

THE HOUSE OF REPRESENTATIVES
Wednesday, February 17, 2010

House Bill No. 3311

HOUSE BILL NO. 3311 - By: MARTIN (SCOTT), FAUGHT AND DORMAN of the House and SPARKS of the Senate.

An Act relating to statutes and reports; amending 75 O.S. 2001, Sections 250.2 and 308, which relate to the Administrative Procedures Act; requiring legislative approval of certain administrative rules; providing procedures; and providing an effective date.

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

1 SECTION 1. AMENDATORY 75 O.S. 2001, Section 250.2, is amended to read
2 as follows:

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

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

- 1 1. The right to retract any delegation of rulemaking authority unless otherwise
2 precluded by the Oklahoma Constitution;
- 3 2. The right to establish any aspect of general policy by legislation,
4 notwithstanding any delegation of rulemaking authority;
- 5 3. The right and responsibility to designate the method for rule promulgation,
6 review and modification;
- 7 4. The right to approve, delay, suspend, veto, or amend the implementation of any
8 rule or proposed rule while under review by the Legislature by joint resolution;
- 9 5. The right to ~~disapprove~~ approve a proposed rule or amendment to a rule during
10 the legislative review period, by a concurrent resolution, independent of any action by the
11 Governor ~~by a concurrent resolution~~; and
- 12 6. The right to ~~disapprove~~ approve a permanent or emergency rule at any time if
13 the Legislature determines such rule to be ~~an imminent harm~~ necessary to the health,
14 safety or welfare of the public or the state or if the Legislature determines that a rule is
15 ~~not~~ consistent with legislative intent.

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

18 Section 308. A. Upon receipt of any adopted rules, the Speaker of the House of
19 Representatives and the President Pro Tempore of the Senate shall assign such rules to
20 the appropriate committees of each such house of the Legislature for review. Except as
21 otherwise provided by this section, upon receipt of such rules, the Legislature shall have
22 thirty (30) legislative days to review such rules.

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

4 2. a. (1) The Legislature may by concurrent resolution ~~disapprove~~
5 approve a proposed rule or a proposed amendment to a rule
6 submitted to the Legislature or an emergency rule prior to such
7 rule having the force and effect of law.

8 (2) Any such proposed rule or proposed amendment to a permanent
9 rule shall be ~~disapproved~~ approved by both houses of the
10 Legislature prior to the termination of the legislative review
11 period specified by this section or such proposed rule or proposed
12 amendment to a permanent rule shall be deemed to be
13 disapproved.

14 (3) Any such concurrent resolution shall not require the approval of
15 the Governor, ~~and any~~. Any such rule ~~so disapproved~~ not
16 approved shall be invalid and of no effect regardless of the
17 approval of the Governor of such rule.

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

21 C. Unless otherwise authorized by the Legislature by concurrent resolution, or by
22 law, whenever a rule is disapproved by joint resolution as provided in paragraph 1 of

1 subsection B of this section or is deemed to be disapproved due to failure to approve as
2 provided in division (2) of subparagraph a of paragraph 2 of subsection B of this section,
3 the agency adopting such rules shall not have authority to resubmit an identical rule,
4 except during the first sixty (60) calendar days of the next regular legislative session.
5 Any effective emergency rule which would have been superseded by a disapproved
6 permanent rule shall be deemed null and void on the date the Legislature disapproves
7 the permanent rule or upon expiration of the legislative review period if the Legislature
8 fails to approve the permanent rule. Rules may be disapproved in part or in whole by the
9 Legislature. Any resolution enacted disapproving a rule shall be filed with the Secretary
10 for publication in "The Oklahoma Register".

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

17 E. 1. Transmission of a rule for legislative review on or before April 1 of each year
18 shall result in the approval of such rule by the Legislature if:
19 a. the Legislature is in regular session and ~~has failed to disapprove~~
20 approves such rule by concurrent resolution within thirty (30)
21 legislative days after such rule has been submitted pursuant to Section

1 303.1 of this title, or before sine die adjournment of that regular
2 session of the Legislature, whichever is earlier

3 b. ~~the Legislature has adjourned before the expiration of said thirty (30)~~
4 ~~legislative days of submission of such rules, and has failed to~~
5 ~~disapprove such rule.~~

6 2. After April 1 of each year, transmission of a rule for legislative review shall
7 result in the approval of such rule by the Legislature only if the Legislature is in regular
8 session and ~~has failed to disapprove~~ approves such rule within thirty (30) legislative days
9 after such rule has been so transmitted. In the event the Legislature adjourns before the
10 expiration of such thirty (30) legislative days, such rule shall carry over for consideration
11 by the Legislature during the next regular session and shall be considered to have been
12 originally transmitted to the Legislature on the first day of said next regular session for
13 review pursuant to this section. As an alternative, an agency may request ~~direct~~
14 legislative approval of such rules ~~or~~ and waiver of the thirty-legislative-day review
15 provided by subsection B of this section, which the Legislature may grant by concurrent
16 resolution. An agency may also adopt emergency rules under the provisions of Section
17 253 of this title.

18 3. Any rule not specifically approved by the Legislature as provided in this section
19 shall be deemed to be disapproved.

20 F. Prior to final adoption of a rule, an agency may withdraw a rule from legislative
21 review. Notice of such withdrawal shall be given to the Governor, the Speaker of the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 House of Representatives, the President Pro Tempore of the Senate, and to the Secretary
2 for publication in "The Oklahoma Register".

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

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

10 SECTION 3. This act shall become effective November 1, 2010.

11 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES AND
12 AGENCY OVERSIGHT, dated 02-16-10 - DO PASS, As Coauthored.