



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 189
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Lang and McColley

Lisa Sandberg, Attorney

SUMMARY

- Modifies the current Administrative Procedure Act by generally providing that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident.
- Eliminates the existing provision that an appeal from an order issued by any of the following agencies be made to the Franklin County Court of Common Pleas:
 - Liquor Control Commission;
 - Ohio Casino Control Commission;
 - State Medical Board;
 - State Chiropractic Board;
 - Board of Nursing;
 - Bureau of Workers' Compensation regarding participation in the health partnership program.
- Removes the current provision that any party adversely affected by an order of an agency issued pursuant to any other adjudication may appeal, with certain exceptions, to the Franklin County Court of Common Pleas.
- Modifies specific statutes on adjudication orders of specified agencies to replace current provisions regarding appeals of the orders to the Franklin County Court of Common Pleas, the Environmental Division of the Franklin County Municipal Court, or the court of the county in which an appointing authority resides, with the bill's venue provision described in the first dot point.

DETAILED ANALYSIS

Appeal of administrative agency order

The current Administrative Procedure Act generally provides that a party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture rather than suspending operations of a liquor permit holder by order of the Liquor Control Commission, may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident.¹

The bill modifies current law by generally providing that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident.²

The bill eliminates the current provision that an appeal from an order issued by any of the following agencies be made to the Franklin County Court of Common Pleas (Franklin County CCP): (1) Liquor Control Commission, (2) Ohio Casino Control Commission, (3) State Medical Board, (4) State Chiropractic Board, (5) Board of Nursing, and (6) Bureau of Workers' Compensation regarding participation in the health partnership program administered by the Bureau.³

The bill also eliminates the provision that any party adversely affected by an order of an agency issued pursuant to any other adjudication may appeal to the Franklin County CCP, except that appeals from orders of the Fire Marshal issued under the Fire Marshal and Fire Safety Law may be to the court of common pleas of the county in which the building of the aggrieved person is located and except that appeals under the law dealing with reduction in pay or position, suspension, or removal, from a decision of the State Personnel Board of Review or a municipal or civil service township civil service commission must be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by the Department of Rehabilitation and Correction, to the Franklin County CCP.⁴

Current law, not changed by the bill, provides that if any party appealing from an order of an agency is not a resident of and has no place of business in Ohio, the party may appeal to the Franklin County CCP.⁵

¹ R.C. 119.12(A)(1).

² R.C. 119.12(A)(1).

³ Current R.C. 119.12(A)(2).

⁴ R.C. 119.12(B).

⁵ R.C. 119.12(A)(2) in the bill.

Appeal from order of specific agencies

The bill's provision above that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident applies to any of the following appeals:

- In cases of removal or reduction in pay for disciplinary reasons, the appointing authority or the officer or employee in the classified service may appeal from the decision of the State Personnel Board of Review or the municipal civil service commission of the city or city school district.⁶ The bill replaces current law which provides for the appeal to the court of common pleas of the county in which the appointing authority is located, or to the Franklin County CCP.⁷
- In cases in which the Director of Agriculture or a designated representative impounds and seizes a dog from a high volume breeder or dog broker for violation of applicable law or rule, the high volume breeder's owner or operator or the person acting as a dog broker may appeal from such determination at an adjudication hearing.⁸ The bill replaces the existing provision that the appeal may be made only to the environmental division of the Franklin County Municipal Court.⁹
- In cases in which an application for a license as a high volume breeder or dog broker is denied or such license is suspended or revoked upon a determination of the Director of Agriculture at an adjudication hearing, the applicant or licensee may appeal from such determination.¹⁰ The bill replaces the existing provision that the appeal may be made only to the environmental division of the Franklin County Municipal Court.¹¹
- In cases in which a proprietor of a public place or place of employment or an individual against whom a finding of a violation of any prohibition under the Smoking Ban Law is made by the Department or Director of Health or designee, may appeal the finding.¹² The bill replaces current law which provides that the finding may be appealed to the Franklin County CCP.¹³

⁶ R.C. 124.34(B).

⁷ *Id.*

⁸ R.C. 956.11(C).

⁹ *Id.*

¹⁰ R.C. 956.15(C).

¹¹ *Id.*

¹² R.C. 3794.09(C).

¹³ *Id.*

- In cases in which, after a public hearing, the Superintendent of Insurance issues an order of disapproval of any merger or other acquisition of control of a domestic insurer, the order may be appealed by filing a notice of appeal with the Superintendent and a copy of the notice of appeal with the court, within 15 calendar days after the transmittal of the copy of the order.¹⁴ The bill replaces current law which specifies that the order of disapproval may be appealed to the Franklin County CCP.¹⁵
- In cases in which the Superintendent of Insurance issues an order regarding the conversion of a domestic mutual life insurance company to a stock life insurance company, which an adversely affected policyholder may appeal.¹⁶ The bill replaces current law which provides that a policyholder adversely affected by such order may appeal to the Franklin County CCP.¹⁷
- In cases in which the Superintendent of Insurance issues an order regarding the conversion of a domestic mutual insurance company other than life to a stock insurance corporation other than life, which an adversely affected policyholder may appeal.¹⁸ The bill replaces current law which provides that a policyholder adversely affected by such order may appeal to the Franklin County CCP.¹⁹
- In cases in which an appellant who appeals an order of an agency administering a family services program, who is granted a state hearing, and who disagrees with the state hearing decision and generally makes an administrative appeal to the Department of Job and Family Services (JFS) may appeal from the JFS administrative appeal decision.²⁰ The bill replaces current law which provides that the person may appeal to the court of common pleas of the county in which the person resides, or to the Franklin County CCP if the person does not reside in this state.²¹
- In cases in which an adversely affected party may appeal from the Medicaid Department's adjudication order regarding: (1) refusal to enter into a provider agreement with a Medicaid provider, (2) refusal to revalidate a Medicaid provider's provider agreement, (3) suspension or termination of a Medicaid provider's provider

¹⁴ R.C. 3901.321(F)(2)(e).

¹⁵ *Id.*

¹⁶ R.C. 3913.13 and by reference to R.C. 3913.11(F).

¹⁷ *Id.*

¹⁸ R.C. 3913.23 and by reference to R.C. 3913.21(F).

¹⁹ *Id.*

²⁰ R.C. 5101.35(B), (C), and (E).

²¹ R.C. 5101.35(E)(1). The bill's new venue provision above and current law on an appeal by a nonresident to the Franklin County CCP would apply and the eliminated provision in R.C. 5101.35(E)(1) would be duplicative.

agreement, or (4) taking any action based upon a final fiscal audit of a Medicaid provider.²² The bill replaces current law which provides that any party who is adversely affected by the issuance of any such adjudication order may appeal to the Franklin County CCP.²³

Effectivity provision

The bill provides that R.C. 956.15 as presented in the act (administrative appeal of a denial of an application for a license as a high volume breeder or dog broker or suspension or revocation of such license upon a determination of the Director of Agriculture) takes effect on the later of October 9, 2021, or the effective date of that section. (October 9, 2021, is the effective date of an earlier amendment to that section by H.B. 263 of the 133rd General Assembly.)²⁴

HISTORY

Action	Date
Introduced	05-26-21

S0189-I-134/ec

²² R.C. 5164.38(C) and (D).

²³ R.C. 5164.38(D).

²⁴ Section 3.