

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2055
Page 1 Section 1 Lines 18
Of the printed Bill
Of the Engrossed Bill

By deleting Sections 1 and 2 and inserting in lieu thereof the following:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Kay Floyd

Reading Clerk

1 "SECTION 1. AMENDATORY 75 O.S. 2011, Section 250.2, is
2 amended to read as follows:

3 Section 250.2 A. Article V of the Oklahoma Constitution vests
4 in the Legislature the power to make laws, and thereby to establish
5 agencies and to designate agency functions, budgets and purposes.
6 Article VI of the Oklahoma Constitution charges the Executive Branch
7 of Government with the responsibility to implement all measures
8 which may be resolved upon by the Legislature.

9 B. In creating agencies and designating their functions and
10 purposes, the Legislature may delegate rulemaking authority to these
11 agencies to facilitate administration of legislative policy. The
12 delegation of rulemaking authority is intended to eliminate the
13 necessity of establishing every administrative aspect of general
14 public policy by legislation. In so doing, however, the Legislature
15 reserves to itself:

16 1. The right to retract any delegation of rulemaking authority
17 unless otherwise precluded by the Oklahoma Constitution-i;

18 2. The right to establish any aspect of general policy by
19 legislation, notwithstanding any delegation of rulemaking
20 authority-i;

21 3. The right and responsibility to designate the method for
22 rule promulgation, review and modification-i;

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24

1 4. The right to approve, ~~delay, suspend, veto, or amend the~~
2 ~~implementation of~~ or disapprove any adopted rule ~~or proposed rule~~
3 ~~while under review by the Legislature by joint resolution.~~

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

7 ~~6.~~ 5. The right to disapprove a proposed permanent, promulgated
8 or emergency rule at any time if the Legislature determines such
9 rule to be an imminent harm to the health, safety or welfare of the
10 public or the state or if the Legislature determines that a rule is
11 not consistent with legislative intent.

12 SECTION 2. AMENDATORY 75 O.S. 2011, Section 250.3, is
13 amended to read as follows:

14 Section 250.3 As used in the Administrative Procedures Act:

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

17 2. "Adopted" means a proposed emergency rule or permanent rule
18 which has been approved by the agency but has not been reviewed by
19 the Legislature ~~and the Governor;~~

20 3. "Agency" includes but is not limited to any constitutionally
21 or statutorily created state board, bureau, commission, office,
22 authority, public trust in which the state is a beneficiary, or
23 interstate commission, except:
24

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

3 b. the courts;

4 4. "Emergency rule" means a rule that is made pursuant to
5 Section 253 of this title;

6 5. "Final" or "finally adopted" means a rule other than an
7 emergency rule, which ~~has been approved by the Legislature and by~~
8 ~~the Governor, or approved by the Legislature pursuant to subsection~~
9 ~~B of Section 308 of this title and otherwise complies with the~~
10 ~~requirements of the Administrative Procedures Act but~~ has not been
11 published pursuant to Section 255 of this title and which otherwise
12 complies with the requirements of the Administrative Procedures Act,
13 and is:

14 a. approved by the Legislature pursuant to subsection B
15 of Section 5 of this act,

16 b. approved by the Governor pursuant to subsection D of
17 Section 5 of this act,

18 c. approved by a joint resolution pursuant to subsection
19 B of Section 308 of this title, provided that any such
20 resolution becomes law in accordance with Section 11
21 of Article VI of the Oklahoma Constitution, or

22 d. disapproved by a joint resolution pursuant to
23 subsection B of Section 308 of this title, provided
24 the joint resolution is successfully vetoed by the

1 Governor in accordance with Section 11 of Article VI
2 of the Oklahoma Constitution;

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

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

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

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

19 10. "Office" means the Office of the Secretary of State;

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

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

1 13. "Permanent rule" means a rule that is made pursuant to
2 Section 303 of this title;

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

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

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

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

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

21 b. the approval, disapproval or prescription of rates.
22 For purposes of this subparagraph, the term "rates"
23 shall not include fees or charges fixed by an agency
24 for services provided by that agency including but not

1 limited to fees charged for licensing, permitting,
2 inspections or publications,

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

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

8 e. orders by an agency, or

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

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

14 19. "Secretary" means the Secretary of State.

