

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2963

By: Glover

AS INTRODUCED

An Act relating to administrative procedures;
amending 75 O.S. 1991, Section 253, as last amended
by Section 12, Chapter 206, O.S.L. 1997 (75 O.S.
Supp. 1997, Section 253), which relates to
administrative rules and procedure; clarifying
language; and providing an effective date.

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

SECTION 1. AMENDATORY 75 O.S. 1991, Section 253, as last
amended by Section 12, Chapter 206, O.S.L. 1997 (75 O.S. Supp. 1997,
Section 253), is amended to read as follows:

Section 253. A. If an agency finds that an imminent peril to
the preservation of the public health, safety, welfare, or other
compelling extraordinary circumstance requires an emergency rule,
amendment, revision, or revocation of an existing rule, an agency
may promulgate, at any time, any such rule, provided the Governor
first approves such rule pursuant to the provisions of this section.

B. An emergency rule adopted by an agency shall:

1. Be prepared in the format required by Section 251 of this
title;
2. Include an impact statement which meets the requirements
contained in Section 303 of this title unless such impact statement

is, with the prior written consent of the Governor, waived specifically by the agency to the extent an agency for good cause finds the preparation of a rule impact statement or the specified contents thereof are unnecessary, impracticable or contrary to the public interest in the process of promulgating an emergency rule. In addition, the impact statement shall provide information on any cost impacts of the rule received by the agency from any private or public entities;

3. Be transmitted to the Governor, and in duplicate to the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Senate, including the information required by this subsection within ten (10) days after the rule is adopted; and

4. One copy to be transmitted on the same day that filing occurs with the Governor to the Oklahoma Advisory Committee on Intergovernmental Relations if the emergency rule would have an impact on political subdivisions as determined by the agency in the rule impact statement. The filing shall include all information supplied to the Governor regarding such emergency rule pursuant to this section and Section 251 of this title.

C. 1. Upon the filing of an adopted emergency rule by an agency with the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Senate, under the provisions of subsection B of this section, the Governor shall review such rule and shall decide as to whether or not such emergency rule should be approved. Prior to approval of emergency rules, the Governor shall submit the emergency rule to the Secretary of State for review of proper formatting.

2. If the Governor disapproves the adopted emergency rule, the Governor shall return the entire document to the agency with reasons for the disapproval. If the agency elects to modify such rule, the agency shall make such modifications and resubmit the rule to the Governor for approval.

3. Emergency rules adopted by an agency or approved by the Governor shall be subject to review pursuant to the provisions of Section 306 of this title.

D. 1. Upon approval by the Governor, an emergency rule shall be considered promulgated and shall be in force immediately, or on such later date as specified therein. An emergency rule shall only be applied prospectively from its effective date.

2. The Governor shall have forty-five (45) calendar days to review the emergency rule. Within the forty-five-calendar-day period, the Governor may approve the emergency rule or disapprove the emergency rule. Failure of the Governor to approve an emergency rule within the specified period shall constitute disapproval of the emergency rule. Upon disapproval of an emergency rule, the Governor shall notify within fifteen (15) days, in writing, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Office of Administrative Rules.

E. 1. Upon approval of an emergency rule, the Governor shall immediately notify the agency and file the number of copies required by the Secretary of the written approval and the number of copies required by the Secretary of the emergency rule with the Office of Administrative Rules.

2. A copy of the Governor's approval shall be submitted by the Governor to the Speaker of the House of Representatives and the President Pro Tempore of the Senate when the rulemaking agency is notified of approval.

3. The Governor's approval and the emergency rule shall be published in accordance with the provisions of Section 255 of this title in the next publication of "The Oklahoma Register" following the approval by the Governor.

F. An emergency rule may be promulgated when the Legislature is not in session provided such emergency rule shall be effective from the date of approval by the Governor or a later date as specified in

the approved emergency rule through the first day of the next succeeding Regular Session of the Oklahoma Legislature, after the promulgation of such emergency rule, and shall be in full force and effect through July 14 following such session unless it is made ineffective pursuant to subsection H of this section. Provided, no agency shall adopt any emergency rule which establishes or increases fees, except during such times as the Legislature is in session, when specifically mandated by the Legislature, or when the failure to establish or increase fees would have an adverse effect on a federally administered program or ~~conflicts~~ would conflict with an order issued by a court of law.

G. An emergency rule may be promulgated when the Legislature is in session provided such emergency rule shall be effective from the date of approval of the emergency rule by the Governor or a later date as specified in the approved emergency rule, unless otherwise specifically provided by the Legislature through the first day of the next succeeding Regular Session of the Oklahoma Legislature, after the promulgation of such emergency rule, and shall be in full force and effect through July 14 following such session unless it is made ineffective pursuant to subsection H of this section.

H. 1. If an emergency rule is of a continuing nature, the agency promulgating such emergency rule shall initiate proceedings for promulgation of a permanent rule pursuant to Sections 303 through 308.2 of this title. If an emergency rule is superseded by another emergency rule prior to the enactment of a permanent rule, the latter emergency rule shall retain the same expiration date as the superseded emergency rule, unless otherwise authorized by the Legislature.

2. Any promulgated emergency rule shall be made ineffective if:
- a. disapproved by the Legislature,
 - b. superceded by the promulgation of permanent rules,

- c. any adopted rules based upon such emergency rules are subsequently disapproved pursuant to Section 308 of this title, or
 - d. an earlier expiration date is specified by the agency in the rules.
3. a. Emergency rules in effect on the first day of the session shall be null and void on July 15 immediately following sine die adjournment of the Legislature unless otherwise specifically provided by the Legislature.
- b. Unless otherwise authorized by the Legislature, by concurrent resolution or by law, an agency shall not adopt any emergency rule, which has become null and void pursuant to subparagraph a of this paragraph, as a new emergency rule or adopt any emergency rules of similar scope or intent as the emergency rules which became null and void pursuant to subparagraph a of this paragraph.

I. Emergency rules shall not become effective unless approved by the Governor pursuant to the provisions of this section.

J. 1. The requirements of Section 303 of this title relating to notice and hearing shall not be applicable to emergency rules promulgated pursuant to the provisions of this section. Provided this shall not be construed to prevent an abbreviated notice and hearing process determined to be necessary by an agency.

2. The rule report required pursuant to Sections 303.1 and 308 of this title shall not be applicable to emergency rules promulgated pursuant to the provisions of this section. Provided this shall not be construed to prevent an agency from complying with such requirements at the discretion of such agency.

3. The statement of submission required by Sections 303.1 and 308 of this title shall not be applicable to emergency rules promulgated pursuant to the provisions of this section.

K. Prior to approval or disapproval of an emergency rule by the Governor, an agency may withdraw from review an emergency 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 the Office of Administrative Rules. In order to be promulgated as emergency rules, any replacement rules shall be resubmitted pursuant to the provisions of this section.

SECTION 2. This act shall become effective November 1, 1998.

46-2-9014

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