

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1012

By: Gray of the House

and

Morgan of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to administrative procedures; amending 75 O.S. 2001, Section 250.1, which relates to designation of articles in the Administrative Procedures Act; clarifying statutory references; amending 75 O.S. 2001, Section 250.2, which relates to rights reserved for the Legislature; clarifying rights of the Legislature; amending 75 O.S. 2001, Section 250.4, which relates to compliance with articles of the Administrative Procedures Act; adding penalties for failure to adopt rules in compliance with Administrative Procedures Act; adding requirements that Oklahoma Health Care Authority comply with Article I of the Administrative Procedures Act when implementing drug utilization review programs; amending 75 O.S. 2001, Section 253, which relates to emergency rules; clarifying definition of what constitutes an emergency; clarifying notice procedure for emergency rules; clarifying statutory reference and legislative review process for emergency rules; amending 75 O.S. 2001, Section 256, which relates to codification, compilation and publication of the Oklahoma Administrative Code; deleting obsolete language; deleting requirement of Secretary of State in the publication of Oklahoma Administrative Code and "The Oklahoma Register"; amending 75 O.S. 2001, Section 257.1, which relates to copies of the Oklahoma Administrative Code; clarifying when enumerated offices receive copy of Code; deleting requirement that copy of printed volumes of Code be provided to enumerated offices; amending 75 O.S. 2001, Section 303.1, which relates to rulemaking and filing requirements; clarifying number of documents to be filed with the Governor and the Legislature after adoption of a permanent rule; amending 75 O.S. 2001, Sections 307.1 and 308, which relate to legislative review of administrative rules; modifying procedures and requirements for review and approval of administrative rules by Legislature; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 75 O.S. 2001, Section 250.1, is amended to read as follows:

Section 250.1 A. The Administrative Procedures Act shall be composed of two Articles. Sections 250, 250.1, 250.3, 250.4, 250.5 and 250.8 of this title are applicable to both Articles I and II. Article I relating to agency filing and publication requirements for rules shall consist of Sections 250.2, 250.4a, 250.6, 250.7 and 250.9 through 308.2 of this title ~~and Section 5 of this act~~. Article II relating to agency notice and hearing requirements for individual proceedings shall consist of Sections 308a through 323 of this title.

B. Except as otherwise specifically provided in Section 250.4 of this title, all agencies shall comply with the provisions of Article I and Article II of the Administrative Procedures Act.

SECTION 2. AMENDATORY 75 O.S. 2001, Section 250.2, is amended to read as follows:

Section 250.2 A. Article V of the Oklahoma Constitution vests in the Legislature the power to make laws, and thereby to establish agencies and to designate agency functions, budgets and purposes. Article VI of the Oklahoma Constitution charges the Executive Branch of Government with the responsibility to implement all measures which may be resolved upon by the Legislature.

B. In creating agencies and designating their functions and purposes, the Legislature may delegate rulemaking authority to these agencies to facilitate administration of legislative policy. The delegation of rulemaking authority is intended to eliminate the necessity of establishing every administrative aspect of general public policy by legislation. In so doing, however, the Legislature reserves to itself:

1. The right to retract any delegation of rulemaking authority unless otherwise precluded by the Oklahoma Constitution.

2. The right to establish any aspect of general policy by legislation, notwithstanding any delegation of rulemaking authority.

3. The right and responsibility to designate the method for rule promulgation, review and modification.

4. The right to approve, delay, suspend, veto, or amend the implementation of any rule or proposed rule while under review by the Legislature by joint resolution.

5. The right to approve or disapprove a proposed rule or amendment to a rule during the legislative review period independent of any action by the Governor by a concurrent resolution.

6. The right to disapprove a permanent or emergency rule at any time if the Legislature determines such rule to be an imminent harm to the health, safety or welfare of the public or the state or if the Legislature determines that a rule is not consistent with legislative intent.

SECTION 3. AMENDATORY 75 O.S. 2001, 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. Failure to adopt rules in compliance with the Administrative Procedures Act shall, after determination by a court of competent jurisdiction, result in the imposition of an administrative penalty of not less than Two Thousand Five Hundred Dollars (\$2,500.00) and not more than Five Thousand Dollars (\$5,000.00), which shall be payable to the General Revenue Fund. In addition, the Board members of the agency not in compliance shall be subject to removal by the Governor.