15 SECTION 3. AMENDATORY 75 O.S. 2011, Section 308, is
16 amended to read as follows:

17 Section 308. A. Upon receipt of any adopted rules, the Speaker
18 of the House of Representatives and the President Pro Tempore of the
19 Senate shall assign such rules to the appropriate committees of each
20 ~~such~~ house of the Legislature for review. Except as otherwise
21 provided by this section, upon receipt of such rules, the
22 Legislature shall have ~~thirty (30) legislative days~~ until the last
23 day of the legislative session to review such rules.

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

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

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

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

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

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

12 ~~D.~~ C. Unless otherwise provided by specific vote of the
13 Legislature, joint resolutions introduced for purposes of
14 disapproving or approving a rule or the omnibus legislation
15 described in Section 5 of this act shall not be subject to regular
16 legislative cutoff dates, shall be limited to such provisions as may
17 be necessary for disapproval or approval of a rule, and any such
18 other direction or mandate regarding the rule deemed necessary by
19 the Legislature. The resolution shall contain no other provisions.

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

24

1 a. ~~the Legislature is in regular session and has failed~~
2 ~~to disapprove such rule within thirty (30) legislative~~
3 ~~days after such rule has been submitted pursuant to~~
4 ~~Section 303.1 of this title, or~~

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

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

1 ~~F. Any rule which establishes or increases fees or any rule by~~
2 ~~an agency, board, or commission created by or that receives its~~
3 ~~authority from Title 59 of the Oklahoma Statutes~~

4 D. All proposed permanent rules shall require approval by the
5 Legislature by joint resolution. If the Legislature fails to
6 approve the rule on or before the last day of the legislative
7 session, the rule shall be deemed disapproved:

8 1. Be approved by the Legislature pursuant to subsection B of
9 Section 5 of this act;

10 2. Be approved by the Governor pursuant to subsection D of
11 Section 5 of this act;

12 3. Be approved by a joint resolution pursuant to subsection B
13 of this section, provided that any such resolution becomes law in
14 accordance with Section 11 of Article VI of the Oklahoma
15 Constitution; or

16 4. If disapproved by a joint resolution pursuant to subsection
17 B of this section, be successfully vetoed by the Governor in
18 accordance with Section 11 of Article VI of the Oklahoma
19 Constitution.

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

1 ~~H. 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.~~

5 F. An agency may promulgate an emergency rule only pursuant to
6 Section 253 of this title.

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

11 SECTION 4. AMENDATORY 75 O.S. 2011, Section 308.1, is
12 amended to read as follows:

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

19 B. The text of the rule submitted for publication shall be the
20 same as the text of the rule ~~considered by the Legislature and the~~
21 ~~Governor~~ that has been finally adopted.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 308.3 of Title 75, unless there
24 is created a duplication in numbering, reads as follows:

1 A. The Administrative Rules Review Committee of the House of
2 Representatives shall have omnibus legislation prepared for
3 consideration by the Legislature each session.

4 B. The omnibus legislation shall be prepared by a joint
5 resolution and shall be substantially in the following form: "All
6 proposed permanent rules of Oklahoma state agencies are hereby
7 approved except for the following:".

8 C. For the purpose of this section, the entire rule, a single
9 section, or any complete paragraph of a proposed permanent rule may
10 be excepted for approval in the omnibus legislation considered by
11 the Legislature.

12 D. 1. If an agency believes that a rule that has not been
13 approved by the Legislature should continue in full force and effect
14 and is a rule within their authorized rulemaking power, the agency
15 may seek the Governor's declaration approving the rule.

16 2. In seeking the approval of a proposed permanent rule, the
17 agency shall submit a petition to the Governor that affirmatively
18 states:

- 19 a. the rule is necessary, and
- 20 b. a citation to the source of its authority to make the
- 21 rule.

22 3. a. If the Governor finds that the necessity does exist,
23 and that the agency has the authority to make the
24 rule, the Governor may declare the rule to be approved

1 by publishing that declaration in "The Oklahoma
2 Register" on or before June 15 of that year.

3 b. The declaration shall set forth the rule to be
4 approved, the reasons the approval is necessary, and a
5 citation to the source of the agency's authority to
6 make the rule.

7 4. If the omnibus bill fails to pass both houses of the
8 Legislature or is found to have a technical legal defect preventing
9 approval of administrative rules intended to be approved by the
10 Legislature, the Governor may declare all rules to be approved by
11 publishing a single declaration in "The Oklahoma Register" on or
12 before June 15 without meeting requirements of subparagraphs 2 and 3
13 of this subsection.

14 SECTION 6. REPEALER 75 O.S. 2011, Section 303.2, is
15 hereby repealed."

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