SB 1849

THE STATE SENATE

Thursday, February 18, 2010

Senate Bill No. 1849

As Amended

SENATE BILL NO. 1849 - By: Sykes of the Senate and Terrill of the House.

[statutes and reports - Administrative Procedures Act - rulemaking authority - modifying rights - Legislature - rules - repealer - emergency rules - effective date]

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

SECTION 1. 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, by specific act, 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~~ state law. In so doing, however, the Legislature reserves to itself:

(Bold face denotes Committee Amendments)

1. The right to retract or revoke 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~~ law or by concurrent resolution~~.~~;

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

6. The right to ~~disapprove~~ approve a permanent ~~or emergency~~ rule at any time if the Legislature determines such rule to be ~~an imminent harm~~ necessary 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 2. AMENDATORY 75 O.S. 2001, Section 250.3, is amended to read as follows:

Section 250.3 As used in the Administrative Procedures Act:

1. "Administrative head" means an official or agency body responsible pursuant to law for issuing final agency orders;

2. "Adopted" means that a proposed rule has been approved by the agency but has not been reviewed by the Legislature and the Governor;

3. "Agency" includes but is not limited to any constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission, except:

a. the Legislature or any branch, committee or officer thereof, and

b. the courts;

4. "Final" or "finally adopted" means a rule ~~other than an emergency rule,~~ which has been approved by the Legislature and by the Governor, or approved by the Legislature pursuant to subsection B of Section 308 of this title and otherwise complies with the requirements of the Administrative Procedures Act but has not been published pursuant to Section 255 of this title;

5. "Final agency order" means an order that includes findings of fact and conclusions of law pursuant to Section 312 of this title, is dispositive of an individual proceeding unless there is a request for rehearing, reopening, or reconsideration pursuant to Section 317 of this title and which is subject to judicial review;

6. "Hearing examiner" means a person meeting the qualifications specified by Article II of the Administrative Procedures Act and who has been duly appointed by an agency to hold hearings and, as required, render orders or proposed orders;

7. "Individual proceeding" means the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature;

8. "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law;

9. "Office" means the Office of the Secretary of State;

10. "Order" means all or part of a formal or official decision made by an agency including but not limited to final agency orders;

11. "Party" means a person or agency named and participating, or properly seeking and entitled by law to participate, in an individual proceeding;

12. "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency;

13. "Political subdivision" means a county, city, incorporated town or school district within this state;

14. "Promulgated rule" means a finally adopted rule which has been filed and published in accordance with the provisions of the Administrative Procedures Act~~, an emergency rule or preemptory rule which has been approved by the Governor~~;

15. "Rule" means any agency statement or group of related statements of general applicability and future effect that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of the agency. The term "rule" includes the amendment or revocation of an effective rule but does not include:

a. the issuance, renewal, denial, suspension or revocation or other sanction of an individual specific license,

b. the approval, disapproval or prescription of rates. For purposes of this subparagraph, the term "rates" shall not include fees or charges fixed by an agency for services provided by that agency including but not limited to fees charged for licensing, permitting, inspections or publications,

c. statements and memoranda concerning only the internal management of an agency and not affecting private rights or procedures available to the public,

d. declaratory rulings issued pursuant to Section 307 of this title,

e. orders by an agency, or

f. press releases or "agency news releases", provided such releases are not for the purpose of interpreting, implementing or prescribing law or agency policy;

16. "Rulemaking" means the process employed by an agency for the formulation of a rule; and

17. "Secretary" means the Secretary of State.

SECTION 3. AMENDATORY 75 O.S. 2001, Section 251, is amended to read as follows:

Section 251. A. 1. Upon the request of the Secretary <u>of State</u>, each agency shall furnish to the Office <u>of the Secretary of State</u> a complete set of its permanent rules in such form as is required by the Secretary or as otherwise provided by law.

2. The Secretary shall promulgate rules to ensure the effective administration of the provisions of Article I of the Administrative Procedures Act. The rules shall include, but are not limited to, rules prescribing paper size, numbering system, and the format of documents required to be filed pursuant to the provisions of the Administrative Procedures Act or such other requirements as deemed necessary by the Secretary to implement the provisions of the Administrative Procedures Act.

B. 1. Each agency shall file the number of copies specified by the Secretary of all new rules, and all amendments, revisions or revocations of existing rules attested to by the agency, pursuant to the provisions of Section 254 of this title, with the Office within thirty (30) calendar days after they become finally adopted.

