

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1652

By: Eddins

AS INTRODUCED

An Act relating to statutes and reports; amending 75 O.S. 1991, Section 250.6, as amended by Section 2, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1996, Section 250.6), which relates to the Administrative Procedures Act; adding Oklahoma Health Care Authority Board to agencies authorized to issue preemptive rules; clarifying language; and declaring an emergency.

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

SECTION 1. AMENDATORY 75 O.S. 1991, Section 250.6, as amended by Section 2, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1996, Section 250.6), is amended to read as follows:

Section 250.6 A. 1. The Commission for Human Services and the Oklahoma Health Care Authority Board may promulgate a preemptive rule pursuant to the provisions of this section when:

- a. ~~when~~ the Commission for Human Services or the Oklahoma Health Care Authority Board is required by federal law, federal rules, a state law enacted pursuant to federal law or federal rule, or order of a court of competent jurisdiction to adopt a rule, or an

amendment, revision or revocation of an existing rule,
and

- b. ~~which if~~ failure to immediately adopt such rule ~~is not immediately adopted~~ would result in the imposition of a financial penalty, or a reduction, withholding or loss of federal funds, and
- c. such preemptive rule has been certified by the Governor pursuant to this section.

2. The conditions specified in this subsection for the promulgation of a preemptive rule shall be the only conditions authorized for promulgation of such rule by the ~~Commission for Human Services~~ rulemaking entity.

B. 1. Upon the adoption of such preemptive rule by the Commission, the Director of Human Services shall request the Governor to certify that:

- a. such rules are required to comply with:
 - (1) a federal law, or federal rule,
 - (2) a state law enacted pursuant to federal law or rule, or
 - (3) order of a court of competent jurisdiction, and
~~which if~~
- b. failure to immediately adopt such rules ~~are not immediately adopted~~ would result in:
 - (1) a financial penalty, or
 - (2) a reduction, withholding or loss of federal funds.

2. Upon the adoption of such preemptive rule by the Board, the Administrator of the Oklahoma Health Care Authority Board shall request the Governor to certify that:

- a. such rules are required to comply with:
 - (1) a federal law or federal rule,

(2) a state law enacted pursuant to federal law or rule, or

(3) order of a court of competent jurisdiction, and

b. failure to immediately adopt such rules would result in:

(1) a financial penalty, or

(2) a reduction, withholding or loss of federal funds.

C. 1. Upon the filing of the request for certification of a preemptive rule, the Governor shall review such rule and decide as to whether such rule should be certified. Prior to approval of a preemptive rule, the Governor shall submit the preemptive rule to the Office of the Secretary of State for review of proper formatting unless the preemptive rule has been reviewed by the Office prior to agency submission to the Governor. Failure of the Governor to certify such rule within fourteen (14) calendar days shall constitute denial of the rule as a preemptive rule.

~~3.~~ 2. Upon certification of a preemptive rule, the Governor shall immediately notify the ~~Commission~~ rulemaking entity. Upon receipt of notice of the certification of the preemptive rule, the ~~Commission~~ rulemaking entity shall file the number of copies specified by the Secretary of the certification certificate issued by the Governor and the number of copies specified by the Secretary of the preemptive rule with the Office pursuant to Section 251 of this title.

~~4.~~ 3. The Governor's certification and the preemptive rule shall be published in accordance with the provisions of Section 255 of this title in the next publication of The Oklahoma Register following adoption of the preemptive rule.

~~5.~~ 4. For informational purposes only, a copy of the Governor's certification and the preemptive rule shall be submitted by the ~~Commission~~ rulemaking entity to the Speaker of the House of

Representatives and the President Pro Tempore of the Senate within ten (10) days of the certification of the preemptive rule by the Governor.

~~6.~~ 5. Upon certification by the Governor, the rule shall be considered promulgated and shall be in force immediately or unless a later date is required by statute or specified in the rule, the later date is the effective date.

~~C.~~ D. A preemptive rule shall be considered to be a permanent rule and shall remain in full force and effect unless and until specifically disapproved during the first thirty (30) calendar days of the next regular legislative session following promulgation of such preemptive rule or unless an earlier expiration date is specified by the ~~Commission~~ rulemaking entity. The Legislature may disapprove such rule pursuant to Section 308 of this title. Any resolution introduced for the purpose of disapproving such rule shall not be subject to regular legislative cut off dates.

~~D.~~ E. Preemptive rules promulgated pursuant to the provisions of this section shall be exempt from the provisions of Sections 253, 303, 304, 307.2, 308 and 308.1 of this title.

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.

46-1-6333

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