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 E 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, the Northeast Oklahoma Public Facilities Authority and the Board of Trustees of the Oklahoma College Savings Plan 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. Institutional governing boards within The Oklahoma State System of Higher Education shall be exempt from Article I of the Administrative Procedures Act.

8. a. The Commissioner of Public Safety shall be exempt from Sections 303.1, 303.2, 304, 307.1, 308 and 308.1 of this title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, 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 promulgate rules identical to federal rules and regulations.
- b. 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.
- c. Such copies of promulgated rules shall be filed with the Secretary as required by Section 251 of this title.
- d. 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.

9. The Council on Judicial Complaints shall be exempt from Section 306 of Article I of the Administrative Procedures Act, with respect to review of the validity or applicability of a rule by an action for declaratory judgment, or any other relief based upon the validity or applicability of a rule, in the district court or by an appellate court. A party aggrieved by the validity or applicability of a rule made by the Council on Judicial Complaints may petition

the Court on the Judiciary to review the rules and issue opinions based upon them.

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:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
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 Northeast Oklahoma Public Facilities Authority;
9. The Council on Judicial Complaints;
10. The Board of Trustees of the Oklahoma College Savings Plan;
11. 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;
12. 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, Section 1 et seq. of Title 21 of the Oklahoma Statutes, or
- c. willful destruction of or willful damage to state property;

13. 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, or
- f. any filing of false information;

14. 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;

15. 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;

16. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

17. The Oklahoma Military Department;

18. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority;

19. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; and

20. The position audit procedure, including the impartial review process, of the Office of Personnel Management pursuant to Section 840-4.3 of Title 74 of the Oklahoma Statutes. Provided, that any appeal from an impartial review determination to a court of competent jurisdiction shall be confined to the record in accordance with the provisions of Article II of the Administrative Procedures Act.

SECTION 4. AMENDATORY 75 O.S. 2001, Section 253, is amended to read as follows:

Section 253. A. If an agency finds that an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest 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. Because the exercise of emergency rulemaking power precludes the people's right to prior notice and participation in the operations of their government, it constitutes the exercise of extraordinary power requiring extraordinary safeguards against abuse. An emergency rule may be adopted only in circumstances that truly and clearly constitute an imminent peril to the preservation of the public health, safety or welfare, or a compelling public interest. Factual support of the emergency need must be submitted to the Legislature and the Governor by the agency demonstrating that the imminent peril or compelling public interest cannot be averted or remedied by any other administrative act. No emergency shall be found to exist when the primary cause of the emergency is delay or

inaction caused by the agency involved and the emergency situation could have been averted by timely compliance with the permanent rulemaking provisions of this act.

C. Prior to adoption, an agency adopting an emergency rule shall make all reasonable efforts to ensure that the proposed emergency rules are known to persons who may be affected by them. The agency shall ensure that persons who may be affected by the proposed emergency rules are aware of the content of the proposed rules and the date on which the rules are to be adopted.

D. 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 paragraph 2 of subsection D of 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 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 in duplicate to the Governor, and in triplicate 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.~~ E. 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~~ D 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.~~ F. 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.~~ G. 1. Upon approval of an emergency rule, the Governor shall immediately notify the agency. Upon receipt of the notice of the approval, the agency shall file with the Office of Administrative Rules the number of copies required by the Secretary of the written approval and the emergency rule.

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

3. The emergency rule shall be published in accordance with the provisions of Section 255 of this title in "The Oklahoma Register" following the approval by the Governor. The Governor's approval and the approved rules shall be retained as official records by the Office of Administrative Rules.

~~F.~~ H. Emergency rules shall be effective from the date of approval 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~~ K of this section.

~~G.~~ I. Emergency rules shall be reviewed by the Legislature pursuant to Section 308 of this title during the session in which the rules are submitted or during the next regular legislative session if the rules are submitted during the interim. Approval of the Legislature by concurrent resolution during the review period shall be required for the continued effectiveness of the emergency rule. Failure of the Legislature to affirmatively approve such emergency rule during the review period shall constitute disapproval of the emergency rule by the Legislature.

