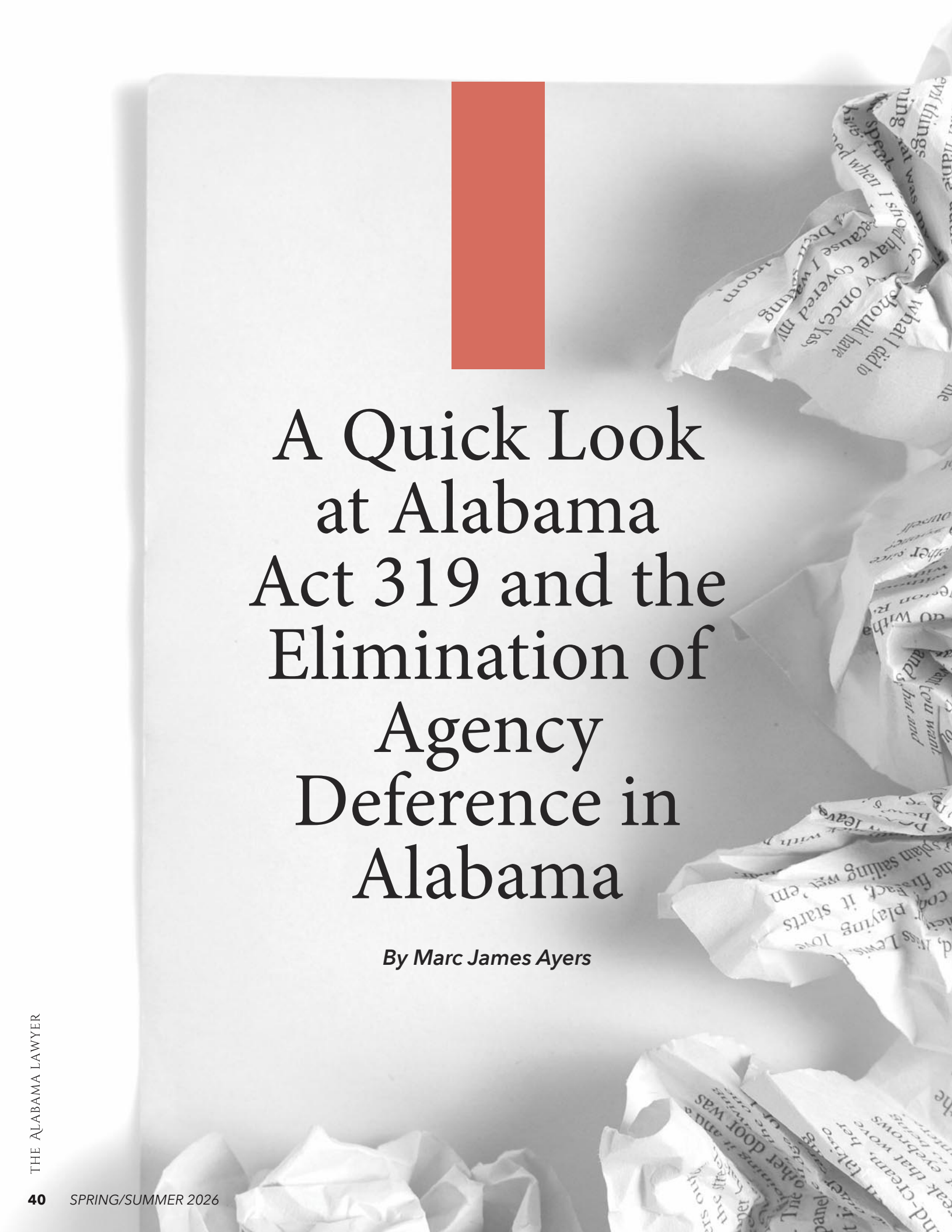




A Quick Look at Alabama Act 319 and the Elimination of Agency Deference in Alabama

By Marc James Ayers



On March 31, 2026, Governor Ivey signed into law Senate Bill 167, which thereby became Alabama Act 2026-319 (“Act 319”). Effective on October 1, 2026,¹ Act 319 will amend Section 41-22-20 of the Alabama Administrative Procedure Act (“AAPA”),² the oft-cited provision of the AAPA governing judicial review of administrative agency decisions, to eliminate Alabama’s judicially-crafted doctrine of deference to agency interpretations of statutes and administrative rules and regulations.

I. Act 319’s revision of current Alabama law

Act 319 revises Section 41-22-20 in two primary ways. First, it adds a new Subsection (l) that prohibits a reviewing court from “deferring” to – meaning adopting regardless of the court’s view of whether it is correct – an administrative agency’s interpretation of a statute or administrative rule (although the court can certainly consider the interpretation):

During the review, when interpreting any statute or rule, the court may consider, but shall not defer to, an agency’s interpretation and shall instead interpret its meaning and effect without any presumption as to correctness. In an action brought by or against an agency, after applying all customary tools of interpretation, the court shall exercise any remaining doubt in favor of a reasonable interpretation.³

Second, Act 319 deletes the opening sentence to Subsection (k), which currently reads:

Except where judicial review is by trial de novo, the agency order shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, except where otherwise authorized by statute.⁴

Act 319 represents a major shift in Alabama administrative law. Alabama courts have long shown deference to agency interpretations of ambiguous statutes and rules implemented by that agency.⁵ But this major shift is not an isolated event; rather, it is part of a larger move away from deference in the federal courts and in many state jurisdictions.

