

HOUSE BILL 50

Introduced by L. Nelson

12/29	Introduced
12/29	Referred to Local Government
1/07	First Reading
1/10	Hearing
1/16	Committee Report--Bill Not Passed
1/17	Adverse Committee Report Adopted

1 HOUSE BILL NO. 50

2 INTRODUCED BY L. NELSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT A
5 PROCEEDING FOR REVIEW OF A DECISION OF THE STATE
6 SUPERINTENDENT OF PUBLIC INSTRUCTION BE FILED IN THE
7 DISTRICT COURT FOR THE COUNTY IN WHICH THE DISPUTE OCCURRED;
8 AND AMENDING SECTION 2-4-702, MCA."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 2-4-702, MCA, is amended to read:

12 "2-4-702. Initiating judicial review of contested
13 cases. (1) (a) A person who has exhausted all administrative
14 remedies available within the agency and who is aggrieved by
15 a final decision in a contested case is entitled to judicial
16 review under this chapter. This section does not limit
17 utilization of or the scope of judicial review available
18 under other means of review, redress, relief, or trial de
19 novo provided by statute.

20 (b) A party who proceeds before an agency under the
21 terms of a particular statute shall not be precluded from
22 questioning the validity of that statute on judicial review,
23 but such party may not raise any other question not raised
24 before the agency unless it is shown to the satisfaction of
25 the court that there was good cause for failure to raise the

1 question before the agency.

2 (2) (a) Proceedings for review shall be instituted by
3 filing a petition in district court within 30 days after
4 service of the final decision of the agency or, if a
5 rehearing is requested, within 30 days after the decision
6 thereon. Except as otherwise provided by statute, the
7 petition shall be filed in the district court for the county
8 where the petitioner resides or has his principal place of
9 business or where the agency maintains its principal office.
10 A proceeding for review of a decision of the state
11 superintendent of public instruction must be filed in the
12 district court for the county in which the dispute occurred.
13 Copies of the petition shall be promptly served upon the
14 agency and all parties of record.

15 (b) The petition shall include a concise statement of
16 the facts upon which jurisdiction and venue are based, a
17 statement of the manner in which the petitioner is
18 aggrieved, and the ground or grounds specified in 2-4-704(2)
19 upon which the petitioner contends he is entitled to relief.
20 The petition shall demand the relief to which the petitioner
21 believes he is entitled, and the demand for relief may be in
22 the alternative.

23 (3) Unless otherwise provided by statute, the filing of
24 the petition shall not stay enforcement of the agency's
25 decision. The agency may grant or the reviewing court may

1 order a stay upon terms which it considers proper, following
2 notice to the affected parties and an opportunity for
3 hearing. A stay may be issued without notice only if the
4 provisions of 27-19-315, 27-19-316, and 27-19-317 are met.

5 (4) Within 30 days after the service of the petition or
6 within further time allowed by the court, the agency shall
7 transmit to the reviewing court the original or a certified
8 copy of the entire record of the proceeding under review. By
9 stipulation of all parties to the review proceedings, the
10 record may be shortened. A party unreasonably refusing to
11 stipulate to limit the record may be taxed by the court for
12 the additional costs. The court may require or permit
13 subsequent corrections or additions to the record."

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