J. No agency shall adopt any emergency rule which establishes or increases fees, except during such times as the Legislature is in session, unless specifically mandated by the Legislature or federal legislation, or when the failure to establish or increase fees would conflict with an order issued by a court of law.

~~H.~~ K. 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. specifically disapproved by the Legislature or if the Legislature fails to approve such emergency rule during the review period,
- b. superseded 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.~~ L. Emergency rules shall not become effective unless approved by the Governor pursuant to the provisions of this section.

~~J.~~ M. 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~~ However, as set forth in subsection C of this section, an agency shall make reasonable efforts to ensure that the proposed emergency rules are known to persons who may be affected by them.

Further, this shall not be construed to prevent ~~an abbreviated notice and~~ any hearing process determined to be necessary by an agency.

2. The rule report required pursuant to Section 303.1 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 Section 303.1 of this title shall not be applicable to emergency rules promulgated pursuant to the provisions of this section.

~~K.~~ N. 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 5. AMENDATORY 75 O.S. 2001, Section 256, is amended to read as follows:

Section 256. A. 1. The Secretary shall provide for the codification, compilation, ~~indexing~~ and publication of agency rules and Executive Orders in a publication which shall be known as the "Oklahoma Administrative Code" ~~in the following manner:~~.

- ~~a. On or before January 1, 1992, the Secretary shall compile Executive Orders which are effective pursuant to paragraph 3 of subsection B of this section, and agency rules which have been submitted pursuant to the agency schedule of compliance and have been accepted as properly codified, as set forth in this section, and rules promulgated by the Secretary. Such compilation shall be maintained by the Office of Administrative Rules and shall be updated by agencies, in a manner prescribed by the Secretary, to reflect subsequent permanent rulemaking. Prior to publication of the first "Code", as set forth in subparagraph b of this paragraph, the compilation shall constitute the official permanent rules of the state. Effective January 1, 1992, any permanent rule not included in such compilation shall be void and of no effect.~~
- ~~b. On or before December 1, 1992, the Secretary shall have indexed and published the "Oklahoma Administrative Code". To effectuate this provision,~~ The Secretary may contract for the publishing ~~and indexing, or both~~ of the "Oklahoma Administrative Code". Any permanent rule not published in the "Code" shall be void and of no effect. A finally adopted rule filed and published in "The Oklahoma Register" may be valid until publication of the next succeeding "Code" or "Code" supplement following the date of its

final adoption. Provided, a permanent rule which is finally adopted after the closing date for publication in a "Code" or "Code" supplement as announced by the Secretary may be valid until publication of the next succeeding "Code" or "Code" supplement. A permanent rule which is published in "The Oklahoma Register" after the closing date for publication in the first "Code", as announced by the Secretary, shall be void and of no effect upon publication of the next succeeding "Code" or "Code" supplement, if not published in the "Code" or "Code" supplement.

2. Compilations or revisions of the "Code" or any part thereof shall be supplemented or revised annually. The "Code" shall be organized by state agency and shall be arranged, ~~indexed and printed~~ in a manner to permit separate publications of portions thereof relating to individual agencies.

3. Annual supplements to the "Code" shall be cumulative. Emergency rules shall not be published in the "Code" or in any supplements thereto.

4. ~~The "Code" and the supplements shall include a general subject index and an agency index of all rules and Executive Orders contained therein. "The Oklahoma Register" shall also include a sections-affected index of the "Code".~~ The "Code" and supplements shall contain such notes, cross references and explanatory materials as required by the Secretary.

5. The Secretary in preparing such rules for publication in the "Code" or supplements shall omit all material shown in canceled type. The Secretary shall not prepare any rule for publication in the "Code" which amends or revises a rule unless the rule so amending or revising conforms to the provisions of the Administrative Procedures Act.

6. The Secretary is authorized to determine a numbering system and other standardized format for documents to be filed and may refuse to accept for publication any document that does not substantially conform to the promulgated rules of the Secretary.

B. 1. Rules submitted and accepted for publication in the "~~Code~~ The Oklahoma Register" by August 15 of each year shall be published in the next succeeding "Code" or supplement thereto.

