

SB 817

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THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 817
As Amended

SENATE BILL NO. 817 - By: Brogdon and Sparks of the Senate and
Faught of the House.

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

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

22 Section 308. A. Upon receipt of any adopted rules, the Speaker
23 of the House of Representatives and the President Pro Tempore of the

1 Senate shall assign such rules to the appropriate committees of each
2 such house of the Legislature for review. Except as otherwise
3 provided by this section, upon receipt of such rules, the
4 Legislature shall have thirty (30) legislative days to review such
5 rules.

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

10 2. a. (1) The Legislature may by concurrent resolution
11 ~~disapprove~~ approve a proposed rule or a proposed
12 amendment to a rule submitted to the Legislature
13 or an emergency rule prior to such rule having
14 the force and effect of law.

15 (2) Any such proposed rule or proposed amendment to a
16 permanent rule shall be ~~disapproved~~ approved by
17 both houses of the Legislature prior to the
18 termination of the legislative review period
19 specified by this section or such proposed rule
20 or proposed amendment to a permanent rule shall
21 be deemed to be disapproved.

22 (3) Any such concurrent resolution shall not require
23 the approval of the Governor, ~~and any~~. Any such

1 rule so ~~disapproved~~ not approved shall be invalid
2 and of no effect regardless of the approval of
3 the Governor of such rule.

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

8 C. Unless otherwise authorized by the Legislature by concurrent
9 resolution, or by law, whenever a rule is disapproved by joint
10 resolution as provided in paragraph 1 of subsection B of this
11 section or is deemed to be disapproved due to failure to approve as
12 provided in division (2) of subparagraph a of paragraph 2 of
13 subsection B of this section, the agency adopting such rules shall
14 not have authority to resubmit an identical rule, except during the
15 first sixty (60) calendar days of the next regular legislative
16 session. Any effective emergency rule which would have been
17 superseded by a disapproved permanent rule shall be deemed null and
18 void on the date the Legislature disapproves the permanent rule or
19 upon expiration of the legislative review period if the Legislature
20 fails to approve the permanent rule. Rules may be disapproved in
21 part or in whole by the Legislature. Any resolution enacted
22 disapproving a rule shall be filed with the Secretary for
23 publication in "The Oklahoma Register".

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

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

11 a. the Legislature is in regular session and ~~has failed~~
12 ~~to disapprove~~ approves such rule by concurrent
13 resolution within thirty (30) legislative days after
14 such rule has been submitted pursuant to Section 303.1
15 of this title, or before sine die adjournment of that
16 regular session of the Legislature, whichever is
17 earlier

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

21 2. After April 1 of each year, transmission of a rule for
22 legislative review shall result in the approval of such rule by the
23 Legislature only if the Legislature is in regular session and has

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

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

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

21 G. Except as otherwise provided by Sections 253, 250.4 and
22 250.6 of this title or as otherwise specifically provided by the
23 Legislature, no agency shall promulgate any rule unless reviewed by

1 the Legislature pursuant to this section. An agency may promulgate
2 an emergency rule only pursuant to Section 253 of this title.

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

7 SECTION 3. This act shall become effective November 1, 2009.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-09 - DO
9 PASS, As Amended and Coauthored.