

1 **SENATE FLOOR VERSION**

2 February 17, 2014

3 SENATE BILL NO. 1694

By: Fields of the Senate

4 and

5 Wright of the House

6  
7  
8 An Act relating to the Administrative Procedures Act;  
9 amending 75 O.S. 2011, Section 250.4, which relates  
10 to compliance with Act; modifying actions with  
11 respect to which higher education institutions  
12 required to comply with Act; and providing an  
13 effective date.

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

15 SECTION 1. AMENDATORY 75 O.S. 2011, Section 250.4, is  
16 amended to read as follows:

17 Section 250.4. A. 1. Except as is otherwise specifically  
18 provided in this subsection, each agency is required to comply with  
19 Article I of the Administrative Procedures Act.

20 2. The Corporation Commission shall be required to comply with  
21 the provisions of Article I of the Administrative Procedures Act  
22 except for subsections A, B, C and E of Section 303 of this title  
23 and Section 306 of this title. To the extent of any conflict or  
24 inconsistency with Article I of the Administrative Procedures Act,  
pursuant to Section 35 of Article IX of the Oklahoma Constitution,

1 it is expressly declared that Article I of the Administrative  
2 Procedures Act is an amendment to and alteration of Sections 18  
3 through 34 of Article IX of the Oklahoma Constitution.

4 3. The Oklahoma Military Department shall be exempt from the  
5 provisions of Article I of the Administrative Procedures Act to the  
6 extent it exercises its responsibility for military affairs.

7 4. The Oklahoma Ordnance Works Authority, the Northeast  
8 Oklahoma Public Facilities Authority, the Oklahoma Office of  
9 Homeland Security and the Board of Trustees of the Oklahoma College  
10 Savings Plan shall be exempt from Article I of the Administrative  
11 Procedures Act.

12 5. The Transportation Commission and the Department of  
13 Transportation shall be exempt from Article I of the Administrative  
14 Procedures Act to the extent they exercise their authority in  
15 adopting standard specifications, special provisions, plans, design  
16 standards, testing procedures, federally imposed requirements and  
17 generally recognized standards, project planning and programming,  
18 and the operation and control of the State Highway System.

19 6. The Oklahoma State Regents for Higher Education shall be  
20 exempt from Article I of the Administrative Procedures Act with  
21 respect to:

- 22 a. prescribing standards of higher education,
- 23 b. prescribing functions and courses of study in each  
24 institution to conform to the standards,

- 1 c. granting of degrees and other forms of academic  
2 recognition for completion of the prescribed courses,  
3 d. allocation of state-appropriated funds, and  
4 e. fees within the limits prescribed by the Legislature.

5 7. Institutional governing boards within The Oklahoma State  
6 System of Higher Education shall be exempt from Article I of the  
7 Administrative Procedures Act.

8 8. a. The Commissioner of Public Safety shall be exempt from  
9 Sections 303.1, ~~303.2~~, 304, 307.1, 308 and 308.1 of  
10 this title insofar as it is necessary to promulgate  
11 rules pursuant to the Oklahoma Motor Carrier Safety  
12 and Hazardous Materials Transportation Act, to  
13 maintain a current incorporation of federal motor  
14 carrier safety and hazardous material regulations, or  
15 pursuant to Chapter 6 of Title 47 of the Oklahoma  
16 Statutes, to maintain a current incorporation of  
17 federal commercial driver license regulations, for  
18 which the Commissioner has no discretion when the  
19 state is mandated to promulgate rules identical to  
20 federal rules and regulations.

21 b. Such rules may be adopted by the Commissioner and  
22 shall be deemed promulgated twenty (20) days after  
23 notice of adoption is published in "The Oklahoma  
24 Register". Such publication need not set forth the

1 full text of the rule but may incorporate the federal  
2 rules and regulations by reference.

3 c. Such copies of promulgated rules shall be filed with  
4 the Secretary as required by Section 251 of this  
5 title.