2. As soon as possible after August 15 of each year, the Secretary shall assemble all rules and Executive Orders, except emergency rules, promulgated after the publication of the preceding "Code" or "Code" supplement in accordance with the provisions of the Administrative Procedures Act for publication in the "Oklahoma Administrative Code". The "Code" or supplements thereto should be published as soon as possible after August 30 of each year.

3. Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order. Copies of all Executive Orders shall be published and indexed in the "Oklahoma Administrative Code". All Executive Orders placing agencies or employees under the State Merit System of Personnel Administration shall remain in effect unless otherwise modified by action of the Legislature.

C. The Secretary is hereby authorized and empowered to publish or to contract to publish the "Oklahoma Administrative Code", and to publish or contract to publish such annual cumulative supplements so as to keep the "Code" current. All such agreements shall provide that the publisher shall make such publications in such form and arrangement as shall be approved by the Secretary. The Secretary may publish or authorize the publication of the "Code" in part.

D. The Secretary is authorized to correct spelling errors in rules submitted for publication in the "Code" or any such supplements or in "The Oklahoma Register". Any other errors in

rules submitted for publication in the "Code" may be noted in editorial notes provided by the Secretary.

E. The Secretary shall make copies of the "Code" generally available at a cost sufficient to defray the cost of publication and mailing. Except as otherwise provided by Section 257.1 of this title, the Secretary is authorized to sell or otherwise distribute the "Code" and its supplements.

F. 1. ~~The codification system, derivations, cross references, notes of decisions, source notes, authority notes, numerical lists, and codification guides, other than the actual text of rules, indexes, tables and other aids relevant to the publication of the "Oklahoma Administrative Code" and "The Oklahoma Register" shall be the property of the state and may be reproduced only with the written consent of the Secretary. The information which appears on the same page with the text of a rule may be reproduced incidentally with the reproduction of the rule, if the reproduction is for the private use of the individual and not for resale. No person shall attempt to copyright or publish the "Oklahoma Administrative Code" or "The Oklahoma Register", in printed or electronic media, without expressed written consent of the Secretary of State. The Secretary shall notify the Speaker of the House of Representatives and the President Pro Tempore of the Senate of any requests to~~ The "Oklahoma Administrative Code" and "The Oklahoma Register" are registered and protected under applicable federal copyright law and state law. The "Oklahoma Administrative Code" and "The Oklahoma Register" may not be reproduced for commercial purposes except with the express written consent of the Secretary of State who holds the valid copyright ~~or publish to~~ the "Oklahoma Administrative Code" or and ~~"The Oklahoma Register", prior to consent by the Secretary.~~

2. The Secretary may provide for ~~the~~ electronic publication access to the "Oklahoma Administrative Code" and "The Oklahoma Register" by:

- ~~a. subscription, or~~
- ~~b. an exclusive or a nonexclusive contract for public and private access.~~

3. Publications of rules by agencies are not official publications of the State of Oklahoma.

4. The sale or resale of the "Oklahoma Administrative Code" or any part thereof by the Secretary of State shall be exempt from any requirement mandating acquisition of a resale number and payment of sales tax.

SECTION 6. AMENDATORY 75 O.S. 2001, Section 257.1, is amended to read as follows:

Section 257.1 A. The Secretary is authorized to enter into and make reciprocal agreements with other states to allow exchanges of administrative codes of such states.

B. 1. ~~Each of~~ On request, the following offices shall be entitled to receive, as soon as available from the Secretary, without cost, one copy ~~of the printed volumes~~ of the "Code" and the supplements thereto:

- a. County clerk of each county;
- b. Clerk of the Supreme Court;
- c. Attorney General;
- d. Governor;
- e. Speaker of the House of Representatives and the President Pro Tempore of the Senate;
- f. the Research, Legal and Fiscal Divisions of the House of Representatives;
- g. the Legislative Division of the Senate; and
- h. the Department of Libraries for the Law Library.

2. The Department of Libraries is authorized to obtain number of copies of the "Code" and the supplements thereto necessary for use for deposit with the Publications Clearinghouse pursuant to Sections 3-113.1 through 3-115 of Title 65 of the Oklahoma Statutes.

The Secretary is authorized to retain sufficient copies for exchange purposes with other states for copies of their rules.

