

SENATE CHAMBER

STATE OF OKLAHOMA DISPOSITION

☒ FLOOR AMENDMENT

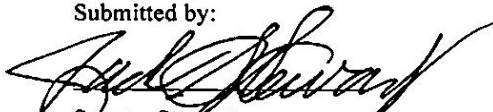
No. 1

☐ COMMITTEE AMENDMENT


(Date)

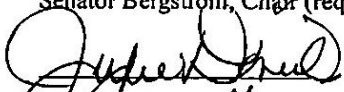
I move to amend engrossed House Bill No. 3059 by substituting the attached floor substitute (Request No. 3757) for the title, enacting clause and entire body of the measure.

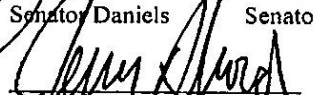
Submitted by:

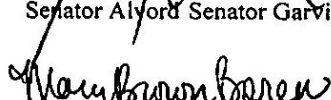

Senator Stewart

I hereby grant permission for the floor substitute to be adopted.


Senator Bergstrom, Chair (required) Senator Dahm

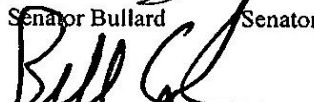

Senator Daniels


Senator Alvord Senator Deever


Senator Boren Senator Green


Senator Brooks Senator Pemberton


Senator Bullard


Senator Weaver


Senator Coleman

Senator Treat, President Pro Tempore Senator McCortney, Majority Floor
Leader

Filed: 4-22-24
4:16pm gn

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

FLOOR SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 3059

By: Steagall of the House

and

Stewart and Bullard of the
Senate

FLOOR SUBSTITUTE

[Administrative Procedures Act - emergency rules -
Oklahoma Emergency Management Act of 2003 -
Catastrophic Health Emergency Powers Act - emergency
rule effective dates -

emergency]

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

SECTION 1. AMENDATORY 75 O.S. 2021, Section 253, as
amended by Section 2, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2023,
Section 253), is amended to read as follows:

Section 253. A. 1. If an agency finds that a rule is
necessary as an emergency measure, the rule may be promulgated
pursuant to the provisions of this section, if the rule is first
approved by the Governor. The Governor shall not approve the
adoption, amendment, revision or revocation of a rule as an
emergency measure unless the agency submits substantial evidence

1 that the rule is necessary as an emergency measure to do any of the
2 following:

- 3 a. protect the public health, safety or welfare,
- 4 b. comply with deadlines in amendments to an agency's
- 5 governing law or federal programs,
- 6 c. avoid violation of federal law or regulation or other
- 7 state law,
- 8 d. avoid imminent reduction to the agency's budget, or
- 9 e. avoid serious prejudice to the public interest.

10 As used in this subsection, "substantial evidence" shall mean
11 credible evidence which is of sufficient quality and probative value
12 to enable a person of reasonable caution to support a conclusion.

13 2. In determining whether a rule is necessary as an emergency
14 measure, the Governor shall consider whether the emergency situation
15 was created due to the agency's delay or inaction and could have
16 been averted by timely compliance with the provisions of this
17 chapter.

18 B. An emergency rule adopted by an agency shall:

19 1. Be prepared in the format required by Section 251 of this
20 title;

- 21 2. a. Include an impact statement which meets the
- 22 requirements set forth in subparagraph b of this
- 23 paragraph unless the Governor waives the requirement
- 24 in writing upon a finding that the rule impact

1 statement or the specified contents thereof are
2 unnecessary or contrary to the public interest.

3 b. The rule impact statement shall include, but not be
4 limited to:

5 (1) a brief description of the proposed rule,

6 (2) a description of the persons who most likely will
7 be affected by the proposed rule, including
8 classes that will bear the costs of the proposed
9 rule, and any information on cost impacts
10 received by the agency from any private or public
11 entities,

12 (3) a description of the classes of persons who will
13 benefit from the proposed rule,

14 (4) a description of the probable economic impact of
15 the proposed rule upon affected classes of
16 persons or political subdivisions, including a
17 listing of all fee changes and, whenever
18 possible, a separate justification for each fee
19 change,

20 (5) the probable costs and benefits to the agency and
21 to any other agency of the implementation and
22 enforcement of the proposed rule, and any
23 anticipated effect on state revenues, including a
24