2. An agency filing rules pursuant to the provisions of this subsection:

a. shall prepare the rules in plain language which can be easily understood,

b. shall not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to effectively convey the meaning of a rule interpreting that language, the reference shall clearly indicate the portion of the language which is statutory and the portion which is the agency's amplification or interpretation of that language,

c. shall indicate whether a rule is new, amends an existing permanent rule or repeals an existing permanent rule. If a rule amends an existing rule, the rule shall indicate the language to be deleted typed with a line through the language and language to be inserted typed with the new language underscored,

d. shall state if the rule supersedes an existing ~~emergency~~ rule,

e. shall include a reference to any rule requiring a new or revised form in a note to the rule. The Secretary shall insert that reference in "The Oklahoma Register" as a notation to the affected rule,

f. shall prepare, in plain language, an analysis of new or amended rules. The analysis shall include but not be limited to a reference to any statute that the rule interprets, any related statute or any related rule,

g. may include with its rules, brief notes, illustrations, findings of facts, and references to digests of Supreme Court cases, other court decisions, or Attorney General's opinions, and other explanatory material. Such material may be included if the material is labeled or set forth in a manner which clearly distinguishes it from the rules,

h. shall include other information, in such form and in such manner as is required by the Secretary, and

i. may change the format of existing rules without any rulemaking action by the agency in order to comply with the standard provisions established by the Secretary for "Oklahoma Administrative Code" and "The

Oklahoma Register" publication so long as there is no substantive change to the rule.

C. 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.

D. In order to avoid unnecessary expense, an agency may use the published standards established by organizations and technical societies of recognized national standing, other state agencies, or federal agencies by incorporating the standards or rules in its rules or regulations by reference to the specific issue or issues of publications in which the standards are published, without reproducing the standards in full. The standards shall be readily available to the public for examination at the administrative offices of the agency. In addition, a copy of such standards shall be kept and maintained by the agency pursuant to the provisions of the Preservation of Essential Records Act.

E. The Secretary shall provide for the publication of all Executive Orders received pursuant to the provisions of Section 664 of Title 74 of the Oklahoma Statutes.

F. The Secretary may authorize or require the filing of rules or Executive Orders by or through electronic data or machine

readable equipment in such form and manner as is required by the Secretary.

SECTION 4. AMENDATORY 75 O.S. 2001, Section 254, is amended to read as follows:

Section 254. A. Prior to ~~the submission to the Governor of emergency rules, or prior to~~ the transmission of a finally adopted rule to the Secretary of State, the rulemaking authority or its designee shall attest:

1. To the correctness of copies of any rule and any amendment, revision, or revocation thereof; and

2. That such rules were ~~made and adopted if the rules are emergency rules or~~ finally adopted ~~if the rules are permanent rules~~ in substantial compliance with the Administrative Procedures Act.

Such attested rules shall then be transmitted to the Secretary ~~or if the rules are emergency to the Governor's office,~~ for filing and publication pursuant to the Administrative Procedures Act.

B. Upon publication of such transmitted rules pursuant to Section 255 of this title, the Secretary shall send proof of publication to the agency submitting the rules for publication. The agency submitting the rules shall make such rules available to the public in accordance with the Open Records Act.

C. Copies of such rules shall be permanently preserved by the Secretary.

SECTION 5. AMENDATORY 75 O.S. 2001, Section 255, is amended to read as follows:

Section 255. A. 1. The Secretary of State is hereby authorized, directed, and empowered to publish "The Oklahoma Register" not less than monthly for the publication of new rules, any amendment, revision or revocation of an existing rule, ~~emergency rules,~~ any notices of such rulemaking process and Executive Orders as are required by law to be published in "The Oklahoma Register". ~~Said~~ The rules or amendments, revisions, or revocations of existing rules shall be published in the first issue of "The Oklahoma Register" published pursuant to Sections 251, ~~253,~~ 256, 303, 303.1, 303.2 and 308 of this title after the date of acceptance by the Secretary.

2. The Secretary shall cause a copy of each publication of "The Oklahoma Register" to be sent to those county clerks who request it, to members of the Legislature upon request, and to such other agencies, libraries, and officials as the Secretary may select. The Secretary may charge recipients of the publication a cost sufficient to defray the cost of publication and mailing.

3. The Secretary shall cause a copy of all rules, all new rules, and all amendments, revisions, or revocations of existing rules to be on file and available for public examination in the Office of the Secretary of State during normal office hours.

4. The Secretary shall promulgate rules to systematize the designations of rules. To establish ~~said~~ the system or to preserve uniformity of designations, the Secretary may require the agency to change the title or numbering of any rule or any amendment, revision, or revocation thereof.

B. The Secretary is authorized to provide for the publication of rules in summary form when the rules are of such length that publication of the full text would be too costly. The summary shall be prepared by the agency submitting the rules and shall state where the full text of the rule may be obtained.

C. The notice required pursuant to the provisions of Section 303 of this title shall be published in "The Oklahoma Register" prior to the adoption of a new rule, or amendment, revision or revocation of any existing rule. The notice shall include the information required by Section 303 of this title.

SECTION 6. AMENDATORY 75 O.S. 2001, Section 256, is amended to read as follows:

Section 256. A. 1. The Secretary of State 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~~ The Secretary shall ~~have indexed and published~~ index and publish 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" 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 copyright or publish the "Oklahoma Administrative Code" or "The Oklahoma Register", prior to consent by the Secretary.

