ENGROSSED SENATE
BILL NO. 703

By: Hendrick of the Senate

and

Benson of the House

An Act relating to statutes and reports; amending 75 O.S. 1991, Section 308.2, which relates to the Administrative Procedures Act; modifying procedure for interpreting statutes and agency rules; requiring prospective effective date on rules and providing exception; and providing an effective date.

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

SECTION 1. AMENDATORY 75 O.S. 1991, Section 308.2, is amended to read as follows:

Section 308.2 A. No agency rule is valid or effective against any person or party, or may be invoked by the agency for any purpose, until it has been promulgated as required in the Administrative Procedures Act, Section 250 et seq. of this title. If an agency has interpreted, implemented or applied a statute or rule pursuant to written internal policy, letter of understanding, memorandum, or other written documentation, including the results of prior audits or examinations, then no different interpretation, implementation or application shall be given to such rule or statute, unless a new statute or judicial interpretation requires a different interpretation or unless a new rule is promulgated and

adopted by the agency as required by the Administrative Procedures Act. Rules promulgated by an agency shall state a prospective effective date. In the absence of a stated prospective effective date, rules shall only be effective on and after the date of adoption.

B. A proceeding to contest any promulgated rule on the ground of noncompliance with the procedural requirements of Article I of the Administrative Procedures Act must be commenced within two (2) years from the effective date of the promulgated rule.

C. Rules shall be valid and binding on persons they affect, and shall have the force of law unless amended or revised or unless a court of competent jurisdiction determines otherwise. Except as otherwise provided by law, rules shall be prima facie evidence of the proper interpretation of the matter to which they refer.

SECTION 2. This act shall become effective November 1, 1996.

Passed the Senate the 27th day of February, 1996.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1996.

Speaker of the House of Representatives