

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 247

By Senator Woodrum

[Introduced January 16, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §30-1-9 of the Code of West Virginia, 1931, as amended, relating to
 2 making administrative appeals and judicial review of board action subject to provisions of
 3 the Administrative Procedures Act.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF
 EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

**§30-1-9. ~~Review by circuit court and supreme court of board's refusal to issue; suspension
 or revocation of license or registration~~ Administrative appeal of board action;
 judicial review.**

1 A person, not an applicant for or holder of a license to practice law, who has been refused
 2 denied a license or registration; ~~for any cause other than failure to pass the examination given by~~
 3 ~~the board, or whose certificate, license, registration, or authority has been suspended or revoked;~~
 4 against whom disciplinary action has been imposed; or who is a party otherwise adversely
 5 affected by action of the board may, within 30 days after the decision ~~action~~ of the board, ~~present~~
 6 file his or her petition appeal in writing to the ~~circuit court of the county in which such person~~
 7 ~~resides, or to the judge of such court in vacation~~ board, praying for the review and reversal of such
 8 ~~decision~~ the board's action. ~~Before presenting his petition to the court or judge, the petitioner shall~~
 9 ~~mail copies thereof to the president and secretary, respectively, of the board. Upon receipt of such~~
 10 ~~copy the secretary shall forthwith transmit to the clerk of such court the record of the proceeding~~
 11 ~~before the board. The court or judge shall fix a time for the review of said proceeding at his earliest~~
 12 ~~convenience. Notice in writing of the time and place of such hearing shall be given to the president~~
 13 ~~and secretary of the board at least ten days before the date set therefor. The court or judge shall,~~
 14 ~~without a jury, hear and determine the case upon the record of the proceedings before the board.~~
 15 ~~The court or judge may enter an order affirming, revising or reversing the decision of the board if it~~
 16 ~~appears that the decision was clearly wrong. Prior to the entry of such order, no order shall be~~

17 ~~made or entered by the court to stay or supersede any suspension, revocation or cancellation of~~
18 ~~any such certificate, license, registration or authority. The judgment of the circuit court may be~~
19 ~~reviewed upon appeal in the Supreme Court of Appeals~~ All proceedings in the appeal of the
20 board's action, and any judicial review thereof, shall be conducted in accordance with the
21 provisions of §29A-5-1 et seq. of this code and any procedural rules adopted by the board
22 pursuant _____ thereto.

NOTE: The purpose of this bill is to make administrative appeals of board action, including judicial review, subject to the "contested cases" provisions of the Administrative Procedures Act, §29A-5-1 et seq. of West Virginia Code.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.