metropolitan River Protection Act).

3. Ga. Code Ann. § 69-1211.1 (Supp. 1985) (not carried forward into the Code of 1981).

4. *See DeKalb County v. Metro Ambulance Services*, 253 Ga. 561, 563 n.1, 322 S.E.2d 881, 884 n.1 (1984).

5. *See* HB 1315, 1986 Ga. Gen. Assem.

the Georgia Administrative Procedure Act⁶ controlled the appropriate treatment of findings of fact and other procedural matters. The Senate Judiciary Committee Substitute⁷ passed both houses and became effective upon the Governor's approval.⁸

The Act allows a court sitting without a jury to receive briefs and hear oral arguments,⁹ but the court cannot substitute its judgment for that of the Department as to the weight of the factual evidence. Reversal or modification of the departmental decision is allowed only when the department 1) violated constitutional rights, 2) exceeded or violated statutory authority, 3) reached "clearly erroneous" decisions or decisions based on arbitrary abuses of discretion, 4) used unlawful procedures, or 5) made other errors of law.¹⁰ This language tracks the Georgia Administrative Procedure Act, which governs DHR's reviews.

Aside from resolving constitutional problems, the Act is intended to reduce the complexity of appeals and to minimize the workload on the court system. It also lends greater weight to the decisions of the DHR because judicial review of departmental findings of fact is narrowly restricted.

6. See O.C.G.A. § 50-13-19 (1982).

7. HB 1315 (SCS), 1986 Ga. Gen. Assem.

8. O.C.G.A. § 31-5-3 (Supp. 1986).

9. *Id.* § 31-5-3(a)(3). The time for notice of appeal has been extended from 10 to 20 days. Notice is to be delivered by certified mail to all parties and their counsel of record.

10. *Id.*