II. Quick summary of federal deference doctrines leading up to *Loper Bright*

Many state doctrines of deference to administrative interpretations of statutes or rules were patterned after doctrines developed in the federal courts. These federal doctrines have received increasing criticism in court decisions and legal commentaries in recent years, culminating most significantly with the United States Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) ("*Loper Bright*").

A. Summary of federal *Chevron*/*Skidmore*/*Auer* deference doctrines

Over the years, the United States Supreme Court has recognized three types of deference to administrative agency decisions, each touching on a different kind of agency action:

Deference to formal agency interpretations of statutes ("*Chevron* deference"). First set forth in *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), courts apply "*Chevron* deference" to administrative statutory interpretations having the force of law, such as in formally promulgated rules or regulations. Under this doctrine, if a statute "is silent or ambiguous with respect to the specific issue," and the agency's interpretation is at least "a permissible construction of the statute," a reviewing court *must* adopt the agency's interpretation.⁶

Deference to informal agency interpretations of statutes ("*Skidmore* deference"). *Skidmore* deference⁷ can apply to agency interpretations that do not carry the force of law, "such as those in opinion letters[,], policy statements, agency manuals, and enforcement guidelines."⁸ Such interpretations are "entitled to respect" . . . , but only to the extent that those interpretations have the "power to persuade" under various factors.⁹

Deference to agency interpretations of its own regulations ("*Auer* deference"). *Auer* deference¹⁰ – also known as *Seminole Rock* deference¹¹ – historically requires a reviewing court to give controlling weight to an agency's reasonable interpretation of *its own genuinely ambiguous regulations* unless it is "plainly erroneous or inconsistent with the regulation,"¹² or unless "there is reason to suspect

that the agency's interpretation does not reflect the agency's fair and considered judgment."¹³

Again, the historic criticisms of these doctrines primarily focus on constitutional concerns of separation of powers and the possible displacement of the judicial role.¹⁴ The main concern is that, when applicable, these doctrines *compel* a reviewing court to embrace the agency's interpretation, even if the court would favor a different interpretation in the exercise of its judicial function.

B. *Loper Bright Enterprises v. Raimondo* – *Chevron* deference overruled

In 2024, the United States Supreme Court eliminated the most well-known and operative of the federal deference doctrines – *Chevron* deference – in its landmark decision in *Loper Bright*. Interestingly, the Supreme Court did not do so based on concern for separation of powers under the federal Constitution, although the Court's opinion includes language indicating that that concern was certainly present.¹⁵ Rather, the Court's decision was based upon its interpretation of a federal statute: Section 706 of the federal Administrative Procedure Act ("APA"), which provides that reviewing courts are to decide "all relevant questions of law":

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.¹⁶

The Supreme Court held that, in light of Section 706's mandate, "courts need not and under the [Administrative Procedure Act] may not defer to an agency interpretation of the law simply because a statute is ambiguous."¹⁷ Rather, while a reviewing court can of course consider agency interpretations – which interpretations may "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance" – under the APA "courts must exercise independent judgment in determining the meaning of statutory provisions" consistent with "the traditional understanding of the judicial function."¹⁸

Because it based its rationale on the text of the APA, the *Loper Bright* Court not only created the technical possibility that *Chevron*-style deference could return if the APA were amended, but also left for another day the lingering constitutional challenge to deference based on the separation of powers. Two Justices wrote specially to flag that issue, including, not surprisingly, Justice

Clarence Thomas, who, as he had in prior cases, made clear his opinion that *Chevron* deference “violates our Constitution’s separation of powers.”¹⁹ Justice Thomas opined that “*Chevron* compels judges to abdicate their Article III judicial Power” by “prevent[ing] judges from exercising their independent judgment to resolve ambiguities,” and “transfer[s] the Judiciary’s interpretive judgment to the agency” “[b]y allowing agencies to definitively interpret laws so long as they are ambiguous.”²⁰

Of course, *Loper Bright* does not directly impact any state’s administrative law jurisprudence. However, the indirect effect of that decision is tangible, especially as *Loper Bright* was released at a time when deference was already under serious reconsideration among the states.

III. Recent movement away from deference among the states

Alabama Act 319 is actually one of the latest in a series of moves by various states to eliminate their own state-law doctrines of deference to administrative interpretations. Well before *Loper Bright*, some states had already abandoned deference, and that movement has continued in various ways – by constitutional amendment, judicial decision, and statutory enactment.

