STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

SENATE BILL 444 By: Sparks

AS INTRODUCED

An Act relating to administrative rule making; amending 75 O.S. 2011, Sections 250.2 and 308, which relate to the Administrative Procedures Act; requiring legislative approval of certain administrative rules; providing procedures; and providing an effective date.

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

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

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

B. In creating agencies and designating their functions and purposes, the Legislature may delegate rulemaking authority to these agencies to facilitate administration of legislative policy. The delegation of rulemaking authority is intended to eliminate the

necessity of establishing every administrative aspect of general public policy by legislation. In so doing, however, the Legislature reserves to itself:

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

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

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

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

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

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

SECTION 2. AMENDATORY 75 O.S. 2011, 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 such house of the Legislature for review. Except as otherwise provided by this section, upon receipt of such rules, the Legislature shall have thirty (30) legislative days to review such rules.

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

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

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

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

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

C. Unless otherwise authorized by the Legislature by concurrent resolution, or by law, whenever a rule is disapproved by joint resolution as provided in paragraph 1 of subsection B of this section or is deemed to be disapproved due to failure to approve as provided in division (2) of subparagraph a of paragraph 2 of 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 or upon expiration of the legislative review period if the Legislature fails to approve the permanent rule. Rules may be disapproved in part or in whole by the Legislature. Any resolution enacted

disapproving a rule shall be filed 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 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.

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

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

~~b. the Legislature has adjourned before the expiration of said thirty (30) legislative days of submission of such rules, and has failed to disapprove such rule~~ before sine die adjournment of that regular session of the Legislature, whichever is earlier.

2. After April 1 of each year, transmission of a rule for legislative review shall result in the approval of such rule by the

Legislature only if the Legislature is in regular session and ~~has failed to disapprove~~ approves such rule within thirty (30) legislative days after such rule has been so transmitted. In the event the Legislature adjourns before the expiration of such thirty (30) legislative days, such rule shall carry over for consideration by the Legislature during the next regular session and shall be considered to have been originally transmitted to the Legislature on the first day of said next regular session for review pursuant to this section. As an alternative, an agency may request ~~direct~~ legislative approval of such rules ~~or~~ and waiver of the thirty-legislative-day review provided by subsection B of this section, which the Legislature may grant by concurrent resolution. An agency may also adopt emergency rules under the provisions of Section 253 of this title.

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

F. ~~Any rule which establishes or increases fees or any rule by an agency, board, or commission created by or that receives its authority from Title 59 of the Oklahoma Statutes shall require approval by the Legislature by joint resolution. If the Legislature fails to approve the rule on or before the last day of the legislative session, the rule shall be deemed disapproved.~~

~~G.~~ 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".

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

~~I.~~ 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 3. This act shall become effective November 1, 2013.

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