

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 481

BY: WILLIAMS (Don)

AS INTRODUCED

AN ACT RELATING TO STATUTES AND REPORTS; AMENDING SECTION 3, CHAPTER 207, O.S.L. 1987, SECTION 17, CHAPTER 292, O.S.L. 1988, AS AMENDED BY SECTION 9, CHAPTER 360, O.S.L. 1989, SECTION 17, CHAPTER 292, O.S.L. 1988, AS LAST AMENDED BY SECTION 18, CHAPTER 300, O.S.L. 1990, 75 O.S. 1981, SECTIONS 308, AS LAST AMENDED BY SECTION 10, CHAPTER 360, O.S.L. 1989, 308, AS LAST AMENDED BY SECTION 20, CHAPTER 300, O.S.L. 1990, SECTION 22, CHAPTER 207, O.S.L. 1987, AS LAST AMENDED BY SECTION 11, CHAPTER 360, O.S.L. 1989, AND SECTION 22, CHAPTER 207, O.S.L. 1987, AS LAST AMENDED BY SECTION 21, CHAPTER 300, O.S.L. 1990 (75 O.S. SUPP. 1990, SECTIONS 250.2, 303.1, 308 AND 308.1), WHICH RELATE TO LEGISLATIVE INTENT, FILING OF RULES, AND APPROVAL AND DISAPPROVAL OF RULES; CLARIFYING LEGISLATIVE INTENT; MODIFYING MANNER FOR APPROVAL AND DISAPPROVAL OF RULES BY THE GOVERNOR AND THE LEGISLATURE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 3, Chapter 207, O.S.L. 1987 (75 O.S. Supp. 1990, Section 250.2), is amended to read as follows:

Section 250.2 A. Article V of the Oklahoma Constitution vests in the Legislature the power to make laws, and thereby to establish agencies and to designate agency functions, budgets and purposes. Article VI of the Oklahoma Constitution charges the Executive Branch of Government with the responsibility to implement all measures which may be resolved upon by the Legislature.

B. In creating agencies and designating their functions and purposes, the Legislature may delegate rulemaking authority to these agencies to facilitate administration of legislative policy. The delegation of rulemaking authority is intended to eliminate the necessity of establishing every administrative aspect of general public policy by legislation. In so doing, however, the Legislature reserves to itself:

1. The right to retract any delegation of rulemaking authority unless otherwise precluded by the Oklahoma Constitution.

2. The right to establish any aspect of general policy by legislation, notwithstanding any delegation of rulemaking authority.

3. The right and responsibility to designate the method for rule promulgation, review and modification.

4. The right to delay, suspend, veto, or amend the implementation of any rule or proposed rule while under review by the Legislature.

5. The right to disapprove a rule during the legislative review period independent of any action by the Governor.

SECTION 2. AMENDATORY Section 17, Chapter 292, O.S.L. 1988, as amended by Section 9, Chapter 360, O.S.L. 1989 (75 O.S. Supp. 1990, Section 303.1), is amended to read as follows:

Section 303.1 A. Within ten (10) days after adoption of a permanent rule, a copy of all such new rules or amendments,

revisions or revocations to an existing rule proposed by an agency, and a copy of an agency rule report as required by subsection D of this section shall be filed by the agency with the Governor for approval.

B. When the rules have been submitted to the Governor, the agency shall also submit to the Director of the Department of Libraries for publication in The Oklahoma Register, a statement that the adopted rules have been submitted to the Governor.

C. The text of the adopted rules shall be submitted to the Governor in the same format as required by the Director of the Department of Libraries pursuant to Section 251 of Title 75 of the Oklahoma Statutes.

D. The report required by subsection A of this section shall include:

1. the date the notice of the intended rulemaking action was published in The Oklahoma Register pursuant to Section 255 of Title 75 of the Oklahoma Statutes;

2. the name and address of the agency;

3. the title and number of the rule;

4. a citation to the statutory authority for the rule;

5. a brief summary of the content of the adopted rule;

6. a statement explaining the need for the adopted rule;

7. the date and location of the meeting at which such rules were adopted;

8. a summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at public hearings or of any oral or written comments received prior to the adoption of the rule;

9. a list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing;

10. a rule impact statement if required pursuant to Section 303 of Title 75 of the Oklahoma Statutes;

11. an incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;

12. the members of the governing board of the agency adopting the rules and the recorded vote of each member; and

13. any other information requested by the Governor.

E. The Governor shall have forty-five (45) calendar days from receipt of a rule to approve or disapprove the rule.

1. If the Governor approves the rule, the Governor shall immediately notify the agency in writing of the approval. Notice of such approval shall be given by the agency to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and to the Department for publication in The Oklahoma Register.

