



PennState
Dickinson Law

DICKINSON LAW REVIEW
PUBLISHED SINCE 1897

Volume 57
Issue 4 *Dickinson Law Review - Volume 57,*
1952-1953

6-1-1953

The 1951 Amendments to the Administrative Agency Law of 1945

James L. Bruggeman

Follow this and additional works at: <https://ideas.dickinsonlaw.psu.edu/dlra>

Recommended Citation

James L. Bruggeman, *The 1951 Amendments to the Administrative Agency Law of 1945*, 57 DICK. L. REV. 330 (1953).

Available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol57/iss4/6>

This Article is brought to you for free and open access by the Law Reviews at Dickinson Law IDEAS. It has been accepted for inclusion in Dickinson Law Review by an authorized editor of Dickinson Law IDEAS. For more information, please contact lja10@psu.edu.

THE 1951 AMENDMENTS TO THE ADMINISTRATIVE AGENCY LAW OF 1945

The section on administrative law of the Pennsylvania Bar Association has been working since 1941 to create a system of administrative law that would be both uniform and practical. In 1945 the *Administrative Agency Law* and the *Pennsylvania Register Act* were enacted. Since that time there have arisen many problems in this field, and as a result the Legislature has passed some legislation to correct them. In 1947 the *Pennsylvania Register Act* was repealed since it had proved to be impractical and in 1951 the *Administrative Agency Law* was amended.¹

There have been three major changes in the *Administrative Agency Law* of 1945. The first change is the addition of filing requirements to take the place of the old *Pennsylvania Register Act*. This addition is found in Sections 21 and 22 where it provides for a uniform system of filing the regulations of the agencies. The second change provides that the appeal procedure covered by existing Sections 41 to 45 shall apply to the adjudications of all agencies enumerated in Section 51(a) of the law, thus assuring a uniform procedure and scope of review for all appeals from administrative adjudications with the exception of a few situations. The third change is in the addition of Section 51(a), which removes all doubt as to the coverage of the law by enumerating the agencies to which the law applies and the specific sections of the law that apply to certain agencies.

Under Section 21 the various agencies are required to submit certified copies of all their new regulations adopted after May 31, 1952 to the Department of State before such regulations will become effective. For regulations adopted before June 1, 1952, the agencies were required to submit a certified copy of each to the Department of State by July 1, 1952, or that regulation would be of no effect. This is a compromise measure between the old *Pennsylvania Register Act* and no system at all. The new system has an advantage over the former one in that the regulations will be of no effect unless filed with the Department of State, thus putting teeth into the new system.

The Department of State, under Section 22 of the law, shall maintain a permanent record of all regulations filed with it. This section provides the machinery and procedure for the Department of State to use, and it also provides that certified copies of any regulation may be obtained from the Department of State upon payment of the proper charges.

Until the 1951 amendments were enacted, the appeal procedure varied with the particular agency.² For example, in 1939 there were 38 agencies or divisions of

¹ Act of June 4, 1945, P.L. 1388, as last amended September 28, 1951, P.L. 1561, Act No. 400 and December 27, 1951, P.L. 1796, Act No. 476; 71 P.S. 1710.1 et seq.

² For a complete discussion on this problem see "Much Ado about Something" by Gilbert Nurick, 45 Dick. L. Rev. 85.

agencies that had statutory appeal provisions in their governing statutes. There were 18 different provisions in regard to which court the appeal was to be taken. There were six different periods in which an appeal had to be taken ranging from 5 days to 60 days, and there was even one instance where the period was "no set time." From many agencies the scope of review was different. For example, an appeal from the State Board of Examiners for Registration of Nurses could be a hearing *de novo*. On an appeal from the State Council of Education the court could only determine whether the order of the council was reasonable and in conformity to law. In addition to the statutory appeal provisions there were 27 instances from which an appeal from any order was expressly prohibited or was not provided for at all. In those cases where there was no appeal provision, the common law methods of *mandamus*, *certiorari*, and similar writs were available.⁸ An excellent example of the confusion existed in the Department of Banking where there was an express denial of appeal in some instances and an express provision for appeal in other instances.

As a result of all this chaos and confusion the *Administrative Agency Law of 1945* was amended to provide a uniform appeal procedure. Now a person may take an appeal under Sections 41 to 45 of the law unless the adjudication under the existing law is final or unless the governing statute for the agency provides for an appeal to a court other than the Common Pleas Court of Dauphin County.

Section 41 provides that within 30 days from an adjudication any person who has a direct interest in such adjudication and has been aggrieved by it may appeal. Such appeal shall be taken to the Court of Common Pleas of Dauphin County, except in the cases where the governing statute of the agency provides that the appeal shall be taken to another court. Appeals from the Unemployment Compensation Board of Review and the Public Utility Commission go to the Superior Court. Appeals from the Department of Public Instruction and the State Board of Censors go to county courts in the proper county. Except in a few specific instances decisions of the State Civil Service Commission, the State Council of Education, the State Real Estate Commission, and the State Tax Equalization Board are final. These special appeals are provided for in the statutes governing the agencies.

The procedure for an appeal is provided for in Section 42 where it says that such procedure shall be in accordance with the *Rules of Civil Procedure* promulgated from time to time by the Supreme Court. These rules have now been set up in Rules 1 to 13 of the *Rules of Civil Procedure*. Section 44 of the law provides for the scope of review. It states that the court shall affirm all adjudications unless it shall find that such is a violation of the constitutional rights of the appellant, or not in accordance with law, or the provisions of Sections 31 to 35 inclusive of the *Administrative Agency Law* have been violated in the proceeding before the agency,

⁸ For a complete discussion of the common law remedies see an article by F. Eugene Reader, 40 *Pennsylvania Bar Ass'n. Quarterly*, 303 (1939).

or that the finding of fact by the agency is not supported by substantial evidence. Section 45 then provides for a further appeal to the Supreme Court within 30 days.

Unlike the law as first enacted, the 1951 amendments provide a list of agencies to which all or certain sections of the law applies. This list, found in Section 51(a), includes some 47 agencies and the result is that nearly every agency now comes under the law. Thus the Pennsylvania legislature has provided the lawyers of the state with a system that will be both uniform and practical, and one which they may use with assurance.

James L. Bruggeman

Member of the Senior Class