

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 515

BY: TAYLOR

AS INTRODUCED

AN ACT RELATING TO STATUTES AND REPORTS; AMENDING

SECTION 12, CHAPTER 207, O.S.L. 1987, AS LAST  
AMENDED BY SECTION 2, CHAPTER 300, O.S.L. 1990 (75  
O.S. SUPP. 1990, SECTION 250.4), WHICH RELATES TO  
EXEMPTIONS FROM THE ADMINISTRATIVE PROCEDURES ACT;  
CLARIFYING STATUTORY REFERENCES; MODIFYING CERTAIN  
EXEMPTIONS FOR CERTAIN BOARDS AND INSTITUTIONS IN  
THE STATE SYSTEM OF HIGHER EDUCATION; DELETING  
OBSOLETE LANGUAGE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY Section 12, Chapter 207, O.S.L.  
1987, as last amended by Section 2, Chapter 300, O.S.L. 1990 (75  
O.S. Supp. 1990, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically  
provided in this subsection, each agency is required to comply with  
Article I of the Administrative Procedures Act, Section ~~250.3~~ 250.2  
et seq. of this title.

2. The Corporation Commission shall be required to comply with  
the provisions of Article I of the Administrative Procedures Act  
except for subsections A, B, C and F of Section 303 of this title  
and Section 306 of this title. To the extent of any conflict or

inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. The Oklahoma Military Department shall be exempt from the provisions of Article I of the Administrative Procedures Act to the extent it exercises its responsibility for military affairs.

4. The Oklahoma Ordnance Works Authority shall be exempt from Article I of the Administrative Procedures Act.

5. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation shall be exempt from Article I of the Administrative Procedures Act to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. The Oklahoma State Regents for Higher Education shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. ~~Until January 1, 1992, the~~ The Boards of Regents, Boards of Trustees, created by statute or by the Oklahoma Constitution, and institutions they govern shall be exempt from Article I of the Administrative Procedures Act ~~except for Sections 250.3, 251, 252,~~

~~254, the notice and publication requirements of Section 303, 308.2 of this title and Sections 256.1 and 256.2 of this title. Provided said Boards of Regents, Boards of Trustees, and institutions they govern shall establish procedures for developing, adopting, and distributing rules, which shall provide for distribution of adopted rules to the Oklahoma State Regents for Higher Education and the Office. Provided further, that a copy of all rules in effect shall be available for public inspection in the appropriate institutional libraries. A copy of all rules in effect shall be distributed to the secretary.~~

~~Within twenty (20) days of final adoption of a rule the Board of Regents or any institution governed by a Board of Regents finally adopting a rule shall submit two copies of the rule so adopted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. Rules adopted by the Board of Regents or rules adopted by an institution governed by the Board of Regents shall be considered finally adopted at the time such rules are approved by the Board of Regents or such institution as applicable.~~

8. The Commissioner of Public Safety shall be exempt from Section 253, subsections C and D of Section 303 and Sections 303.1, 307.1, 308 and 308.1 of this title insofar as it is necessary to adopt rules under the Oklahoma Hazardous Materials Transportation and Motor Carrier Act, Section 230.1 et seq. of Title 47 of the Oklahoma Statutes, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations for which the Commissioner has no discretion when the state is mandated to adopt rules identical to federal rules and regulations. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in The Oklahoma Register. Such publication need not set forth the full text of the rule but may incorporate the federal rules and

regulations by reference. Provided, for any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act, Section 309 et seq. of this title:

1. The Oklahoma Tax Commission;
2. The Oklahoma Public Welfare Commission;
3. The Oklahoma Ordnance Works Authority;
4. The Oklahoma Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;
8. The supervisory or administrative agency of any penal,

mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;

9. The ~~Board~~ Boards of Regents, Boards of Trustees, and institutions or employees of any university, college, or other institution of higher learning, ~~except with respect to expulsion of any student for disciplinary reasons;~~ provided, that upon any alleged infraction by a student of rules of such institutions, ~~with a lesser penalty than expulsion,~~ such student shall be entitled to such due process, including notice and hearing, as may be otherwise required by law, ~~and the following grounds of misconduct, if properly alleged in disciplinary proceedings against a student,~~

~~shall be cause to be barred from the campus and be removed from any college or university-owned housing, upon conviction in a court of law:~~

- ~~a. participation in a riot as defined by the penal code,~~
- ~~b. possession or sale of any drugs or narcotics prohibited by the penal code, or~~
- ~~c. willful destruction of or willful damage to state property the Constitution of the United States or the State of Oklahoma;~~

10. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules,
- f. any filing of false information;

11. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

12. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

13. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes; and

14. The Oklahoma Military Department; ~~and~~

~~15. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation until January 1, 1990.~~

SECTION 2. 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.

43-1-494

REP