

SHORT TITLE: Administrative Procedures Act; deleting obsolete exemptions; providing exemption for tourism as to certain prices or fees; emergency.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 88

By: Herbert and Hooper

AS INTRODUCED

An Act relating to the Administrative Procedures Act; amending 75 O.S. 1991, Section 250.4, which relates to certain exemptions; providing exemption for certain prices or fees charged by the Tourism and Recreation Department; deleting obsolete exemptions; and declaring an emergency.

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

SECTION 1. AMENDATORY 75 O.S. 1991, 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 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 Boards of Regents 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.~~

~~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.

8. The Oklahoma Tourism and Recreation Commission and the Oklahoma Tourism and Recreation Department shall be exempt from the provisions of Article I of the Administrative Procedures Act with respect to the setting or changing of prices for food, merchandise, publications, or advertising in publications sold by the Department or the setting or changing of fees or other charges relating to use of lodging or equipment or to participation in activities at parks or other facilities operated by the Department; provided, nothing

herein shall be construed as authorizing the establishment or subsequent adjustment of park entrance fees.

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 of Regents 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;

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, Section 451 et seq. of Title 71 of the Oklahoma Statutes;

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.

44-1-0586

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