

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 2ND CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 3311

By: Martin (Scott), Faught,
Dorman and Murphey of the
House

7 and

8 Sparks of the Senate

9 2ND CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to the one-subject rule; requiring
11 certain provision in legislative acts and
12 administrative rules; amending 75 O.S. 2001, Section
13 308, which relates to the Administrative Procedures
14 Act; modifying requirements for promulgation of
15 certain rules; requiring courts to provide certain
16 findings under specified circumstances; providing for
17 codification; providing an effective date; and
18 declaring an emergency.

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

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 452.9 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:

23 Every act of the Legislature shall contain a separate provision
24 that clearly expresses the subject of the bill. In the event a
court of this state determines that a legislative measure violates
the one-subject rule pursuant to Section 57 of Article V of the

1 Oklahoma Constitution, the court shall provide written findings that
2 detail each of the multiple subjects the court has determined are
3 contained within such measure.

4 SECTION 2. AMENDATORY 75 O.S. 2001, Section 308, is
5 amended to read as follows:

6 Section 308. A. Upon receipt of any adopted rules, the Speaker
7 of the House of Representatives and the President Pro Tempore of the
8 Senate shall assign such rules to the appropriate committees of each
9 such house of the Legislature for review. Except as otherwise
10 provided by this section, upon receipt of such rules, the
11 Legislature shall have thirty (30) legislative days to review such
12 rules.

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

17 2. a. (1) The Legislature may by concurrent resolution
18 disapprove a proposed rule or a proposed
19 amendment to a rule submitted to the Legislature
20 or an emergency rule prior to such rule having
21 the force and effect of law.

22 (2) Any such proposed rule or proposed amendment to a
23 permanent rule shall be disapproved by both
24 houses of the Legislature prior to the

1 termination of the legislative review period
2 specified by this section.

3 (3) Any such concurrent resolution shall not require
4 the approval of the Governor, and any such rule
5 so disapproved shall be invalid and of no effect
6 regardless of the approval of the Governor of
7 such rule.

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

12 C. Unless otherwise authorized by the Legislature by concurrent
13 resolution, or by law, whenever a rule is disapproved as provided in
14 subsection B of this section, the agency adopting such rules shall
15 not have authority to resubmit an identical rule, except during the
16 first sixty (60) calendar days of the next regular legislative
17 session. Any effective emergency rule which would have been
18 superseded by a disapproved permanent rule shall be deemed null and
19 void on the date the Legislature disapproves the permanent rule.
20 Rules may be disapproved in part or in whole by the Legislature.
21 Any resolution enacted disapproving a rule shall be filed with the
22 Secretary for publication in "The Oklahoma Register".

23 D. Unless otherwise provided by specific vote of the
24 Legislature, resolutions introduced for purposes of disapproving or

1 approving a rule shall not be subject to regular legislative cutoff
2 dates, shall be limited to such provisions as may be necessary for
3 disapproval or approval of a rule, and any such other direction or
4 mandate regarding the rule deemed necessary by the Legislature. The
5 resolution shall contain no other provisions.

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

9 a. the Legislature is in regular session and has failed
10 to disapprove such rule within thirty (30) legislative
11 days after such rule has been submitted pursuant to
12 Section 303.1 of this title, or

13 b. the Legislature has adjourned before the expiration of
14 said thirty (30) legislative days of submission of
15 such rules, and has failed to disapprove such rule.

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

1 the first day of said next regular session for review pursuant to
2 this section. As an alternative, an agency may request direct
3 legislative approval of such rules or waiver of the thirty-
4 legislative-day review provided by subsection B of this section. An
5 agency may also adopt emergency rules under the provisions of
6 Section 253 of this title.

7 F. Prior to final adoption of a rule, an agency may withdraw a
8 rule from legislative review. Notice of such withdrawal shall be
9 given to the Governor, the Speaker of the House of Representatives,
10 the President Pro Tempore of the Senate, and to the Secretary for
11 publication in "The Oklahoma Register".

12 G. Except as otherwise provided by Sections 253, 250.4 and
13 250.6 of this title or as otherwise specifically provided by the
14 Legislature, no agency shall promulgate any rule unless reviewed by
15 the Legislature pursuant to this section. An agency may promulgate
16 an emergency rule only pursuant to Section 253 of this title.

17 H. An agency, when promulgating rules to facilitate
18 administration of legislative policy on behalf of the Oklahoma
19 Legislature, shall include a separate provision that clearly
20 expresses the subject of the rule finally adopted for purposes of
21 ensuring compliance with Section 57 of Article V of the Oklahoma
22 Constitution.

23 I. Any rights, privileges, or interests gained by any person by
24 operation of an emergency rule, shall not be affected by reason of

1 any subsequent disapproval or rejection of such rule by either house
2 of the Legislature.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 328 of Title 75, unless there is
5 created a duplication in numbering, reads as follows:

6 The Administrative Procedures Act, Sections 250.1 through 323 of
7 Title 75 of the Oklahoma Statutes, delegates the Oklahoma
8 Legislature's rulemaking authority to executive branch agencies for
9 the purpose of eliminating the necessity of establishing every
10 administrative aspect of general public policy through legislation.

11 In the event a court of this state determines that an
12 administrative rule promulgated under the provisions of Sections
13 250.1 through 323 of Title 75 of the Oklahoma Statutes violates the
14 one-subject rule pursuant to Section 57 of Article V of the Oklahoma
15 Constitution, the court shall provide written findings that detail
16 each of the multiple subjects the court has determined are contained
17 within such an administrative rule.

18 SECTION 4. This act shall become effective July 1, 2010.

19 SECTION 5. It being immediately necessary for the preservation
20 of the public peace, health and safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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24 52-2-10937 LRB 05/20/10