

SHORT TITLE: Administrative procedures; promulgation of changes pursuant to the Administrative Procedures Act; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 217

By: Hendrick

AS INTRODUCED

An Act relating to statutes and reports; amending 75 O.S. 1991, Section 308.2, as amended by Section 4, Chapter 225, O.S.L. 1996 (75 O.S. Supp. 1996, Section 308.2), which relates to administrative rules; relocating certain language; establishing agency responsibilities when changing interpretation, implementation, or application of rules or statutes; providing opportunity to contest change; and declaring an emergency.

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

SECTION 1. AMENDATORY 75 O.S. 1991, Section 308.2, as amended by Section 4, Chapter 225, O.S.L. 1996 (75 O.S. Supp. 1996, 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. 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 promulgation.

B. 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

but not limited to the results of prior audits or examinations, then no different interpretation, implementation, or application, hereinafter "change", shall be ~~given to such rule or statute effected~~, unless a new statute or judicial interpretation requires a ~~different interpretation~~ the change or unless a ~~new rule is promulgated by the agency as required by the Administrative Procedures Act, subject to disapproval of such rule by the Legislature in accordance with 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 promulgation~~ the agency notifies all affected parties of its intent to make a different interpretation, implementation, or application and affords the affected parties the opportunity to contest the change within ten (10) days, and, if the change is so contested by any affected party, promulgates a new rule pursuant to the Administrative Procedures Act to put the change into effect.

~~B. C.~~ C. 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. D.~~ D. 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. 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.