For example, in 2018 Florida eliminated its deference doctrine by way of a broadly-worded constitutional amendment. Interestingly, in enshrining this principle against deference into its constitution, Florida made clear that no deference will be given to an administrative interpretation of a statute or rule by either a judge or even by an administrative hearing officer:

In interpreting a state statute or rule, a state court or an officer hearing an administrative action pursuant to general law may not defer to an administrative agency’s interpretation of such statute or rule, and must instead interpret such statute or rule *de novo*.²¹

Several states have rejected deference through judicial decisions from those states’ highest courts, focusing primarily on

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concerns of separation of powers.²² The North Carolina Supreme Court’s summation of the issue is typical:

This “*de novo*” standard of review makes particular sense when reviewing an executive-branch agency’s interpretations of a statute. This Court has long held that a core part of state judicial power is the authority to say what the law is. Thus, it is the exclusive right of the judiciary to interpret laws enacted by the General Assembly and “neither the executive nor the legislative department has any such power.”²³

As is the following from the Ohio Supreme Court:

First, it is never mandatory for a court to defer to the judgment of an administrative agency. Under our system of separation of powers, it is not appropriate for a court to turn over its interpretative authority to an administrative agency. But that is exactly what happens

when deference is mandatory. When we say that we will defer to an administrative agency’s reasonable interpretation of a statute, or its reasonable interpretation of an ambiguous statute, we assign to the agency a range of choices about statutory meaning. We police the outer boundaries of those choices, but within the range (e.g., reasonableness), the agency renders the interpretive judgment.²⁴

However, like Alabama, most states that have eliminated deference to agency interpretations have done so through legislative enactments, often of differing scope and breadth. Just a few examples illustrate the divergence of these statutes:

Wisconsin’s enactment is a codification of a Wisconsin Supreme Court decision²⁵ and merely states in straightforward fashion that, “[u]pon review of an agency action or decision, the court shall accord no deference to the agency’s interpretation of law.”²⁶ Indiana’s provision is similar, providing that “[t]he court shall decide all questions of law, including any interpretation of a federal or state constitutional provision, state statute, or agency rule, without deference to any previous interpretation made by the agency.”²⁷

Other states go further and not only forbid deference but actually direct courts to resolve resultant ambiguities in a particular manner. For example, Tennessee's 2022 enactment provides:

In interpreting a state statute or rule, a court presiding over the appeal of a judgment in a contested case shall not defer to a state agency's interpretation of the statute or rule and shall interpret the statute or rule *de novo*. After applying all customary tools of interpretation, the court shall resolve any remaining ambiguity against increased agency authority.²⁸

Similarly, Kansas' recently-enacted provision states that:

[i]n an action brought by or against a state agency, after applying all customary tools of interpretation and rules of statutory construction pursuant to law, a state court or an administrative hearing officer hearing an administrative action shall exercise any remaining doubt in a way that is consistent with an individual's fundamental constitutional rights.²⁹

Oklahoma combines these related concepts and requires "the court or hearing officer [to] exercise any remaining doubt in favor of a reasonable interpretation which limits agency power and maximizes individual liberty,"³⁰ as do Idaho and Missouri.³¹

Arizona's enactment adds an additional twist, in that it directs not only that courts "shall decide all questions of law" but also "all questions of *fact*" without deference to an agency:

In a proceeding brought by or against the regulated party, the court shall decide all questions of law, including the interpretation of a constitutional or statutory provision or a rule adopted by an agency, without deference to any previous determination that may have been made on the question by the agency. In a proceeding brought by or against the regulated party, the court shall decide all questions of fact without deference to any previous determination that

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may have been made on the question by the agency.³²

Alabama's Act 319 has some, but not all, aspects found in the enactments of its sister states, but clearly eliminates Alabama's doctrines of deference in judicial challenges governed by the AAPA – both *Chevron*-style and *Auer*-style deference. Accordingly, the Act is sure to have a significant and immediate impact on the world of administrative law in Alabama.

IV. Potential issues facing courts applying Act 319

The enactment of Act 319 is also likely to raise various collateral issues calling for judicial resolution (and potentially legislative refinement) concerning the Act's application. Some of these issues could themselves be the subject of lengthy articles, and it is the intent of this brief discussion to merely identify, rather than attempt to resolve, some of the potential issues.

A. Effect of Act 319 on agency findings of fact

One issue that could arise – as it has arisen in other states – concerns whether the standards of judicial review of an agency's fact-finding are affected by Act 319's elimination of deference. In Alabama, where a court is not reviewing an agency decision by way of a trial *de novo* (wherein the court hears and considers new, live testimony), such findings of fact have been given deference akin to findings made by a jury or by a judge hearing evidence *ore tenus*: the findings are not disturbed unless there is no relevant, competent evidence in the record from which such a finding could have been made.³³ As a corollary to this well-established standard, the mere presence of *contrary* evidence in the record is not particularly relevant so long as there is substantial evidence to support the finding.³⁴ Alabama courts applying these standards in reviewing agency decisions often cite as a part of that analysis the first sentence of Section 41-22-20(k), which provides: "Except

where judicial review is by trial de novo, the agency order shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, except where otherwise authorized by statute.”³⁵ As noted above, Act 319 deletes this sentence, perhaps raising questions as to whether and to what extent Alabama courts reviewing agency orders are to make their own factual findings. Several factors will likely impact and inform that analysis.