6 d. For any rules for which the Commissioner has  
7 discretion to allow variances, tolerances or  
8 modifications from the federal rules and regulations,  
9 the Commissioner shall fully comply with Article I of  
10 the Administrative Procedures Act.

11 9. The Council on Judicial Complaints shall be exempt from  
12 Section 306 of Article I of the Administrative Procedures Act, with  
13 respect to review of the validity or applicability of a rule by an  
14 action for declaratory judgment, or any other relief based upon the  
15 validity or applicability of a rule, in the district court or by an  
16 appellate court. A party aggrieved by the validity or applicability  
17 of a rule made by the Council on Judicial Complaints may petition  
18 the Court on the Judiciary to review the rules and issue opinions  
19 based upon them.

20 10. The Department of Corrections, State Board of Corrections,  
21 county sheriffs and managers of city jails shall be exempt from  
22 Article I of the Administrative Procedures Act with respect to:

23 a. prescribing internal management procedures for the  
24 management of the state prisons, county jails and city

1           jails and for the management, supervision and control  
2           of all incarcerated prisoners, and

3           b.    prescribing internal management procedures for the  
4           management of the probation and parole unit of the  
5           Department of Corrections and for the supervision of  
6           probationers and parolees.

7           B.    As specified, the following agencies or classes of agency  
8           activities are not required to comply with the provisions of Article  
9           II of the Administrative Procedures Act:

- 10          1.    The Oklahoma Tax Commission;
- 11          2.    The Commission for Human Services;
- 12          3.    The Oklahoma Ordnance Works Authority;
- 13          4.    The Corporation Commission;
- 14          5.    The Pardon and Parole Board;
- 15          6.    The Midwestern Oklahoma Development Authority;
- 16          7.    The Grand River Dam Authority;
- 17          8.    The Northeast Oklahoma Public Facilities Authority;
- 18          9.    The Council on Judicial Complaints;
- 19          10.   The Board of Trustees of the Oklahoma College Savings Plan;
- 20          11.   The supervisory or administrative agency of any penal,

21           mental, medical or eleemosynary institution, only with respect to  
22           the institutional supervision, custody, control, care or treatment  
23           of inmates, prisoners or patients therein; provided, that the  
24           provisions of Article II shall apply to and govern all

1 administrative actions of the Oklahoma Alcohol Prevention, Training,  
2 Treatment and Rehabilitation Authority;

3 12. The Board of Regents or employees of any university,  
4 college, or other institution of higher learning, ~~except with~~  
5 ~~respect to expulsion of any student for disciplinary reasons;~~  
6 ~~provided, that upon any alleged infraction by a student of rules of~~  
7 ~~such institutions, with a lesser penalty than expulsion, such~~  
8 ~~student shall be entitled to such due process, including notice and~~  
9 ~~hearing, as may be otherwise required by law, and the following~~  
10 ~~grounds of misconduct, if properly alleged in disciplinary~~  
11 ~~proceedings against a student, shall be cause to be barred from the~~  
12 ~~campus and be removed from any college or university-owned housing,~~  
13 ~~upon conviction in a court of law:~~

- 14 a. ~~participation in a riot as defined by the penal code,~~
- 15 b. ~~possession or sale of any drugs or narcotics~~  
16 ~~prohibited by the penal code, Section 1 et seq. of~~  
17 ~~Title 21 of the Oklahoma Statutes, or~~
- 18 c. ~~willful destruction of or willful damage to state~~  
19 ~~property;~~

20 13. The Oklahoma Horse Racing Commission, its employees or  
21 agents only with respect to hearing and notice requirements on the  
22 following classes of violations which are an imminent peril to the  
23 public health, safety and welfare:

- 24 a. any rule regarding the running of a race,

- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules, or
- f. any filing of false information;

14. The Commissioner of Public Safety only with respect to driver license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

15. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

16. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

17. The Oklahoma Military Department;

18. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority;

19. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; and

20. The Oklahoma Office of Homeland Security.

1 SECTION 2. This act shall become effective November 1, 2014.

2 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION  
3 February 17, 2014 - DO PASS  
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