2. If the Governor disapproves the adopted rule, the Governor shall return the entire document to the agency with reasons in writing for the disapproval. Notice of such disapproval shall be given by the agency to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to the Department for publication in The Oklahoma Register. Failure of the Governor to approve a rule shall constitute disapproval of the rule by the Governor.

F. Rules ~~not approved~~ disapproved by the Governor pursuant to the provisions of this section shall not become effective unless ~~otherwise~~ subsequently approved by the Legislature by joint resolution ~~pursuant to subsection F of Section 308 of this title~~ with said resolution to be approved by the Governor, or if said resolution is disapproved by the Governor, then if approved by two-thirds of the members of each house of the Legislature said rule shall be finally adopted notwithstanding the disapproval by the Governor.

SECTION 3. AMENDATORY Section 17, Chapter 292, O.S.L. 1988, as last amended by Section 18, Chapter 300, O.S.L. 1990 (75 O.S. Supp. 1990, Section 303.1), is amended to read as follows:

Section 303.1 A. Within ten (10) days after adoption of a permanent rule, a copy of all such new rules or amendments, revisions or revocations to an existing rule proposed by an agency, and a copy of an agency rule report as required by subsection D of this section shall be filed by the agency with the Governor for approval.

B. When the rules have been submitted to the Governor, the agency shall also submit to the Secretary for publication in The Oklahoma Register, a statement that the adopted rules have been submitted to the Governor.

C. The text of the adopted rules shall be submitted to the Governor in the same format as required by the Secretary pursuant to Section 251 of Title 75 of the Oklahoma Statutes.

D. The report required by subsection A of this section shall include:

1. the date the notice of the intended rulemaking action was published in The Oklahoma Register pursuant to Section 255 of Title 75 of the Oklahoma Statutes;

2. the name and address of the agency;

3. the title and number of the rule;

4. a citation to the statutory authority for the rule;

5. a brief summary of the content of the adopted rule;

6. a statement explaining the need for the adopted rule;

7. the date and location of the meeting, if held, at which such rules were adopted;

8. a summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at public hearings or of any oral or written comments received prior to the adoption of the rule;

9. a list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing;

10. a rule impact statement if required pursuant to Section 303 of Title 75 of the Oklahoma Statutes;

11. an incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;

12. the members of the governing board of the agency adopting the rules and the recorded vote of each member; and

13. any other information requested by the Governor.

E. The Governor shall have forty-five (45) calendar days from receipt of a rule to approve or disapprove the rule.

1. If the Governor approves the rule, the Governor shall immediately notify the agency in writing of the approval. Notice of such approval shall be given by the agency to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and to the Secretary for publication in The Oklahoma Register.

2. If the Governor disapproves the adopted rule, the Governor shall return the entire document to the agency with reasons in writing for the disapproval. Notice of such disapproval shall be given by the agency to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to the Secretary for publication in The Oklahoma Register. Failure of the Governor to approve a rule within the specified period shall constitute disapproval of the rule by the Governor.

F. Rules ~~not approved~~ disapproved by the Governor pursuant to the provisions of this section shall not become effective unless ~~otherwise~~ subsequently approved by the Legislature by joint resolution ~~pursuant to subsection F of Section 308 of title~~ with said resolution to be approved by the Governor, provided, if said

resolution is disapproved by the Governor, then if approved by two-thirds of the members of each house of the Legislature said rule shall be finally adopted notwithstanding the disapproval by the Governor.

SECTION 4. AMENDATORY 75 O.S. 1981, Section 308, as last amended by Section 10, Chapter 360, O.S.L. 1989 (75 O.S. Supp. 1990, Section 308), is amended to read as follows:

Section 308. A. Within ten (10) days after adoption of a permanent rule, two copies of all such new rules or amendments, revisions or revocations to an existing rule proposed by an agency, and two copies of an agency rule report as required by subsection D of this section shall be filed by the agency each with the Speaker of the House of Representatives and the President Pro Tempore of the State Senate.

B. When the rules have been submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the agency shall also submit to the Director of the Department of Libraries for publication in The Oklahoma Register, a statement that the adopted rules have been submitted to the Legislature. Such statement of submission required by this section shall not be required for emergency rules.

C. The text of the adopted rules shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate in the same format as required by the Director of Department of Libraries pursuant to Section 251 of this title.

D. The report required by subsection A of this section shall include:

1. the date the notice of the intended rulemaking action was published in The Oklahoma Register pursuant to Section 255 of this title;

2. the name and address of the agency;

3. the title and number of the rule;

4. a citation to the statutory authority for the rule;
5. a brief summary of the content of the adopted rule;
6. a statement explaining the need for the adopted rule;
7. the date and location of the meeting at which such rules were adopted;

8. a summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at public hearings or of any oral or written comments received prior to the adoption of the rule;

9. a list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing;

10. a rule impact statement if required pursuant to Section 303 of this title;

11. an incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;

12. the members of the governing board of the agency adopting the rules and the recorded vote of each member; and

13. any other information requested by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or either rule review committee.