First, unlike the Arizona provision noted above that expressly states that a reviewing court “shall decide all questions of fact without deference to any previous determination that may have been made on the question by the agency,”³⁶ Alabama’s Act 319 includes no such language and therefore has no such express directive. Rather, based on its text, the Act directs only that courts interpret *statutory or regulatory text* without any deference to the agency’s interpretation.

Second, the elimination of the first sentence of Section 41-22-20(k) need not be seen as a rejection of the traditional deference shown to agency factual findings. Instead, it is possible that the Legislature deleted this sentence as a “belt-and-suspenders” effort to avoid any confusion with the Act’s new anti-deference provision given that the sentence applies to agency “orders” and agency orders will often contain interpretations of statutory or regulatory texts (in addition to factual findings). And the revised Section 41-22-20(k) retains the same standards for reversing an agency decision, including, among other bases, where the agency action is “[c]learly erroneous in view of the reliable, probative, and substantial evidence on the whole record” or “[u]nreasonable, arbitrary, or capricious, or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.”³⁷ As the United States Supreme Court stated in *Loper Bright*, such standards by nature indicate a level of deference for the agency’s factual findings. The Court held that “[the federal APA] *does* mandate that judicial review of agency policymaking and factfinding be deferential” and cited Sections 706(2)(A) and 706(2)(E) of the APA as providing, respectively, that an “agency action” can be set aside if it is “arbitrary, capricious, [or] an abuse of discretion” and “agency factfinding in formal proceedings” can be set aside if it is “unsupported by substantial evidence.”³⁸

Third, where the agency’s factual findings are based on the receipt by the agency of live testimony, it would not seem possible for a reviewing court to truly make its *own* findings of fact without

itself hearing live testimony. But not all judicial reviews of agency orders provide for the reception of live testimony, especially before the appellate courts.

Finally, to the extent that making factual findings *necessarily* implicates the particular agency’s expertise and experience – and one of the core principles of administrative law is that each agency is considered to have expertise and acquired experience in its particular area³⁹ – it would be difficult if not impossible for a reviewing court to properly make its own findings, as the judiciary does not have that specific expertise or experience. Such an exercise might also implicate separation of powers problems in the opposite direction. Just as concerns for separation of powers are raised when executive-branch administrative agencies are issuing binding interpretations of statutes or rules (something that the judiciary is specifically trained and constitutionally entrusted to do), those same concerns might be cited with respect to the judiciary engaging in fact-finding in an area *requiring* the expertise and experience held by an administrative agency.

B. Effect of Act 319 on agency factor-balancing

Another potential issue, perhaps related to the fact-finding question above, is whether Act 319 impacts the traditional deference that courts give to agency determinations requiring the consideration of certain statutory and regulatory *factors* – not necessarily individually-essential *elements* – and a determination whether the *overall balance* of those factors weighs in favor of the applicant or petitioner. One oft-litigated example is the determination of whether a healthcare provider should be granted a certificate of need (“CON”) to establish some facility or service, which requires the State Health Planning and Development Agency to “giv[e] appropriate consideration to” and balance various statutory and regulatory factors to make a determination as to whether there is a sufficient “need” for the project.⁴⁰

Again, Act 319 does not contain an explicit statutory directive that reviewing courts perform anew the “consideration” and balancing of such factors. And, as with the issue of fact-finding discussed above, the question may turn on whether the factors at issue by their very nature invoke and require the agency’s particular, legislatively-entrusted experience and expertise (which reviewing courts do not possess). In such a case, courts may defer to – and, under Alabama’s commitment to separation of powers, may feel constitutionally bound to defer to – an agency’s determination

as to the yield of the “balance” so long as there is a reasonable basis from the record supporting that determination.⁴¹

C. Application to judicial review of agency orders governed by other provisions

Technically, Act 319 applies to eliminate deference in only judicial review of agency decisions governed by Section 41-22-20 of the AAPA. However, other kinds of agency rulings and orders are governed by separate judicial review provisions. For example, judicial review of orders of the Alabama Oil and Gas Board is accomplished by filing a civil action governed by Section 9-17-15 of the Alabama Code, which provides, in part, that “any rule, regulation or order made or promulgated under this article shall be deemed prima facie valid, and the court shall be limited in its consideration to a review of the record of the proceedings before the board, and no new or additional evidence shall be received.”⁴² Reviewing courts will have to resolve whether and to what extent Act 319’s revisions to the AAPA impact the specialized judicial review provisions that exist in other sections of the Alabama Code.⁴³ Of course, because Alabama’s *Chevron/Auer*-style deference doctrines are judicially-crafted doctrines, the Supreme Court of Alabama could abandon those doctrines at any time regardless of the reach of the AAPA or Act 319.⁴⁴

D. Requirement of a “reasonable interpretation”

Act 319 does not only forbid reviewing courts from automatically deferring to agency interpretations of statutory and regulatory text, but also requires courts to, “after applying all customary tools of interpretation, . . . exercise any remaining doubt in favor of a reasonable interpretation.”⁴⁵ Theoretically, this additional step – by which the Legislature is affirmatively directing the Judiciary as to how to perform its interpretive role – could itself raise constitutional issues.⁴⁶

