

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1552

By: Faught

AS INTRODUCED

An Act relating to statutes and reports; amending 75 O.S. 2011, Section 308, as amended by Section 4, Chapter 357, O.S.L. 2013, and Section 6, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2016, Sections 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15 which would have been superseded by a disapproved permanent rule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~~ 308.3 of
10 this ~~act~~ title, provided that any such joint resolution becomes law
11 in 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 proposed rule which modifies the scope of practice of
7 any occupation contained within Title 59 of the Oklahoma Statutes
8 shall require approval by joint resolution pursuant to subsection B
9 of this section, provided that any such resolution becomes law in
10 accordance with Section 11 of Article VI of the Oklahoma
11 Constitution. If the Legislature fails to approve the rule on or
12 before the last day of the legislative session, the rule shall be
13 deemed disapproved.

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

18 SECTION 2. AMENDATORY Section 6, Chapter 357, O.S.L.
19 2013 (75 O.S. Supp. 2016, Section 308.3), is amended to read as
20 follows:

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

23 B. The joint resolution shall be substantially in the following
24 form: "All proposed permanent rules of Oklahoma state agencies

1 filed on or before April 1 are hereby approved except for the
2 following:".

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

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

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

- 13 a. the rule is necessary, and
14 b. a citation to the source of its authority to make the
15 rule.

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

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

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

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

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

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