

Section 25-510.02(1) provides:

Summons; service on state or political subdivision. (1) The State of Nebraska, any state agency as defined in section 81-8,210, and any employee of the state as defined in section 81-8,210 sued in an official capacity may be served by leaving the summons at the office of the Attorney General with the Attorney General, deputy attorney general, or someone designated in writing by the Attorney General, or by certified mail service addressed to the office of the Attorney General.

Section 84-917 provides that the final decision of an agency in a contested case is subject to judicial review in the following manner:

(2) Proceedings for review shall be instituted by filing a petition in the district court of the county where the action is taken within thirty days after the service of the final decision by the agency. All parties of record shall be made parties to the proceedings for review. Summons shall be served within thirty days of the filing of the petition in the manner provided for service of a summons in a civil action. The court, in its discretion, may permit other interested parties to intervene.

Unless the petition is filed within 30 days following service of the decision and summons is served within 30 days from the date the petition is filed, this

court does not have subject matter jurisdiction of the appeal. See Norris Public Power Dist. v. State ex rel. Jones, 183 Neb. 489, 161 N.W.2d 869 (1968). The question of subject matter jurisdiction may be raised at any stage of the proceedings.

The petitioner argues that the word "may" in Section 25-510.02(1) infers that service of summons on the Attorney General is not the exclusive means for obtaining service on the state. Unfortunately, this position is contrary to the purpose of L.B. 447 passed in 1983 which revised the statutes with respect to service of summons. Our court has noted that the passage of L.B. 447 "provides for service of summons on the Attorney General in all cases in which the state may be a party." Beatrice Manor, Inc. v. Department of Health, 219 Neb. 141, 144, 362 N.W.2d 45, _____ (1985).

Perhaps the use of the term "may" is unfortunate and somewhat confusing. However, since the enactment of L.B. 447, there is no other statutory provision for service on the state or an agency thereof except for 25-510.02(1). Since service of summons was not made on the Attorney General pursuant to Section 25-510.02(1) within 30 days after the filing of the petition, this court is without jurisdiction in this matter.

IT IS ORDERED that the petition be dismissed at
petitioner's costs.

Dated September 20, 1988.

BY THE COURT:


District Judge