Alabama’s Constitution contains a particularly strong separation-of-powers provision:

To the end that the government of the State of Alabama may be a government of laws and not of individuals, and except as expressly directed or permitted in this constitution, the legislative branch may not exercise the executive or judicial power, the executive branch may not exercise the legislative or judicial power, and the judicial branch may not exercise the legislative or executive power.⁴⁷

However, any constitutional conflict stemming from Act 319’s directive seems unlikely because, unlike with the anti-deference provisions enacted in Tennessee and other states noted above – provisions that direct a reviewing court’s manner of interpreting ambiguous statutes in far more concrete and specific manners – Act 319 requires only that the reviewing court default to a “reasonable interpretation,” and the textualist approach followed by Alabama’s judiciary already seeks a “reasonable” interpretation of the actual text.⁴⁸

E. Effect of Act 319 on appeals pending at the time of the effective date

Act 319 does not direct that it will be applicable only to actions commenced after a certain date, as the Legislature did, for example, when it abolished the “scintilla rule” in favor of the “substantial evidence” standard in Alabama Code § 12-21-12. There, the Legislature directed that “[t]his section shall not apply to any civil action pending in the courts of this state on June 11, 1987.”⁴⁹ Rather, Act 319 provides that its provisions “shall become effective on October 1, 2026.”⁵⁰ Because in administrative appeals under the AAPA review by each court is governed by Section 41-22-20,⁵¹ Act 319’s phrasing might raise questions as to whether a reviewing court should apply the provisions of Act 319 in a challenge to an agency decision commenced prior to October 1, 2026, but which goes to a judgment after that effective date.

The answer to that question will depend on how the courts construe the effective date language (“shall become effective”) and perhaps whether the courts consider Act 319 to be a “remedial” statute. Remedial statutes are “those relating to remedies or modes of procedure, which do not create new rights or take away vested ones” and “operate retrospectively, in the absence of language clearly showing a contrary intention.”⁵² A remedial statute “may be applied on appeal, even if the effective date of that statute occurred while the appeal was pending, and even if the effective date of the statute was after the judgment in the trial court.”⁵³ Should a reviewing court consider the provisions of Act 319 – or at least Act 319’s directive that the court interpret statutes or rules without deference – to be remedial in this sense, then Act 319’s provisions may apply regardless of the date of commencement of the underlying request for judicial review.

Conclusion

Given the swelling national movement away from agency deference, and Alabama’s strong adherence to the separation of

powers, the enactment of Act 319 was not exactly a surprise. Neither will it be a surprise that Act 319 will substantially impact whether, and how, parties challenge administrative decisions in Alabama going forward. ▲