E. Upon receipt of any adopted rules submitted pursuant to this section, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall assign such rules to the appropriate committees of each such house of the Legislature for review. Except as otherwise provided by this section, upon receipt of such rules, the Legislature shall have thirty (30) legislative days to review such rules.

F. ~~By the adoption of a joint resolution, or as otherwise authorized by the Constitution~~ During the legislative review period

prior to a rule becoming finally adopted, the Legislature may disapprove any rule, or waive the thirty legislative day review period and approve any rule which has been transmitted as required by this section by the adoption of a joint resolution independent of any action by the Governor. The Governor, having independent authority to approve or disapprove a rule pursuant to Section 303.1 of Title 75 of the Oklahoma Statutes, shall not have the power to approve or disapprove the approval or disapproval of a rule by the Legislature during the legislative review period. After promulgation of a rule, a rule may be disapproved by the adoption of a joint resolution by the Legislature, subject to the approval or disapproval by the Governor.

G. Whenever a rule is disapproved as provided in subsection F of this section, the agency adopting such rules shall not have authority to resubmit an identical rule, except during the first sixty (60) calendar days of the next regular legislative session. Rules may be disapproved in part or in whole by the Legislature. Any joint resolution enacted disapproving a rule shall be filed with the Department of Libraries for publication in The Oklahoma Register.

H. Unless otherwise provided by specific vote of the Legislature, resolutions introduced for purposes of disapproving or approving a rule shall not be subject to regular legislative cutoff dates, shall be limited to such provisions as may be necessary for disapproval or approval of a rule and, shall contain no other provisions.

I. 1. Transmission of a rule for legislative review pursuant to the provisions of this section on or before April 1 of each year shall result in the approval of such rule by the Legislature if:

- a. the Legislature is in session and has failed to disapprove such rule within thirty (30) legislative

days after such rule has been so transmitted pursuant to subsection A of this section; or

- b. the Legislature has adjourned before the expiration of said thirty (30) legislative days of submission of such rules, and has failed to disapprove such rule.

2. After April 1 of each year, transmission of a rule for legislative review pursuant to the provisions of this section shall result in the approval of such rule by the Legislature only if the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative days after such rule has been so transmitted. In the event the Legislature adjourns before the expiration of such thirty (30) legislative days, such rule shall carry over for consideration by the Legislature during the next regular session and shall be considered to have been originally transmitted to the Legislature on the first day of said next regular session for review pursuant to this section. As an alternative, an agency may request direct legislative approval of such rules and the Legislature may approve such rule as provided by subsection F of this section. An agency may also adopt emergency rules under the provisions of Section 253 of this title.

J. Prior to final adoption of a rule, an agency may withdraw from legislative review a rule submitted pursuant to the provisions of this section. Notice of such withdrawal shall be given to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and to the Department for publication in The Oklahoma Register.

K. Except as otherwise provided by Section 253 of this title, Section 250.4 of this title, or as otherwise specifically provided by the Legislature, no agency shall promulgate any rule unless reviewed by the Legislature pursuant to this section. An agency may promulgate an emergency rule only upon a finding that an imminent peril to the public health, safety or welfare or other compelling

extraordinary circumstances requires the promulgation of an emergency rule pursuant to Section 253 of this title.

L. Any rights, privileges, or interests gained by any person by operation of an emergency rule, shall not be affected by reason of any subsequent disapproval or rejection of such rule by either house of the Legislature.

SECTION 5. AMENDATORY 75 O.S. 1981, Section 308, as last amended by Section 20, Chapter 300, O.S.L. 1990 (75 O.S. Supp. 1990, Section 308), is amended to read as follows:

Section 308. A. Within ten (10) days after adoption of a permanent rule, two copies of all such new rules or amendments, revisions or revocations to an existing rule proposed by an agency, and two copies of an agency rule report as required by subsection D of this section shall be filed by the agency each with the Speaker of the House of Representatives and the President Pro Tempore of the State Senate.

B. When the rules have been submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the agency shall also submit to the Office for publication in The Oklahoma Register, a statement that the adopted rules have been submitted to the Legislature. Such statement of submission required by this section shall not be required for emergency rules.

C. The text of the adopted rules shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate in the same format as required by the Secretary pursuant to Section 251 of this title.

D. The report required by subsection A of this section shall include:

1. the date the notice of the intended rulemaking action was published in The Oklahoma Register pursuant to Section 255 of this title;

2. the name and address of the agency;

3. the title and number of the rule;
4. a citation to the statutory authority for the rule;
5. a brief summary of the content of the adopted rule;
6. a statement explaining the need for the adopted rule;
7. the date and location of the meeting if held, at which such rules were adopted;
8. a summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at public hearings or of any oral or written comments received prior to the adoption of the rule;
9. a list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing;
10. a rule impact statement if required pursuant to Section 303 of this title;
11. an incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;
12. the members of the governing board of the agency adopting the rules and the recorded vote of each member; and
13. any other information requested by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or either rule review committee.

