

RAILROAD CODE OF 1993 (EXCERPT)
Act 354 of 1993

462.171 Action to vacate or set aside order; issuance of injunction to stay or suspend order; different or additional evidence; appeal; burden of proof.

Sec. 171.

(1) Any railroad or other party in interest, being dissatisfied with any order of the department may within 30 days after the issuance of the order commence an action in the circuit court for the county of Ingham, against the department as defendant to vacate and set aside the order. The department shall be served with a summons and a copy of the complaint. The department shall file its answer, and on leave of court any interested party may file an answer to the complaint. Upon the filing of the answer of the department the action shall be at issue and stand ready for hearing upon 10 days' notice by either party. An action brought under this section shall have precedence over any civil cause of a different nature pending in that court and shall proceed, be tried, and determined as other civil suits. Any party to the action may introduce original evidence in addition to the transcript of evidence offered to the department. The circuit court may affirm, vacate, or set aside the order of the department in whole or in part, and may make such other order or decree as the court determines to be in accordance with the facts and the law.

(2) An injunction shall not issue to suspend or stay an order of the department, except upon application to the circuit court, with notice and opportunity to be heard on the matter given to the department.

(3) If, upon the trial of the action, evidence is introduced that is found by the court to be different from, or in addition to, that offered upon the hearing before the department, the court, before proceeding to render judgment, unless the parties in the action stipulate in writing to the contrary, shall transmit a copy of that evidence to the department, and shall stay further proceedings in the action for 15 days after the date of that transmission. Upon receipt and consideration of the evidence the department may alter, modify, amend, or rescind its order complained of in the action, and shall report its action thereon to the court within 10 days after receipt of the evidence. If the department rescinds the order complained of, the action shall be dismissed. If the department alters, modifies, or amends the order, the altered, modified, or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon as though made by the department in the first instance. If the original order is not rescinded or changed by the department, judgment shall be rendered upon such original order.

(4) Within 60 days after service of a copy of the final judgment of the court, either party to the action may appeal to the court of appeals, which appeal shall be governed by the statutes governing civil appeals. When the appeal is taken the case shall, on the return of the papers to the court of appeals, be immediately placed on the calendar of the then pending term, and shall be brought to a hearing in the same manner as other cases on the calendar, or if no term is then pending, shall take precedence of cases of a different nature except criminal cases at the next term of the court of appeals.

(5) In all actions under this section the burden of proof shall be upon the complainant to show by a preponderance of the evidence that the order of the department complained of is unreasonable or discriminatory.

History: 1993, Act 354, Imd. Eff. Jan. 14, 1994