ENDNOTES

1. 2026 ALA. ACTS 319, at § 2.
2. § 41-22-1 et seq., ALA. CODE 1975.
3. 2026 ALA. ACTS 319, at § 1.
4. *Id.*
5. See, e.g., *Ex parte Chesnut*, 208 So. 3d 624, 640 (Ala. 2016) (“... [A] reviewing court will accord an interpretation placed on a statute or an ordinance by an administrative agency charged with its enforcement great weight and deference.”); *Fowler v. Johnson*, 961 So. 2d 122, 130 (Ala. 2006) (“[A]n agency’s interpretation of its own regulation must stand if it is reasonable, even though it may not appear as reasonable as some other interpretation.”) (alteration in original) (citation and quotations omitted); *Ex parte State Dep’t of Rev.*, 683 So. 2d 980, 983 (Ala. 1996) (“... [I]n interpreting a statute, a court accepts an administrative interpretation of the statute by the agency charged with its administration, if the interpretation is reasonable.”).
6. *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843 (1984).
7. See *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944).
8. *Christensen v. Harris County*, 529 U.S. 576, 587 (2000).
9. *Id.* (quoting *Skidmore*, 323 U.S. at 140); see also, e.g., *United States v. Mead Corp.*, 533 U.S. 218, 228 (2001) (noting that under *Skidmore* an administrative interpretation is to be given weight “depend[ing] upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control”) (quoting *Skidmore*, 323 U.S. at 140).
10. See *Auer v. Robbins*, 519 U.S. 452 (1997).
11. See *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410 (1945).
12. *Christopher v. SmithKline Beechman Corp.*, 567 U.S. 142, 155 (2012) (quoting *Auer*, 519 U.S. at 461).
13. *Id.* (quoting *Auer*, 519 U.S. at 462). In 2019, the Supreme Court reaffirmed *Auer* with some refinements in *Kisor v. Wilkie*, wherein, for example, the Court noted that the interpretation must reflect “the agency’s ‘authoritative’ or ‘official position,’” 588 U.S. 558, 577 (quoting *Mead*, 533 U.S. at 257 (Scalia, J., dissenting)), and “must in some way implicate its substantive expertise,” *id.*
14. See, e.g., *Michigan v. EPA*, 576 U.S. 743, 761–763 (2015) (Thomas, J., concurring).
15. *Loper Bright*, 603 U.S. at 384–87.
16. 5 U.S.C. § 706.
17. *Loper Bright*, 603 U.S. at 413.
18. *Id.* at 394 (quoting *Skidmore*, 323 U.S. at 140).
19. *Id.* at 413 (Thomas, J., concurring, citing previous writings).
20. *Id.* at 413–15 (Thomas, J., concurring) (citations and quotations omitted); see also *id.* at 433 (Gorsuch, J., concurring) (“*Chevron* deference . . . precludes courts from exercising the judicial power vested in them by Article III to say what the law is. It forces judges to abandon the best reading of the law in favor of views of those presently holding the reins of the Executive Branch.”).
21. FLA. CONST. art. V, § 21 (entitled “Judicial interpretation of statutes and rules”).
22. See *Myers v. Yamato Kogyo Co.*, 597 S.W.3d 613, 617 (Ark. 2020); *Pub. Water Supply Co. v. DiPasquale*, 735 A.2d 378, 381–83 (Del. 1999); *Douglas v. Ad Astra Info. Sys., LLC*, 293 P.3d 723, 728 (Kan. 2013); *In re Complaint of Rovas Against SBC Michigan*, 754 N.W.2d 259, 270 (Mich. 2008); *King v. Miss. Military Dep’t*, 245 So. 3d 404, 407–08 (Miss. 2018); *Savage v. N.C. Dep’t of Transp.*, 919 S.E.2d 144, 148–49 (N.C. 2025); *TWISM Enters., LLC v. State Bd. of Registration for Pro. Eng’rs & Surveyors*, 223 N.E.3d 371, 381 (Ohio 2022); *Murray v. Utah Labor Comm’n*, 308 P.3d 461, 472 (Utah 2013). See also, e.g., *Miss. Methodist Hosp. & Rehab. Ctr., Inc. v. Miss. Div. of Medicaid*, 319 So. 3d 1049, 1054–55 (Miss. 2021) (rejecting Mississippi’s version of *Auer*-style deference to interpretations of agency regulations).
23. *Savage*, 919 S.E.2d at 148 (citations and quotations omitted).
24. *TWISM Enters.*, 223 N.E.3d at 381.
25. *Tetra Tech EC, Inc. v. Wis. Dep’t of Rev.*, 914 N.W.2d 21 (Wis. 2018).
26. WIS. STAT. ANN. § 227.57(11). See also *id.* § 227.10(2g) (“No agency may seek deference in any proceeding based on the agency’s interpretation of any law.”).