E. Upon receipt of any adopted rules submitted pursuant to this section, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall assign such rules to the appropriate committees of each such house of the Legislature for review. Except as otherwise provided by this section, upon receipt of such rules, the Legislature shall have thirty (30) legislative days to review such rules.

F. ~~By the adoption of a joint resolution, or as otherwise authorized by the Constitution~~ During the legislative review period prior to a rule becoming finally adopted, the Legislature may disapprove any rule, or waive the thirty legislative day review period and approve any rule which has been transmitted as required by this section by the adoption of a joint resolution independent of any action by the Governor. The Governor, having independent authority to approve or disapprove a rule pursuant to Section 303.1 of Title 75 of the Oklahoma Statutes, shall not have the power to approve or disapprove the approval or disapproval of a rule by the Legislature during the legislative review period. After promulgation of a rule, a rule may be disapproved by the adoption of a joint resolution by the Legislature, subject to the approval or disapproval by the Governor.

G. Whenever a rule is disapproved as provided in subsection F of this section, the agency adopting such rules shall not have authority to resubmit an identical rule, except during the first sixty (60) calendar days of the next regular legislative session. Rules may be disapproved in part or in whole by the Legislature. Any joint resolution enacted disapproving a rule shall be filed with the Secretary for publication in The Oklahoma Register.

H. Unless otherwise provided by specific vote of the Legislature, resolutions introduced for purposes of disapproving or approving a rule shall not be subject to regular legislative cutoff dates, shall be limited to such provisions as may be necessary for disapproval or approval of a rule and, shall contain no other provisions.

I. 1. Transmission of a rule for legislative review pursuant to the provisions of this section on or before April 1 of each year shall result in the approval of such rule by the Legislature if:

- a. the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative

days after such rule has been so transmitted pursuant to subsection A of this section; or

- b. the Legislature has adjourned before the expiration of said thirty (30) legislative days of submission of such rules, and has failed to disapprove such rule.

2. After April 1 of each year, transmission of a rule for legislative review pursuant to the provisions of this section shall result in the approval of such rule by the Legislature only if the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative days after such rule has been so transmitted. In the event the Legislature adjourns before the expiration of such thirty (30) legislative days, such rule shall carry over for consideration by the Legislature during the next regular session and shall be considered to have been originally transmitted to the Legislature on the first day of said next regular session for review pursuant to this section. As an alternative, an agency may request direct legislative approval of such rules and the Legislature may approve such rule as provided by subsection F of this section. An agency may also adopt emergency rules under the provisions of Section 253 of this title.

J. Prior to final adoption of a rule, an agency may withdraw from legislative review a rule submitted pursuant to the provisions of this section. Notice of such withdrawal shall be given to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and to the Secretary for publication in The Oklahoma Register.

K. Except as otherwise provided by Sections 253, 250.4 and 250.6 of this title or as otherwise specifically provided by the Legislature, no agency shall promulgate any rule unless reviewed by the Legislature pursuant to this section. An agency may promulgate an emergency rule only pursuant to Section 253 of this title.

L. Any rights, privileges, or interests gained by any person by operation of an emergency rule, shall not be affected by reason of any subsequent disapproval or rejection of such rule by either house of the Legislature.

SECTION 6. AMENDATORY Section 22, Chapter 207, O.S.L. 1987, as last amended by Section 11, Chapter 360, O.S.L. 1989 (75 O.S. Supp. 1990, Section 308.1), is amended to read as follows:

Section 308.1 A. Upon the approval by the Legislature and the Governor, ~~or upon approval by joint resolution of the Legislature pursuant to subsection F of Section 308 of this title,~~ a rule shall be considered finally adopted. The agency shall submit such finally adopted rule to the Department of Libraries for filing and publishing such rule pursuant to Sections 251 and 255 of this title.

B. The text of the rule submitted for publication shall be the same as the text of the rule considered by the Legislature and the Governor.

SECTION 7. AMENDATORY Section 22, Chapter 207, O.S.L. 1987, as last amended by Section 21, Chapter 300, O.S.L. 1990 (75 O.S. Supp. 1990, Section 308.1), is amended to read as follows:

Section 308.1 A. Upon the approval by the Legislature and the Governor, ~~or upon approval by joint resolution of the Legislature pursuant to subsection F of Section 308 of this title,~~ a rule shall be considered finally adopted. The agency shall submit such finally adopted rule to the Secretary for filing and publishing such rule pursuant to Sections 251 and 255 of this title.

B. The text of the rule submitted for publication shall be the same as the text of the rule considered by the Legislature and the Governor.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-011

MJF