

House File 62 - Introduced

HOUSE FILE _____
BY TYMESON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act to make a decision by an administrative law judge final
2 agency action for the purposes of judicial review.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1283YH 83
5 jr/rj/5

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1 1 Section 1. Section 10A.801, subsection 10, Code 2009, is
1 2 amended by striking the subsection and inserting in lieu
1 3 thereof the following:
1 4 10. As provided by section 17A.15, decisions of
1 5 administrative law judges employed by the division constitute
1 6 final agency action for purposes of judicial review, except to
1 7 the extent specified otherwise by statute.
1 8 Sec. 2. Section 17A.15, subsections 1 and 2, Code 2009,
1 9 are amended to read as follows:
1 10 1. ~~When Except as otherwise provided by statute, when the~~
1 11 ~~agency or an administrative law judge presides at the~~
1 12 ~~reception of the evidence in a contested case, the decision of~~
1 13 ~~the agency is a final decision.~~
1 14 2. ~~When Except as otherwise provided by statute, when the~~
1 15 ~~agency or an administrative law judge did not preside at the~~
1 16 ~~reception of the evidence in a contested case, the presiding~~
1 17 ~~officer shall make a proposed decision. Findings of fact~~
1 18 ~~shall be prepared by the officer presiding at the reception of~~
1 19 ~~the evidence in a contested case unless the officer becomes~~
1 20 ~~unavailable to the agency. If the officer is unavailable, the~~
1 21 ~~findings of fact may be prepared by another person qualified~~
1 22 ~~to be a presiding officer who has read the record, unless~~
1 23 ~~demeanor of witnesses is a substantial factor. If demeanor is~~
1 24 ~~a substantial factor and the presiding officer is unavailable,~~
1 25 ~~the portions of the hearing involving demeanor shall be heard~~
1 26 ~~again or the case shall be dismissed.~~

EXPLANATION

1 28 Many administrative agencies have the authority to conduct
1 29 trial-type hearings, called contested cases, and issue binding
1 30 decisions. Those decisions may then be appealed to district
1 31 court. Under current law, the head of the agency, whether a
1 32 board, commission, or agency director, is entitled to make the
1 33 final decision in these cases. In many cases the agency head
1 34 does not actually preside at the hearing itself. In those
1 35 situations the presiding officer at the hearing, often an
2 1 administrative law judge, renders a proposed decision which
2 2 can later be upheld, reversed, or modified by the head of the
2 3 agency.
2 4 This bill provides that when an administrative law judge
2 5 presides at a contested case hearing, the resulting decision
2 6 is final agency action, and the agency head cannot reverse or
2 7 modify the decision. Several administrative agencies have a
2 8 procedure established in their own enabling statutes, and for
2 9 this reason, the bill has an exception for these statutory
2 10 provisions.
2 11 LSB 1283YH 83
2 12 jr/rj/5