

ENROLLED HOUSE
BILL NO. 1044

By: Faught, DeWitt, Roberts
(Sean), Nelson, Martin
(Scott), Kern, Cockroft,
Dorman, Ritze and Billy of
the House

and

Sykes, Sparks, Brecheen,
Shortey and Garrison of the
Senate

An Act relating to statutes and reports; amending 75 O.S. 2001, Sections 303.1 and 308, which relate to the Administrative Procedures Act; requiring agencies filing rules to cite certain authority; requiring approval of certain rules; and providing an effective date.

SUBJECT: Administrative Procedures Act; agency rules

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

SECTION 1. 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, the Speaker of the House of Representatives and the President Pro Tempore of the Senate: 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. The citation to any federal or state law, court ruling, or any other authority requiring the rule;

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

~~6.~~ 7. A statement explaining the need for the adopted rule;

~~7.~~ 8. 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.~~ 9. 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.~~ 10. 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.~~ 11. A rule impact statement if required pursuant to Section 303 of this title;

~~11.~~ 12. 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.~~ 13. The members of the governing board of the agency adopting the rules and the recorded vote of each member;

~~13.~~ 14. 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.~~ 15. 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 2. 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 to review such rules.

B. 1. By the adoption of a joint resolution, the Legislature may disapprove any rule, 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 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 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 as provided in subsection B of this section, 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. Any resolution enacted 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~~ Except as provided by subsection F of this section, 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. Any rule which establishes or increases fees or any rule by an agency, board, or commission created by or that receives its authority from Title 59 of the Oklahoma Statutes shall require approval by the Legislature by joint resolution. If the Legislature fails to approve the rule on or before the last day of the legislative session, the rule shall be deemed disapproved.

G. 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.~~ H. 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.~~ I. 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 3. This act shall become effective November 1, 2011.

Passed the House of Representatives the 8th day of March, 2011.

Presiding Officer of the House of
Representatives

Passed the Senate the 7th day of April, 2011.

Presiding Officer of the Senate