1 projected net loss or gain in such revenues if it
2 can be projected by the agency,

3 (6) a determination of whether implementation of the
4 proposed rule may have an adverse economic effect
5 on small business as provided by the Oklahoma
6 Small Business Regulatory Flexibility Act,

7 (7) an explanation of the measures the agency has
8 taken to minimize compliance costs and a
9 determination of whether there are less costly or
10 nonregulatory methods or less intrusive methods
11 for achieving the purpose of the proposed rule,

12 (8) a determination of the effect of the proposed
13 rule on the public health, safety, and
14 environment and, if the proposed rule is designed
15 to reduce significant risks to the public health,
16 safety, and environment, an explanation of the
17 nature of the risk and to what extent the
18 proposed rule will reduce the risk,

19 (9) a determination of any detrimental effect on the
20 public health, safety, and environment if the
21 proposed rule is not implemented, and

22 (10) the date the rule impact statement was prepared
23 and, if modified, the date modified.
24

1 c. The rule impact statement shall be prepared on or
2 before the date the emergency rule is adopted;

3 3. Be transmitted pursuant to Section 464 of Title 74 of the
4 Oklahoma Statutes to the Governor, the Speaker of the House of
5 Representatives, the President Pro Tempore of the Senate, and the
6 chief legislative officer of each chamber, along with the
7 information required by this subsection within ten (10) days after
8 the rule is adopted; and

9 4. Not be invalidated on the ground that the contents of the
10 rule impact statement are insufficient or inaccurate.

11 C. 1. Within forty-five (45) calendar days of receipt of a
12 proposed emergency rule filed with the Governor, the Speaker of the
13 House of Representatives, the President Pro Tempore of the Senate,
14 and the chief legislative officer of each chamber, the Governor
15 shall review the demonstration of emergency pursuant to subsection A
16 of this section, and shall separately review the rule in accordance
17 with the standards prescribed in paragraph 3 of this subsection.

18 2. Prior to approval of emergency rules, the Governor shall
19 submit the emergency rule to the Secretary of State for review of
20 proper formatting.

21 3. If the Governor determines the agency has established the
22 rule is necessary as an emergency measure pursuant to subsection A
23 of this section, the Governor shall approve the proposed emergency
24 rule if the rule is:

- a. clear, concise, and understandable,
- b. within the power of the agency to make and within the enacted legislative standards, and
- c. made in compliance with the requirements of the Administrative Procedures Act.

D. 1. Within the forty-five-calendar-day period set forth in paragraph 1 of subsection C of this section, the Governor may approve the emergency rule or disapprove the emergency rule. Failure of the Governor to approve an emergency rule within the specified period shall constitute disapproval of the emergency rule.

2. If the Governor disapproves the adopted emergency rule, the Governor shall return the entire document to the agency with reasons for the disapproval. If the agency elects to modify the rule, the agency shall adopt the modifications, and shall file the modified rule in accordance with the requirements of subsection B of this section.

3. Upon disapproval of an emergency rule, the Governor shall, within fifteen (15) days, make written notification to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the chief legislative officer of each chamber, and the Office of Administrative Rules.

E. 1. Upon approval of an emergency rule, the Governor shall immediately make written notification to the agency, the Speaker of the House of Representatives, the President Pro Tempore of the

1 Senate, the chief legislative officer of each chamber, and the
2 Office of Administrative Rules. Upon receipt of the notice of the
3 approval, the agency shall file with the Office of Administrative
4 Rules as many copies of the notice of approval and the emergency
5 rule as required by the Secretary.

6 2. Emergency rules shall be subject to legislative review
7 pursuant to Section 308 of this title.

8 3. The emergency rule shall be published in accordance with the
9 provisions of Section 255 of this title in "The Oklahoma Register"
10 following the approval by the Governor. The Governor's approval and
11 the approved rules shall be retained as official records by the
12 Office of Administrative Rules.

13 F. 1. Upon approval by the Governor, an emergency rule shall
14 be considered promulgated and shall be in force immediately, or on
15 such later date as specified therein. An emergency rule shall only
16 be applied prospectively from its effective date.

17 2. Except as otherwise provided in this subsection, the
18 emergency rule shall remain in full force and effect through the
19 first day of the next succeeding regular session of the Legislature
20 following promulgation of such emergency rule until September 14
21 following such session, unless it is made ineffective pursuant to
22 subsection H of this section.