2. The Secretary may provide for the electronic 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.

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 7. AMENDATORY 75 O.S. 2001, Section 303.2, is amended to read as follows:

Section 303.2 A. The Governor shall have forty-five (45) calendar days from receipt of a rule to approve or disapprove the rule.

1. If the Governor approves the rule, the Governor shall immediately notify the agency in writing of the approval. A copy of such approval shall be given by the Governor to the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Upon receipt of the approval, the agency shall submit a notice of such approval to the Office of Administrative Rules for publication in "The Oklahoma Register".

2. If the Governor disapproves the adopted rule, the Governor shall return the entire document to the agency with reasons in writing for the disapproval. Notice of such disapproval shall be given by the Governor to the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Failure of the Governor to approve a rule within the specified period shall constitute disapproval of the rule by the Governor. Upon receipt of the disapproval, or upon failure of the Governor to approve the rule within the specified period, the agency shall submit a notice of such disapproval to the Office of Administrative Rules for publication in "The Oklahoma Register". ~~Any effective emergency rule which would have been superseded by a disapproved permanent rule, shall be deemed null and void on the date the Governor disapproves the permanent rule.~~

B. Rules not approved by the Governor pursuant to the provisions of this section shall not become effective unless otherwise approved by the Legislature ~~by joint resolution~~ pursuant to subsection B of Section 308 of Title 75 of the Oklahoma Statutes.

SECTION 8. AMENDATORY 75 O.S. 2001, Section 308, is amended to read as follows:

Section 308. A. 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 to 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~~ the entirety of the first regular legislative session which convenes after receipt of such rules to review such rules.

B. 1. By the adoption of a ~~joint~~ concurrent resolution, the Legislature may :

a. disapprove any rule,

b. waive the ~~thirty-legislative-day~~ 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~~

c. approve 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)~~

2. Any such proposed rule or proposed amendment to a permanent rule shall be ~~disapproved~~ approved by a concurrent resolution adopted by both houses of the Legislature prior to ~~the termination of the legislative review period specified by this section~~ sine die adjournment of the first regular legislative session which convenes

following receipt of the rule or such proposed rule or proposed amendment to a permanent rule shall be deemed to be disapproved.

~~(3)~~ Any such concurrent resolution shall not require the approval of the Governor~~, and any~~. Any such rule so ~~disapproved~~ not approved shall be invalid and of no effect regardless of the approval of the Governor of such rule. A concurrent resolution to approve or disapprove rules submitted to the Legislature pursuant to the provisions of this section may contain provisions to approve or disapprove any number of such rules but shall contain no other provisions.

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

C. Unless otherwise authorized by the Legislature by concurrent resolution, or by law, whenever a rule is disapproved by concurrent resolution as provided in subparagraph 1 of paragraph 1 of subsection B of this section or is deemed to be disapproved due to failure to approve as provided in paragraph 2 of subsection B of this section, the agency adopting such ~~rules~~ rule shall not have authority to resubmit an identical rule for a period of at least two (2) years, except during the first sixty (60) calendar days of the next regular legislative session or with specific legislative

approval, as expressed by law or by concurrent resolution. ~~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 approved or disapproved in part or in whole by the Legislature. Any resolution enacted disapproving a rule shall be filed with the Secretary of State 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~~ the first Monday in February 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~~ approves 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~~ by concurrent resolution before sine die adjournment of that regular session of the Legislature.

2. After ~~April 1~~ the first Monday in February 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~~ approves such rule ~~within thirty (30) legislative days after such rule has been so transmitted~~ by concurrent resolution before sine die adjournment of the regular session of the Legislature which convenes the following calendar year. ~~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~~ and waiver of the ~~thirty legislative day~~ review provided by subsection B of this section, which the Legislature may grant by concurrent resolution. ~~An agency may also adopt emergency rules under the provisions of Section 253 of this title.~~

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

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

SECTION 9. AMENDATORY 75 O.S. 2001, Section 308.1, is amended to read as follows:

Section 308.1 A. Upon the approval by the Legislature and the Governor, or upon approval ~~by joint resolution~~ of the Legislature pursuant to subsection B of Section 308 of this title, a rule shall be considered finally adopted. The agency shall submit such finally adopted rule to the Secretary of State for filing and publishing such rule pursuant to Sections 251 and 255 of this title.

B. The text of the rule submitted for publication shall be the same as the text of the rule considered by the Legislature and the Governor.

SECTION 10. AMENDATORY 75 O.S. 2001, 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.

B. 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. 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. <u>An agency rule which has been determined by a court of competent jurisdiction to be in conflict with a statute or provision of the Oklahoma Constitution shall be invalid.</u>

SECTION 11. REPEALER 75 O.S. 2001, Section 253, is hereby repealed.

1 SECTION 12. This act shall become effective November 1, 2010.

2 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-16-10 - DO
3 PASS, As Amended and Coauthored.