

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 344

By: Sparks of the Senate

4 and

5 Martin (Scott) of the House

6
7
8 AS INTRODUCED

9 An Act relating to administrative rule making;
10 amending 75 O.S. 2001, Sections 250.2 and 308, which
11 relate to the Administrative Procedures Act;
12 requiring legislative approval of certain
13 administrative rules; providing procedures; and
14 providing an effective date.

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

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

18 Section 250.2 A. Article V of the Oklahoma Constitution vests
19 in the Legislature the power to make laws, and thereby to establish
20 agencies and to designate agency functions, budgets and purposes.

21 Article VI of the Oklahoma Constitution charges the Executive Branch
22 of Government with the responsibility to implement all measures
23 which may be resolved upon by the Legislature.

24 B. In creating agencies and designating their functions and
purposes, the Legislature may delegate rulemaking authority to these

1 agencies to facilitate administration of legislative policy. The
2 delegation of rulemaking authority is intended to eliminate the
3 necessity of establishing every administrative aspect of general
4 public policy by legislation. In so doing, however, the Legislature
5 reserves to itself:

6 1. The right to retract any delegation of rulemaking authority
7 unless otherwise precluded by the Oklahoma Constitution~~;~~i

8 2. The right to establish any aspect of general policy by
9 legislation, notwithstanding any delegation of rulemaking
10 authority~~;~~i

11 3. The right and responsibility to designate the method for
12 rule promulgation, review and modification~~;~~i

13 4. The right to approve, delay, suspend, veto, or amend the
14 implementation of any rule or proposed rule while under review by
15 the Legislature by joint resolution~~;~~i

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

20 6. The right to ~~disapprove~~ approve a permanent or emergency
21 rule at any time if the Legislature determines such rule to be ~~an~~
22 ~~imminent harm~~ necessary to the health, safety or welfare of the
23 public or the state or if the Legislature determines that a rule is
24 ~~not~~ consistent with legislative intent.

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

3 Section 308. A. Upon receipt of any adopted rules, the Speaker
4 of the House of Representatives and the President Pro Tempore of the
5 Senate shall assign such rules to the appropriate committees of each
6 such house of the Legislature for review. Except as otherwise
7 provided by this section, upon receipt of such rules, the
8 Legislature shall have thirty (30) legislative days to review such
9 rules.

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

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

19 (2) Any such proposed rule or proposed amendment to a
20 permanent rule shall be ~~disapproved~~ approved by
21 both houses of the Legislature prior to the
22 termination of the legislative review period
23 specified by this section or such proposed rule
24

1 or proposed amendment to a permanent rule shall
2 be deemed to be disapproved.

3 (3) Any such concurrent resolution shall not require
4 the approval of the Governor, ~~and any.~~ Any such
5 rule so ~~disapproved~~ not approved shall be invalid
6 and of no effect regardless of the approval of
7 the Governor of such rule.

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

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

1 part or in whole by the Legislature. Any resolution enacted
2 disapproving a rule shall be filed with the Secretary for
3 publication in "The Oklahoma Register".

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

11 E. 1. Transmission of a rule for legislative review on or
12 before April 1 of each year shall result in the approval of such
13 rule by the Legislature if:

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

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

24

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

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

19 F. Prior to final adoption of a rule, an agency may withdraw a
20 rule from legislative review. Notice of such withdrawal shall be
21 given to the Governor, the Speaker of the House of Representatives,
22 the President Pro Tempore of the Senate, and to the Secretary for
23 publication in "The Oklahoma Register".
24

1 G. Except as otherwise provided by Sections 253, 250.4 and
2 250.6 of this title or as otherwise specifically provided by the
3 Legislature, no agency shall promulgate any rule unless reviewed by
4 the Legislature pursuant to this section. An agency may promulgate
5 an emergency rule only pursuant to Section 253 of this title.

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

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

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