

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1044

By: Faught, DeWitt and Roberts
(Sean)

7
8 COMMITTEE SUBSTITUTE

9
10 An Act relating to statutes and reports; amending 75
11 O.S. 2001, Sections 303.1 and 308, which relate to
12 the Administrative Procedures Act; requiring agencies
13 filing rules to cite certain authority; requiring
14 approval of certain rules; and providing an effective
15 date.

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

17 SECTION 1. AMENDATORY 75 O.S. 2001, Section 303.1, is
18 amended to read as follows:

19 Section 303.1 A. Within ten (10) days after adoption of a
20 permanent rule, the agency shall file two copies of the following
21 with the Governor, the Speaker of the House of Representatives and
22 the President Pro Tempore of the Senate: all such new rules or
23 amendments; revisions or revocations to an existing rule proposed by
24

1 an agency; and the agency rule report as required by subsection E of
2 this section.

3 B. If the agency determines in the rule impact statement
4 prepared as part of the agency rule report that the proposed rule
5 will have an economic impact on any political subdivisions or
6 require their cooperation in implementing or enforcing a proposed
7 permanent rule, a copy of the proposed rule and rule report shall be
8 filed within ten (10) days after adoption of the permanent rule with
9 the Oklahoma Advisory Committee on Intergovernmental Relations for
10 its review. Said Committee may communicate any recommendations that
11 it may deem necessary to the Governor, the Speaker of the House of
12 Representatives and President Pro Tempore of the Senate during the
13 period that the permanent rules are being reviewed.

14 C. When the rules have been submitted to the Governor, the
15 Speaker of the House of Representatives and the President Pro
16 Tempore of the Senate, the agency shall also submit to the Office of
17 Administrative Rules for publication in "The Oklahoma Register", a
18 statement that the adopted rules have been submitted to the Governor
19 and the Legislature.

20 D. The text of the adopted rules shall be submitted to the
21 Governor, the Speaker of the House of Representatives and the
22 President Pro Tempore of the Senate in the same format as required
23 by the Secretary pursuant to Section 251 of this title.

1 E. The report required by subsection A of this section shall
2 include:

3 1. The date the notice of the intended rulemaking action was
4 published in "The Oklahoma Register" pursuant to Section 255 of this
5 title;

6 2. The name and address of the agency;

7 3. The title and number of the rule;

8 4. A citation to the statutory authority for the rule;

9 5. The citation to any federal or state law, court ruling, or
10 any other authority requiring the rule;

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

12 ~~6.~~ 7. A statement explaining the need for the adopted rule;

13 ~~7.~~ 8. The date and location of the meeting, if held, at which
14 such rules were adopted or the date and location when the rules were
15 adopted if the rulemaking agency is not required to hold a meeting
16 to adopt rules;

17 ~~8.~~ 9. A summary of the comments and explanation of changes or
18 lack of any change made in the adopted rules as a result of
19 testimony received at all hearings or meetings held or sponsored by
20 an agency for the purpose of providing the public an opportunity to
21 comment on the rules or of any written comments received prior to
22 the adoption of the rule. The summary shall include all comments
23 received about the cost impact of the proposed rules;

1 ~~9.~~ 10. A list of persons or organizations who appeared or
2 registered for or against the adopted rule at any public hearing
3 held by the agency or those who have commented in writing before or
4 after the hearing;

5 ~~10.~~ 11. A rule impact statement if required pursuant to Section
6 303 of this title;

7 ~~11.~~ 12. An incorporation by reference statement if the rule
8 incorporates a set of rules from a body outside the state, such as a
9 national code;

10 ~~12.~~ 13. The members of the governing board of the agency
11 adopting the rules and the recorded vote of each member;

12 ~~13.~~ 14. The proposed effective date of the rules, if an
13 effective date is required pursuant to paragraph 1 of subsection B
14 of Section 304 of this title; and

15 ~~14.~~ 15. Any other information requested by the Governor, the
16 Speaker of the House of Representatives, the President Pro Tempore
17 of the Senate or either rule review committee.

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

20 Section 308. A. Upon receipt of any adopted rules, the Speaker
21 of the House of Representatives and the President Pro Tempore of the
22 Senate shall assign such rules to the appropriate committees of each
23 such house of the Legislature for review. Except as otherwise
24

1 provided by this section, upon receipt of such rules, the
2 Legislature shall have thirty (30) legislative days to review such
3 rules.

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

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

13 (2) Any such proposed rule or proposed amendment to a
14 permanent rule shall be disapproved by both
15 houses of the Legislature prior to the
16 termination of the legislative review period
17 specified by this section.

18 (3) Any such concurrent resolution shall not require
19 the approval of the Governor, and any such rule
20 so disapproved shall be invalid and of no effect
21 regardless of the approval of the Governor of
22 such rule.

23
24

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

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

16 D. Unless otherwise provided by specific vote of the
17 Legislature, resolutions introduced for purposes of disapproving or
18 approving a rule shall not be subject to regular legislative cutoff
19 dates, shall be limited to such provisions as may be necessary for
20 disapproval or approval of a rule, and any such other direction or
21 mandate regarding the rule deemed necessary by the Legislature. The
22 resolution shall contain no other provisions.

1 E. 1. ~~Transmission~~ Except as provided by subsection F of this
2 section, transmission of a rule for legislative review on or before
3 April 1 of each year shall result in the approval of such rule by
4 the Legislature if:

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

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

12 2. After April 1 of each year, transmission of a rule for
13 legislative review shall result in the approval of such rule by the
14 Legislature only if the Legislature is in regular session and has
15 failed to disapprove such rule within thirty (30) legislative days
16 after such rule has been so transmitted. In the event the
17 Legislature adjourns before the expiration of such thirty (30)
18 legislative days, such rule shall carry over for consideration by
19 the Legislature during the next regular session and shall be
20 considered to have been originally transmitted to the Legislature on
21 the first day of said next regular session for review pursuant to
22 this section. As an alternative, an agency may request direct
23 legislative approval of such rules or waiver of the thirty-

1 legislative-day review provided by subsection B of this section. An
2 agency may also adopt emergency rules under the provisions of
3 Section 253 of this title.

4 F. Any rule which establishes or increases fees or any rule by
5 an agency, board, or commission created by or that receives its
6 authority from Title 59 of the Oklahoma Statutes shall require
7 approval by the Legislature by joint resolution. If the Legislature
8 fails to approve the rule within thirty (30) legislative days, the
9 rule shall be deemed disapproved.

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

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

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

1 SECTION 3. This act shall become effective November 1, 2011.

2
3 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES AND
4 GOVERNMENT OVERSIGHT, dated 02-23-2011 - DO PASS, As Amended and
5 Coauthored.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24