27. IND. CODE ANN. § 4-21.5-5-11(b). See also GA. CODE ANN. § 15-1-24(a); LA. STAT. ANN. § 49:978.1(H); KY. REV. STAT. ANN. § 13B.150(3); NEB. REV. STAT. ANN. § 84-919.02; TEX. GOV’T CODE ANN. § 2001.1721. But see D.C. CODE ANN. § 2-510(c)-(e) (requiring reviewing courts to defer to a reasonable agency interpretation of a statute or rule and providing factors of “reasonableness”).
28. TENN. CODE ANN. § 4-5-326 (emphasis added).
29. 2026 KAN. SESS. LAWS § 1(b) (emphasis added).
30. OKLA. STAT. ANN. tit. 75, § 318(E).
31. See IDAHO CODE ANN. § 67-5279(5) (“[T]he court shall exercise any remaining doubt in favor of a reasonable interpretation that limits agency power and maximizes individual liberty.”); MO. ANN. STAT. § 536.140(3) (“[T]he court or hearing officer shall decide any remaining doubt in favor of a reasonable interpretation that limits agency power and maximizes individual liberty.”).
32. ARIZ. REV. STAT. ANN. § 12-910(F).
33. See, e.g., *Foley Hosp. Corp. v. Gulf Health Hosps., Inc.*, 157 So. 3d 925, 935 (Ala. Civ. App. 2014) (holding that “that there was substantial evidence from which Certificate of Need Review Board of Alabama State Health Planning and Development Agency (‘SHPDA’) could find that there was a community need for a second cardiac-catheterization laboratory at South Baldwin’s facility”); *State Health Plan. & Dev. Agency v. Baptist Health Sys., Inc.*, 766 So. 2d 176, 181 (Ala. Civ. App. 1999) (noting that role of reviewing court is simply “to determine if there was substantial evidence on record to support the SHPDA Board’s decision, not to make its own decision based on its view of the facts”).
34. See *Foley Hosp. Corp.*, 157 So. 3d at 935; *Baptist Health Sys.*, 766 So. 2d at 181. This familiar standard of review is applied across the country in judicial review of agency decisions. See, e.g., *Southbury Driving Acad. v. Comm’r of Motor Vehicles*, 2014 WL 3715079, at *8 (Conn. Super. Ct. June 18, 2014) (“The fact that the plaintiff may have produced contrary evidence is irrelevant at this stage, as the court must defer to the agency’s assessment of the credibility of the witnesses and to the agency’s right to believe or disbelieve the evidence presented by any witness, even an expert, in whole or in part.”) (citation and internal quotations omitted); *Fla. Dep’t of Highway Safety & Motor Vehicles v. Wiggins*, 151 So. 3d 457, 464 (Fla. 1st DCA 2014), *aff’d sub nom. Wiggins v. Fla. Dep’t of Highway Safety & Motor Vehicles*, 209 So. 3d 1165 (Fla. 2017) (“Evidence contrary to the agency’s decision is outside the scope of the inquiry at this point, for the reviewing court above all cannot reweigh the ‘pros and cons’ of conflicting evidence. While contrary evidence may be relevant to the wisdom of the decision, it is irrelevant to the lawfulness of the decision. As long as the record contains competent substantial evidence to support the agency’s decision, the decision is presumed lawful and the court’s job is ended.”) (quotation and emphasis omitted); *Dillavou v. Plasic Injection Molders, Inc.*, 856 N.W.2d 3, *3 (Iowa Ct. App. 2014) (“[T]he question on appeal is not whether the evidence supports a different finding than the finding made by the commissioner, but whether the evidence supports the findings actually made. Therefore, it is irrelevant that contrary evidence exists because there is nevertheless substantial evidence that supports the agency’s findings of fact.”) (citation omitted; unpublished); *Miss. Pub. Serv. Comm’n v. Merchants Truck Line, Inc.*, 598 So. 2d 778, 782 (Miss. 1992) (“The Commission had before it the whole ball of wax. It was clearly the Commission’s prerogative on [a] disputed issue to adopt whichever . . . view it chose to give credence to. The Commission, with its expertise, is the trier of facts and within this province it has the right to determine the weight of the evidence, the reliability of estimates and the credibility of the witnesses.”) (internal quotations omitted);

