

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1694

By: Fields

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5  
6 AS INTRODUCED

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

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

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

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

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

1 Procedures Act is an amendment to and alteration of Sections 18  
2 through 34 of Article IX of the Oklahoma Constitution.

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

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

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

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

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

24

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

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

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

b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma 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,

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

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

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

16           16. Hearings conducted by a public agency pursuant to Section  
17 962 of Title 47 of the Oklahoma Statutes;

18           17. The Oklahoma Military Department;

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

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

24           20. The Oklahoma Office of Homeland Security.

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

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