

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1292

By: Sykes

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5
6 AS INTRODUCED

7 An Act relating to agency administrative rules;
8 amending 75 O.S. 2011, Sections 308 and 308.1, as
9 amended by Sections 4 and 5, Chapter 357, O.S.L.
10 2013, and Section 6, Chapter 357, O.S.L. 2013 (75
11 O.S. Supp. 2015, Sections 308, 308.1 and 308.3),
12 which relate to the Administrative Procedures Act;
13 granting Legislature authority to amend proposed and
14 effective agency rules; providing procedures;
15 providing that certain rights, privileges or
16 interests not affected by subsequent amendment; and
17 providing a provisional effective date.

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

19 SECTION 1. AMENDATORY 75 O.S. 2011, Section 308, as
20 amended by Section 4, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2015,
21 Section 308), is amended to read as follows:

22 Section 308. A. Upon receipt of any adopted rules, the Speaker
23 of the House of Representatives and the President Pro Tempore of the
24 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 1. If such rules are received on or before April 1, the
2 Legislature shall have until the last day of the regular legislative
3 session of that year to review such rules; and

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

7 B. By the adoption of a joint resolution during the review
8 period specified in subsection A of this section, the Legislature
9 may disapprove ~~or~~, approve or amend any rule. Any such action may
10 apply to any rule in whole or in part. The Legislature may also
11 take any such action and provide further instructions to the agency
12 that promulgated the rule.

13 C. Unless otherwise authorized by the Legislature, whenever a
14 rule is disapproved as provided in subsection B of this section, the
15 agency adopting such rules shall not have authority to resubmit an
16 identical rule, except during the first sixty (60) calendar days of
17 the next regular legislative session. Any effective emergency rule
18 which would have been superseded by a disapproved permanent rule
19 shall be deemed null and void on the date the Legislature
20 disapproves the permanent rule. Rules may be disapproved in part or
21 in whole by the Legislature. Upon enactment of any joint resolution
22 disapproving or amending a rule, the agency shall file notice of
23 such legislative disapproval or amendment with the Secretary for
24 publication in "The Oklahoma Register".

1 D. Unless otherwise provided by specific vote of the
2 Legislature, joint resolutions introduced for purposes of
3 disapproving ~~or~~, approving or amending a rule or the omnibus joint
4 resolution described in Section ~~6~~ 308.3 of this ~~act~~ title shall not
5 be subject to regular legislative cutoff dates, shall be limited to
6 such provisions as may be necessary for disapproval ~~or~~, approval or
7 amendment of a rule, and any such other direction or mandate
8 regarding the rule deemed necessary by the Legislature. The
9 resolution shall contain no other provisions.

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

12 1. Approved or amended by the Legislature pursuant to Section ~~6~~
13 308.3 of this ~~act~~ title, provided that any such joint resolution
14 becomes law in accordance with Section 11 of Article VI of the
15 Oklahoma Constitution;

16 2. Approved by the Governor pursuant to subsection D of Section
17 ~~6~~ 308.3 of this ~~act~~ title;

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

22 4. Disapproved by a joint resolution pursuant to subsection B
23 of this section or Section ~~6~~ 308.3 of this ~~act~~ title which has been
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1 vetoed by the Governor in accordance with Section 11 of Article VI
2 of the Oklahoma Constitution and the veto has not been overridden.

3 F. Prior to final adoption of a rule, an agency may withdraw a
4 rule from legislative review. Notice of such withdrawal shall be
5 given to the Governor, the Speaker of the House of Representatives,
6 the President Pro Tempore of the Senate, and to the Secretary for
7 publication in "The Oklahoma Register".

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

10 H. Any rights, privileges, or interests gained by any person by
11 operation of an emergency rule, shall not be affected by reason of
12 any subsequent disapproval ~~or~~, rejection or amendment of such rule
13 by either house of the Legislature.

14 SECTION 2. AMENDATORY 75 O.S. 2011, Section 308.1, as
15 amended by Section 5, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2015,
16 Section 308.1), is amended to read as follows:

17 Section 308.1. A. Upon final adoption, the agency shall submit
18 the rule to the Secretary for filing and publishing such rule
19 pursuant to Sections 251 and 255 of this title.

20 B. The text of the rule submitted for publication shall be the
21 same as the text of the rule that has been finally adopted.

22 C. After final adoption, filing, and publication, an effective
23 agency rule may be amended by the Legislature in a joint resolution
24 if such resolution becomes law in accordance with Section 11 of

1 Article VI of the Oklahoma Constitution. Unless otherwise provided
2 by specific vote of the Legislature, joint resolutions introduced
3 for purposes of amending a rule shall not be subject to regular
4 legislative cutoff dates or deadlines.

5 SECTION 3. AMENDATORY Section 6, Chapter 357, O.S.L.
6 2013 (75 O.S. Supp. 2015, Section 308.3), is amended to read as
7 follows:

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

10 B. The joint resolution shall be substantially in the following
11 form: "All proposed permanent rules of Oklahoma state agencies
12 filed on or before April 1 are hereby approved except for the
13 following:".

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

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

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

24 a. the rule is necessary, and

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

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

9 b. The declaration shall set forth the rule to be
10 approved, the reasons the approval is necessary, and a
11 citation to the source of the agency's authority to
12 make the rule.

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

1 SECTION 4. This act shall become effective in accordance with
2 the provisions of Section 58 of Article V of the Oklahoma
3 Constitution.

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