SECTION 7. AMENDATORY 75 O.S. 2001, Section 303.1, is amended to read as follows:

Section 303.1 A. Within ten (10) days after adoption of a permanent rule, the agency shall file ~~two copies of the following~~ with the Governor, two copies of the following, and with the Speaker of the House of Representatives and the President Pro Tempore of the Senate three copies of the following: all such new rules or amendments; revisions or revocations to an existing rule proposed by an agency; and the agency rule report as required by subsection E of this section.

B. If the agency determines in the rule impact statement prepared as part of the agency rule report that the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing a proposed permanent rule, a copy of the proposed rule and rule report shall be filed within ten (10) days after adoption of the permanent rule with the Oklahoma Advisory Committee on Intergovernmental Relations for its review. Said Committee may communicate any recommendations that it may deem necessary to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate during the period that the permanent rules are being reviewed.

C. When the rules have been submitted to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the agency shall also submit to the Office of Administrative Rules for publication in "The Oklahoma Register", a statement that the adopted rules have been submitted to the Governor and the Legislature.

D. The text of the adopted rules shall be submitted to the Governor, the Speaker of the House of Representatives and the

President Pro Tempore of the Senate in the same format as required by the Secretary pursuant to Section 251 of this title.

E. The report required by subsection A of this section shall include:

1. The date the notice of the intended rulemaking action was published in "The Oklahoma Register" pursuant to Section 255 of this title;

2. The name and address of the agency;

3. The title and number of the rule;

4. A citation to the statutory authority for the rule;

5. A brief summary of the content of the adopted rule;

6. A statement explaining the need for the adopted rule;

7. The date and location of the meeting, if held, at which such rules were adopted or the date and location when the rules were adopted if the rulemaking agency is not required to hold a meeting to adopt rules;

8. A summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at all hearings or meetings held or sponsored by an agency for the purpose of providing the public an opportunity to comment on the rules or of any written comments received prior to the adoption of the rule. The summary shall include all comments received about the cost impact of the proposed rules;

9. A list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing;

10. A rule impact statement if required pursuant to Section 303 of this title;

11. An incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;

12. The members of the governing board of the agency adopting the rules and the recorded vote of each member;

13. The proposed effective date of the rules, if an effective date is required pursuant to paragraph 1 of subsection B of Section 304 of this title; and

14. Any other information requested by the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate or either rule review committee.

SECTION 8. AMENDATORY 75 O.S. 2001, Section 307.1, is amended to read as follows:

Section 307.1 A. The Speaker of the House of Representatives and the President Pro Tempore of the Senate may each establish a rule review committee or designate standing committees of each such house to review administrative rules. If such rule review committees are established, submitted rules may be reviewed by the rule review committees or the committee of each house for which the subject of the rule affects.

B. Such rule review committees may meet separately or jointly at any time, during sessions of the Legislature and in the interim.

C. The function of the rule review committees so established or designated shall be the review and promotion of adequate and proper rules by agencies and developing an understanding on the part of the public respecting such rules. Such function shall be advisory only.

Each rule review committee may review all adopted rules and such other rules the committee deems appropriate and may make recommendations concerning such rules to their respective house of the Legislature, or to the committees of each house for which the subject of the reviewed rule affects, and to the agency adopting the rule, ~~or to both their respective house of the Legislature and the agency.~~

D. In addition to the review of agency-adopted rules pursuant to this act, each such committee shall have the power and duty to:

1. Conduct a continuous study and investigations as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of proposed rules, review of existing rules including but not limited to consideration of amendments to or repeal of existing rules, the lack of rules, the ability of agencies to promulgate such rules, and the needs of administrative agencies;

2. Conduct a continuous study of the rulemaking process of all state agencies including those agencies exempted by Section 250.4 of this title for the purpose of improving the rulemaking process;

3. Conduct such other studies and investigations relating to rules as may be determined to be necessary by the committee; and

4. Monitor and investigate compliance of agencies with the provisions of the Administrative Procedures Act, make periodic investigations of the rulemaking activities of all agencies and evaluate and report on all rules in terms of their propriety, legal adequacy, relation to statutory authorization, economic and budgetary effects and public policy.