23 G. No agency shall adopt any emergency rule which establishes
24 or increases fees, except during such times as the Legislature is in

1 session, unless specifically mandated by the Legislature or federal
2 legislation, or when the failure to establish or increase fees would
3 conflict with an order issued by a court of law.

4 H. 1. If an emergency rule is of a continuing nature, the
5 agency promulgating such emergency rule shall initiate proceedings
6 for promulgation of a permanent rule pursuant to Sections 303
7 through 308.2 of this title. If an emergency rule is superseded by
8 another emergency rule prior to the enactment of a permanent rule,
9 the latter emergency rule shall retain the same expiration date as
10 the superseded emergency rule, unless otherwise authorized by the
11 Legislature.

12 2. Any promulgated emergency rule shall be made ineffective if:

- 13 a. disapproved by the Legislature,
- 14 b. superseded by the promulgation of permanent rules,
- 15 c. any adopted rules based upon such emergency rules are
16 subsequently disapproved pursuant to Section 308 of
17 this title, or
- 18 d. an earlier expiration date is specified by the agency
19 in the rules.

20 3. a. Emergency rules in effect on the first day of the
21 session shall be null and void on September 15
22 following sine die adjournment of the Legislature
23 unless otherwise specifically provided by the
24 Legislature.

1 b. Unless otherwise authorized by the Legislature, an
2 agency shall not adopt any emergency rule, which has
3 become null and void pursuant to subparagraph a of
4 this paragraph, as a new emergency rule or adopt any
5 emergency rules of similar scope or intent as the
6 emergency rules which became null and void pursuant to
7 subparagraph a of this paragraph.

8 I. Emergency rules shall not become effective unless approved
9 by the Governor pursuant to the provisions of this section.

10 J. 1. The requirements of Section 303 of this title relating
11 to notice and hearing shall not be applicable to emergency rules
12 promulgated pursuant to the provisions of this section. Provided,
13 this shall not be construed to prevent an abbreviated notice and
14 hearing process determined to be necessary by an agency.

15 2. The rule report required pursuant to Section 303.1 of this
16 title shall not be applicable to emergency rules promulgated
17 pursuant to the provisions of this section. Provided, this shall
18 not be construed to prevent an agency from complying with such
19 requirements at the discretion of such agency.

20 3. The statement of submission required by Section 303.1 of
21 this title shall not be applicable to emergency rules promulgated
22 pursuant to the provisions of this section.

23 K. Prior to approval or disapproval of an emergency rule by the
24 Governor, an agency may withdraw from review an emergency rule

1 submitted pursuant to the provisions of this section. Notice of
2 such withdrawal shall be given to the Governor, the Speaker of the
3 House of Representatives, and the President Pro Tempore of the
4 Senate in accordance with the requirements set forth in Section 464
5 of Title 74, and to the Office of Administrative Rules as required
6 by the Secretary. In order to be promulgated as emergency rules,
7 any replacement rules shall be resubmitted pursuant to the
8 provisions of this section.

9 L. Upon completing the requirements of this section, an agency
10 may promulgate a proposed emergency rule. No emergency rule is
11 valid unless promulgated in substantial compliance with the
12 provisions of this section.

13 M. Emergency rules adopted by an agency or approved by the
14 Governor shall be subject to review pursuant to the provisions of
15 Section 306 of this title.

16 N. 1. In the event that an emergency is declared under the
17 Oklahoma Emergency Management Act of 2003 or the Catastrophic Health
18 Emergency Powers Act, an agency may promulgate emergency rules in
19 compliance with the provisions of this section. Such rules shall be
20 promulgated during the declared emergency period.

21 2. Except as otherwise provided in this section, emergency
22 rules promulgated under this subsection shall remain in full force
23 and effect through the first day of the next succeeding regular
24 session of the Legislature following promulgation of such emergency

1 rules until September 14 following such session, or until the
2 declared emergency period has terminated pursuant to Sections 683.9
3 or 6405 of Title 63 of the Oklahoma Statutes, whichever is earlier.

4 SECTION 2. It being immediately necessary for the preservation
5 of the public peace, health or safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8
9 59-2-3757 RD 4/22/2024 5:06:23 PM