- Allen v. Green Ridge R-VIII Sch. Dist.*, 892 S.W.2d 635, 637 (Mo. Ct. App. 1994) ("Even if the evidence would warrant either of two findings, the courts are bound by the Commission's determination and the existence of contrary evidence is irrelevant."); *State Comp. Mut. Ins. Fund v. Reeves*, No. WCC No. 9109-6259, 1992 WL 92466, at *5 (Mont. Work. Comp. Ct. Mar. 23, 1992) ("Again, the Court believes the insurer has misapprehended the Court's role. The question before the Court is not to consider facts not found by the hearing examiner, nor to assign weight to those facts. Rather the limited scope of review is whether the record supports Finding of Fact No. 15. The SCMF concedes it does. The fact that contrary evidence is in the record is not relevant."); *Garvey vs. Pa. Power Co.*, No. A01-1721, 2002 WL 31814628, at *3 (Pa. Work. Comp. App. Bd. Dec. 10, 2002) ("[T]he proper inquiry is whether there is evidence to support a WCJ's finding, not whether there is evidence supporting a contrary finding. . . . As this is sufficient evidence to support a finding that Claimant's [sic] had pre-existing degenerative disc disease and that the July 26, 1999 surgery was unrelated to his work injury, any contrary evidence is irrelevant to our review.") (citation omitted).
35. 2026 ALA. ACTS 319, at § 1.
36. ARIZ. REV. STAT. ANN. § 12-910(F).
37. § 41-22-20(k)(6) & (7), ALA. CODE 1975.
38. 603 U.S. at 392 (quoting 5 U.S.C. § 706(2)(A) & (E)). See also *Tarr v. Arkansas State Bd. of Nursing*, 711 S.W.3d 799, 803 (Ark. App. 2025) (noting that after elimination of *Chevron* deference "judicial review of agency fact-finding remains deferential").
39. See, e.g., *Sylacauga Health Care Ctr. v. Ala. State Health Planning Agency*, 662 So. 2d 265, 267 (Ala. Civ. App. 1994) (noting that agency had "recognized expertise in [this] specific, specialized area").
40. See § 22-21-264(4), ALA. CODE 1975; ALA. ADMIN. CODE § 410-1-6-.06. See also, e.g., *Ex parte HealthSouth of Ala., LLC*, 207 So. 3d 39, 42 (Ala. 2016) ("Section 22-21-264, Ala. Code 1975, establishes eight *nonexclusive* factors SHPDA must consider, i.e., SHPDA may consider other factors, in making its findings. . . . But 'financial feasibility' is one of only eight subfactors SHPDA must balance and 'giv[e] appropriate consideration to' in considering whether there is a 'substantially unmet public requirement' for the services proposed by the CON application.").
41. *Accord*, e.g., *City of Dothan v. McCleskey*, 24 So. 3d 1105, 1107-08 (Ala. Civ. App. 2008) ("In the administrative-law context, substantial evidence exists if there is a rational basis for the conclusions approved by the administrative body.") (citation and internal quotations omitted); *Kids' Klub, Inc. v. State Dep't of Human Resources*, 874 So. 2d 1075, 1082 (Ala. Civ. App. 2003) (a court "must apply a presumption of correctness to the agency's decision, especially where the subject matter is peculiar to the field of competence that has been entrusted to the agency by the Alabama Legislature") (citation and internal quotations omitted).
42. § 9-17-15, ALA. CODE 1975. See also *Ex parte Wilson*, 984 So. 2d 1161, 1174 n.6 (Ala. 2007) (Cobb, C.J., dissenting) (listing several other statutory provisions governing judicial review of other types of administrative rulings and orders).
43. See, e.g., *Ex parte GASP*, 285 So. 3d 228, 233 (Ala. 2019); *Ex parte Varner*, 571 So. 2d 1108, 1109 (Ala. 1990); *Target Corp. v. Jefferson Cnty. Bd. of Equalization*, 197 So. 3d 1006, 1013 (Ala. Civ. App. 2015) (Donaldson, J., dissenting). Another related issue that might arise is whether and to what extent Act 319 applies in cases where no agency is an actual party, but an agency's interpretation of a statute or regulation is used to bolster one of the party's positions. By its terms, Section 41-22-20 applies only to parties in contested cases stemming from agency decisions.
44. Indeed, members of the Supreme Court of Alabama and the Alabama Court of Civil Appeals have recently indicated doubt as to the lasting vitality of Alabama's deference doctrines. See, e.g., *Ex parte TheraTrue Ala., LLC*, [Ms. SC-2025-0006; Oct. 31, 2025] ___ So. 3d ___, 2025 WL 3042516, at *1 (Ala. 2025) (McCool, J., concurring) (noting an openness "to reconsidering Alabama's precedents that require judicial deference to a state agency's reasonable statutory interpretation"); *Ala. Crime Victims Comp. Comm'n v. Thomas*, [Ms. CL-2025-0178; Dec. 19, 2025] ___ So. 3d ___, 2025 WL 3684448, at *10 (Ala. Civ. App. 2025) (Fridy, J., concurring) (noting that "I am doubtful that the principle of judicial deference to agency interpretation will survive much longer in Alabama law").
45. 2026 ALA. ACTS 319, at § 1.
46. See *HWCC-Tunica, Inc. v. Miss. Dep't of Rev.*, 296 So. 3d 668, 677 (Miss. 2020) (noting that any effort to *require* deference by statute would violate Mississippi Constitution because "[i]nterpreting statutes is reserved exclusively for courts").
47. ALA. CONST. § 42(c).
48. See, e.g., *James v. McKinney*, 729 So. 2d 264, 267 (Ala. 1998) ("When interpreting a statute, we must consider it as a whole and must construe it reasonably so as to harmonize all of its provisions."); *Berry v. State*, 299 So. 3d 336, 346 (Ala. Crim. App. 2020) ("As we have so often said, statutes must be given a reasonable interpretation, not one that is illogical, incompatible with common sense, or that would reach an absurd result that could not possibly have been intended by the Legislature.") (citation and internal quotations omitted). See also Jay Mitchell, *Textualism in Alabama*, 74 ALA. L. REV. 1089, 1090 (2023) ("When presented with a dispute over the meaning of written law, a textualist judge does not speculate about what legislators privately *wanted* the law to accomplish nor does he ask what a more sensible law *should* have said. He asks only how the text would be best understood by a reasonable, well-informed person reading the text in its historical and linguistic context."); *id.* at 1100 ("The textualist judge simply asks which of the possible meanings is the most objectively reasonable and then applies that meaning.").
49. § 12-21-12(e), ALA. CODE 1975. See, e.g., *Fahey v. C.A.T.V. Subscriber Servs., Inc.*, 568 So. 2d 1219, 1222 (Ala. 1990) ("Thus, a question of first impression is presented: if a plaintiff's original complaint is pending on June 11, 1987, but an amended complaint is filed after that date, which rule applies to a summary judgment motion addressing a claim contained only in the amended complaint? We hold that the 'scintilla rule' applies. Section 12-21-12 is clear in its language, 'This section shall not apply to any civil *action* pending in the courts of this state on June 11, 1987.' The Faheys' action was pending on June 11, 1987, and any amendment asserting a claim that arose out of the occurrence set forth in the original complaint relates back to the date of the filing of the original complaint. See Rule 15(c), Ala. R. Civ. P.").
50. 2026 ALA. ACTS 319, at § 2 (emphasis added).
51. See *Ex parte Med. Licensure Comm'n of Ala.*, 897 So. 2d 1093, 1096 (Ala. 2004) (upon review following review by circuit court and by Court of Civil Appeals, stating: "Our review of the Commission's order is controlled by § 41-22-20(k), Ala. Code 1975."); *Ala. Dep't of Env't Mgmt. v. Hagood*, 695 So. 2d 48, 50 (Ala. Civ. App. 1997) (reviewing decision of State Personnel Board, following review by Montgomery County Circuit Court, and stating: "Our review is governed by § 41-22-20(k), Ala. Code 1975."); *State Dep't of Corr. v. Cooke*, 530 So. 2d 839, 840 (Ala. Civ. App. 1988) ("Our review of an order issued by the Board in this case, as was the review by the Circuit Court of Montgomery County, is governed by Ala. Code 1975, § 41-22-20.").
52. *Street v. City of Anniston*, 381 So. 2d 26, 29 (Ala. 1980).
53. *Ex parte Bonner*, 676 So. 2d 925, 926-27 (Ala. 1995) (citation, internal quotations, and emphasis omitted).



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