

**LABOR COMMISSION - REVIEW OF
ADMINISTRATIVE DECISIONS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Neil A. Hansen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Labor Code to address administrative decisions.

Highlighted Provisions:

This bill:

- ▶ requires that the commissioner or Appeals Board take action on appeal within a set time; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-1-303, as last amended by Laws of Utah 2003, Chapter 28

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34A-1-303** is amended to read:

34A-1-303. Review of administrative decision --- Reporting.

(1) A decision entered by an administrative law judge under this title is the final order



28 of the commission unless a further appeal is initiated:

29 (a) under this title; and

30 (b) in accordance with the rules of the commission governing the review.

31 (2) (a) Unless otherwise provided, a person who is entitled to appeal a decision of an
32 administrative law judge under this title may appeal the decision by filing a motion for review
33 with the Division of Adjudication.

34 (b) (i) Unless a party in interest to ~~the~~ an appeal requests in accordance with
35 Subsection (3) that the appeal be heard by the Appeals Board, the commissioner shall hear the
36 review in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

37 (ii) A decision of the commissioner is a final order of the commission unless set aside
38 by the court of appeals.

39 (c) (i) If in accordance with Subsection (3) a party in interest to ~~the~~ an appeal requests
40 that the appeal be heard by the Appeals Board, the Appeals Board shall hear the review in
41 accordance with:

42 (A) Section 34A-1-205; and

43 (B) Title 63, Chapter 46b, Administrative Procedures Act.

44 (ii) A decision of the Appeals Board is a final order of the commission unless set aside
45 by the court of appeals.

46 (3) A party in interest may request that an appeal be heard by the Appeals Board by
47 filing the request with the Division of Adjudication:

48 (a) as part of the motion for review; or

49 (b) if requested by a party in interest who did not file a motion for review, within 20
50 days of the date the motion for review is filed with the Division of Adjudication.

51 (4) (a) On appeal, the commissioner or the Appeals Board may:

52 (i) affirm the decision of an administrative law judge;

53 (ii) modify the decision of an administrative law judge;

54 (iii) return the case to an administrative law judge for further action as directed; or

55 (iv) reverse ~~the findings, conclusions, and decision~~ a finding, conclusion, or decision
56 of an administrative law judge.

57 (b) The commissioner or Appeals Board may not conduct a trial de novo of the case.

58 (c) The commissioner or Appeals Board may base its decision on:

- 59 (i) the evidence previously submitted in the case; or
60 (ii) on written argument or written supplemental evidence requested by the
61 commissioner or Appeals Board.
- 62 (d) The commissioner or Appeals Board may permit the parties to:
63 (i) file ~~briefs~~ a brief or other papers; or
64 (ii) conduct oral argument.
- 65 (e) For an appeal of a decision made under Chapter 2, Workers' Compensation Act, or
66 Chapter 3, Utah Occupational Disease Act, the commissioner or Appeals Board shall take an
67 action described in Subsection (4)(a) by no later than 90 days from the later of:
68 (i) the day on which the last brief or paper is required to be filed in accordance with
69 Subsection (4)(d); or
70 (ii) the day on which oral argument is conducted, if oral argument is conducted under
71 Subsection (4)(d).
- 72 ~~(e)~~ (f) The commissioner or Appeals Board shall promptly notify the parties to ~~any~~
73 ~~proceedings~~ a proceeding before the commissioner or Appeals Board of its decision, including
74 its findings and conclusions.
- 75 (5) (a) ~~Each~~ A decision of a member of the Appeals Board shall represent the
76 member's independent judgment.
- 77 (b) A member of the Appeals Board may not participate in ~~any~~ a case in which the
78 member is an interested party.
- 79 (c) If a member of the Appeals Board may not participate in a case because the member
80 is an interested party, the two members of the Appeals Board that may hear the case shall
81 assign an individual to participate as a member of the board in that case if the individual:
82 (i) is not an interested party in the case;
83 (ii) was not previously assigned to:
84 (A) preside over ~~any~~ a proceeding related to the case; or
85 (B) take ~~any~~ an administrative action related to the case; and
86 (iii) is representative of the following group that was represented by the member that
87 may not hear the case under Subsection (5)(b):
88 (A) employers;
89 (B) employees; or

90 (C) the public.

91 (d) The two members of the Appeals Board may appoint an individual to participate as
92 a member of the Appeals Board in a case if:

93 (i) there is a vacancy on the board at the time the Appeals Board hears the review of
94 the case;

95 (ii) the individual appointed meets the conditions described in Subsections (5)(c)(i) and
96 (ii); and

97 (iii) the individual appointed is representative of the following group that was
98 represented by the member for which there is a vacancy:

99 (A) employers;

100 (B) employees; or

101 (C) the public.

102 (6) If an order is appealed to the court of appeals after the party appealing the order
103 ~~has exhausted~~ exhausts all administrative appeals, the court of appeals has jurisdiction to:

104 (a) review, reverse, remand, or annul ~~any~~ an order of the commissioner or Appeals
105 Board; or

106 (b) suspend or delay the operation or execution of the order of the commissioner or
107 Appeals Board being appealed.

108 (7) The commission shall annually report on the compliance with Subsection (4)(e) to
109 the Business and Labor Interim Committee by no later than the November meeting of the
110 Business and Labor Interim Committee.

Legislative Review Note
as of 1-24-08 8:28 AM

Office of Legislative Research and General Counsel

H.B. 334 - Labor Commission - Review of Administrative Decisions

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will require an additional on-going appropriation of \$91,000 from the General Fund to the Labor Commission to hire an additional staff person.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$91,000	\$91,000	\$0	\$0	\$0
Total	\$0	\$91,000	\$91,000	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.