SECTION 9. AMENDATORY 75 O.S. 2001, Section 308, is amended to read as follows:

Section 308. A. 1. Upon receipt of any adopted rules, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall assign such rules for review to any standing rule review committee in either house or the appropriate committees of each such house of the Legislature for ~~review.~~ ~~Except as otherwise provided by this section, upon receipt of such rules, the Legislature shall have thirty (30) legislative days to review such rules~~ which the subject of the rule affects.

2. Failure of the Legislature to affirmatively approve by concurrent resolution a rule by sine die adjournment of the regular session in which the rule is submitted for consideration shall constitute disapproval of the rule by the Legislature.

B. 1. By the adoption of a joint resolution, the Legislature may disapprove any rule, waive the ~~thirty-legislative-day~~ legislative review period and ~~approve any rule which has been submitted for review,~~ or otherwise approve any rule.

2. a. (1) The Legislature may by concurrent resolution disapprove a proposed rule or a proposed amendment to a rule submitted to the Legislature or an emergency rule prior to such rule having the force and effect of law.
- (2) Any such proposed rule or proposed amendment to a permanent rule shall be disapproved by both houses of the Legislature prior to the termination of the legislative review period specified by this section.
- (3) Any such concurrent resolution shall not require the approval of the Governor, and any such rule so disapproved shall be invalid and of no effect regardless of the approval of the Governor of such rule.

b. By adoption of a concurrent resolution, the Legislature may waive the ~~thirty-legislative-day~~ legislative review period for any rule which has been submitted for review.

C. 1. Unless otherwise authorized by the Legislature by concurrent resolution, or by law, whenever a rule is disapproved ~~as provided in subsection B of this section~~ either by failure of the Legislature to approve or by disapproval of the rule by joint or concurrent resolution, the agency adopting such rules shall not have authority to resubmit an identical rule, except during the first sixty (60) calendar days of the next regular legislative session. Any effective emergency rule which would have been superseded by a disapproved permanent rule shall be deemed null and void on the date

the Legislature disapproves the permanent rule. Rules may be disapproved in part or in whole by the Legislature.

2. Any resolution enacted approving or disapproving a rule shall be filed with the Secretary for publication in "The Oklahoma Register".

D. Unless otherwise provided by specific vote of the Legislature, resolutions introduced for purposes of disapproving or approving a rule shall not be subject to regular legislative cutoff dates, shall be limited to such provisions as may be necessary for disapproval or approval of a rule, and any such other direction or mandate regarding the rule deemed necessary by the Legislature. The resolution shall contain no other provisions.

~~E. 1. Transmission of a rule for legislative review on or before April 1 of each year shall result in the approval of such rule by the Legislature if:~~

- ~~a. the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative days after such rule has been submitted pursuant to Section 303.1 of this title, or~~
- ~~b. the Legislature has adjourned before the expiration of said thirty (30) legislative days of submission of such rules, and has failed to disapprove such rule.~~

~~2. After April 1 of each year, transmission of a rule for legislative review shall result in the approval of such rule by the Legislature only if the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative days after such rule has been so transmitted. In the event the Legislature adjourns before the expiration of such thirty (30) legislative days, such rule shall carry over for consideration by the Legislature during the next regular session and shall be considered to have been originally transmitted to the Legislature on the first day of said next regular session for review pursuant to~~

~~this section. As an alternative, an agency may request direct legislative approval of such rules or waiver of the thirty-legislative-day review provided by subsection B of this section. An agency may also adopt emergency rules under the provisions of Section 253 of this title.~~

F. Prior to final adoption of a rule, an agency may withdraw a rule from legislative review. 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 to the Secretary for publication in "The Oklahoma Register".

~~G.~~ F. Except as otherwise provided by Sections 253, 250.4 and 250.6 of this title or as otherwise specifically provided by the Legislature, no agency shall promulgate any rule unless reviewed by the Legislature pursuant to this section. An agency may promulgate an emergency rule only pursuant to Section 253 of this title.

~~H.~~ G. Any rights, privileges, or interests gained by any person by operation of an emergency rule, shall not be affected by reason of any subsequent disapproval or rejection of such rule by either house of the Legislature.

SECTION 10. This act shall become effective July 1, 2002.

SECTION 11. 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.

48-2-9492 EAP 6/12/15