STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

SENATE BILL 1168 By: Allen

AS INTRODUCED

An Act relating to administrative rules; amending 75 O.S. 2011, Section 308, as amended by Section 4, Chapter 357, O.S.L. 2013 and Section 6, Chapter 357, O.S.L. 2013 (75 O.S Supp. 2013, Sections 308 and 308.3), which relate to legislative review of administrative rules; requiring resolutions relating to rules to include or have attached text of such rules; requiring certain availability prior to vote; clarifying references; and providing an effective date.

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

SECTION 1. AMENDATORY 75 O.S. 2011, Section 308, as amended by Section 4, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2013, 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 house of the Legislature for review. Except as otherwise provided by this section:

1. If such rules are received on or before April 1, the Legislature shall have until the last day of the regular legislative session of that year to review such rules; and

2. If such rules are received after April 1, the Legislature shall have until the last day of the regular legislative session of the next year to review such rules.

B. By the adoption of a joint resolution during the review period specified in subsection A of this section, the Legislature may disapprove or approve any rule.

C. Unless otherwise authorized by the Legislature, 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 Any effective emergency rule which would have been superseded by a disapproved permanent rule shall be deemed null and void on the date the Legislature disapproves the permanent rule.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. Upon enactment of any joint resolution disapproving a rule, the agency shall file notice of such legislative disapproval with the Secretary for publication in "The Oklahoma Register".

D. Unless otherwise provided by specific vote of the Legislature, joint resolutions introduced for purposes of disapproving or approving a rule or the omnibus joint resolution

described in Section ~~6~~ 308.3 of this ~~act~~ title 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. Any such resolution shall include or have attached thereto the text of any and all rules referenced therein and shall be made available at least forty-eight (48) hours prior to any vote thereon to the public and the members of the committee or house of the Legislature taking such vote.

E. A proposed permanent rule shall be deemed finally adopted if:

1. Approved by the Legislature pursuant to Section ~~6~~ 308.3 of this ~~act~~ title, provided that any such joint resolution becomes law in accordance with Section 11 of Article VI of the Oklahoma Constitution;

2. Approved by the Governor pursuant to subsection D of Section ~~6~~ 308.3 of this ~~act~~ title;

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

4. Disapproved by a joint resolution pursuant to subsection B of this section or Section ~~6~~ 308.3 of this ~~act~~ title which has been

vetoed by the Governor in accordance with Section 11 of Article VI of the Oklahoma Constitution and the veto has not been overridden.

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

H. 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 2. AMENDATORY Section 6, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2013, Section 308.3), is amended to read as follows:

Section 308.3. A. The Legislature shall have an omnibus joint resolution prepared for consideration each session.

B. The joint resolution shall be substantially in the following form: "All proposed permanent rules of Oklahoma state agencies filed on or before April 1 are hereby approved except for the following:". <u>Any such resolution shall include or have attached thereto the text of any and all rules referenced therein and shall be made available at least forty-eight (48) hours prior to any vote</u>

thereon to the public and the members of the committee or house of the Legislature taking such vote.

C. For the purpose of this section, a proposed permanent rule may be disapproved, in whole or in part, in the omnibus joint resolution considered by the Legislature.

D. 1. If an agency believes that a rule has not been approved by the Legislature pursuant to this section and should be approved and finally adopted, the agency may seek the Governor's declaration approving the rule.

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

a. the rule is necessary, and

b. a citation to the source of its authority to make the rule.

3. a. If the Governor finds that the necessity does exist, and that the agency has the authority to make the rule, the Governor may declare the rule to be approved and finally adopted by publishing that declaration in "The Oklahoma Register" on or before July 17 of that year.

b. The declaration shall set forth the rule to be approved, the reasons the approval is necessary, and a

citation to the source of the agency's authority to make the rule.

4. If the omnibus joint resolution fails to pass both houses of the Legislature and be signed by the Governor or is found by the Governor to have a technical legal defect preventing approval of administrative rules intended to be approved by the Legislature, the Governor may declare all rules to be approved and finally adopted by publishing a single declaration in "The Oklahoma Register" on or before July 17 without meeting requirements of paragraphs 2 and 3 of this subsection. If the Governor finds that the joint resolution has a technical legal defect, the Governor shall make the finding in writing and submit the finding to the Legislature.

SECTION 3. This act shall become effective November 1, 2014.

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