

April 3, 2017

and

An Act relating to statutes and reports; amending 75 O.S. 2011, Sections 308, as amended by Section 4, Chapter 357, O.S.L. 2013, and 6, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2016, Section 308 and 308.3), which relate to the Administrative Procedures Act; requiring approval of certain rules; providing exception to the omnibus joint resolution; 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. 2016, 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        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 any rule.

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15 which would have been superseded by a disapproved permanent rule  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

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

1 described in Section ~~6~~ 308.3 of this ~~act~~ title shall not be subject  
2 to regular legislative cutoff dates, shall be limited to such  
3 provisions as may be necessary for disapproval or approval of a  
4 rule, and any such other direction or mandate regarding the rule  
5 deemed necessary by the Legislature. The resolution shall contain  
6 no other provisions.

7 E. A Except as provided by subsection H of this section, a  
8 proposed permanent rule shall be deemed finally adopted if:

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

13 2. Approved by the Governor pursuant to subsection D of Section  
14 ~~6~~ 308.3 of this ~~act~~ title;

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

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

23 F. Prior to final adoption of a rule, an agency may withdraw a  
24 rule from legislative review. Notice of such withdrawal shall be

1 given to the Governor, the Speaker of the House of Representatives,  
2 the President Pro Tempore of the Senate, and to the Secretary for  
3 publication in "The Oklahoma Register".

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

6 H. Any rule which establishes or increases fees shall require  
7 approval by joint resolution pursuant to subsection B of this  
8 section, provided that any such resolution becomes law in accordance  
9 with Section 11 of Article VI of the Oklahoma Constitution. If the  
10 Legislature fails to approve the rule on or before the last day of  
11 the legislative session, the rule shall be deemed disapproved.

12 I. Any rights, privileges, or interests gained by any person by  
13 operation of an emergency rule, shall not be affected by reason of  
14 any subsequent disapproval or rejection of such rule by either house  
15 of the Legislature.

16 SECTION 2. AMENDATORY Section 6, Chapter 357, O.S.L.  
17 2013 (75 O.S. Supp. 2016, Section 308.3), is amended to read as  
18 follows:

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

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

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

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

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

11 a. the rule is necessary, and

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

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

20 b. The declaration shall set forth the rule to be  
21 approved, the reasons the approval is necessary, and a  
22 citation to the source of the agency's authority to  
23 make the rule.  
24

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

11        E. Nothing in this section shall apply to approval of rules  
12 subject to the provision of subsection H of Section 308 of this  
13 title.

14        SECTION 3. This act shall become effective November 1, 2017.

15 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT  
16 April 3, 2017 - DO PASS  
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