ENGROSSED SENATE
BILL NO. 734 By: Sykes of the Senate

and

Osborn of the House

[Administrator of the Oklahoma Health Care Authority - powers and duties - Administrative Procedures Act - exceptions - effective date]

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 5008, is amended to read as follows:

Section 5008. A. The Administrator of the Authority shall have the training and experience necessary for the administration of the Authority, as determined by the Oklahoma Health Care Authority Board, including, but not limited to, prior experience in the administration of managed health care. The Administrator shall serve at the pleasure of the Board.

B. The Administrator of the Oklahoma Health Care Authority shall be the chief executive officer of the Authority and shall act for the Authority in all matters except as may be otherwise provided by law<u>; provided that all functions executed by the Administrator in his or her official capacity shall be in compliance with the</u>

provisions of the Administrative Procedures Act. The powers and duties of the Administrator shall include but not be limited to:

1. Supervision of the activities of the Authority;

2. Formulation and recommendation of rules for approval or rejection by the Oklahoma Health Care Authority Board and enforcement of rules and standards promulgated by the Board;

3. Preparation of the plans, reports and proposals required by the Oklahoma Health Care Authority Act, Section 5003 et seq. of this title, other reports as necessary and appropriate, and an annual budget for the review and approval of the Board;

4. Employment of such staff as may be necessary to perform the duties of the Authority including but not limited to an attorney to provide legal assistance to the Authority for the state Medicaid program; and

5. Establishment of a contract bidding process which:

a. encourages competition among entities contracting with the Authority for state-purchased and state-subsidized health care; provided, however, the Authority may make patient volume adjustments to any managed care plan whose prime contractor is a state-sponsored, nationally accredited medical school. The Authority may also make education or research supplemental payments to state-sponsored, nationally accredited medical schools based on the level of participation in

any managed care plan by managed care plan participants,

b. coincides with the state budgetary process, and

c. specifies conditions for awarding contracts to any insuring entity.

C. The Administrator may appoint advisory committees as necessary to assist the Authority with the performance of its duties or to provide the Authority with expertise in technical matters.

SECTION 2. AMENDATORY 75 O.S. 2011, Section 250.4, as last amended by Section 12, Chapter 430, O.S.L. 2014 (75 O.S. Supp. 2014, Section 250.4), is amended to read as follows:

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

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and E of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

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

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

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

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

a. prescribing standards of higher education,

b. prescribing functions and courses of study in each institution to conform to the standards,

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

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

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

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

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

a. prescribing internal management procedures for the management of the state prisons, county jails and city jails and for the management, supervision and control of all incarcerated prisoners, and

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

11. The State Board of Education shall be exempt from Article I of the Administrative Procedures Act with respect to prescribing subject matter standards as provided for in Section 11-103.6a of Title 70 of the Oklahoma Statutes.

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

1. The Oklahoma Tax Commission;

2. The Commission for Human Services;

3. The Oklahoma Ordnance Works Authority;

4. The Corporation Commission;

5. The Pardon and Parole Board;

6. The Midwestern Oklahoma Development Authority;

7. The Grand River Dam Authority;

8. The Northeast Oklahoma Public Facilities Authority;

9. The Council on Judicial Complaints;

10. The Board of Trustees of the Oklahoma College Savings Plan;

11. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment

of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;

12. The Board of Regents or employees of any university, college, or other institution of higher learning;

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

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; and

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

~~20.~~ The Oklahoma Office of Homeland Security.

SECTION 3. This act shall become effective November 1, 2015.

Passed the Senate the 11th day of March, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

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Presiding Officer of the House of Representatives