

An Act

ENROLLED SENATE
BILL NO. 995

By: Bergstrom and Jett of the
Senate

and

Kendrix, Williams,
Cornwell, Crosswhite Hader,
Duel, and Wolfley of the
House

An Act relating to the Administrative Procedures Act; amending 75 O.S. 2021, Section 250.3, as amended by Section 1, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024, Section 250.3), which relates to definitions; modifying definition of final rule; updating statutory language; eliminating reference to technical legal defect; amending 75 O.S. 2021, Section 308, as amended by Section 5, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024, Section 308), which relates to proposed permanent rules; requiring legislative approval for final rule adoption; removing references to certain section of law; repealing 75 O.S. 2021, Section 308.3, as amended by Section 6, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024, Section 308.3), which relates to rule adoption procedure; and declaring an emergency.

SUBJECT: Administrative Procedures Act

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

SECTION 1. AMENDATORY 75 O.S. 2021, Section 250.3, as amended by Section 1, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024, Section 250.3), is amended to read as follows:

Section 250.3. As used in the Administrative Procedures Act:

1. "Administrative head" means an official or agency body responsible pursuant to law for issuing final agency orders;

2. "Adopted" means a proposed emergency rule which has been approved by the agency but has not been approved or disapproved by the Governor as an emergency rule as provided by Section 253 of this title, or a proposed permanent rule which has been approved by the agency and not disapproved by the Governor pursuant to paragraph 6 of subsection A of Section 303 of this title, but has not been finally approved or disapproved by the Legislature or the Governor;

3. "Agency" includes but is not limited to any constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission, except:

- a. the Legislature or any branch, committee or officer thereof, and
- b. the courts;

4. "Emergency rule" means a rule that is made pursuant to Section 253 of this title;

5. "Final rule" or "finally adopted rule" means a rule other than an emergency rule, which has not been published pursuant to Section 255 of this title but is otherwise in compliance with the requirements of the Administrative Procedures Act, and is:

- a. ~~approved by the Legislature pursuant to Section 308.3 of this title, provided that any such joint resolution becomes law in accordance with Section 11 of Article VI of the Oklahoma Constitution,~~
- b. ~~approved by the Governor pursuant to subsection C of Section 308.3 of this title,~~
- e. approved by a joint resolution pursuant to subsection B of Section 308 of this title, provided that any such resolution becomes law in accordance with Section 11 of Article VI of the Oklahoma Constitution, or

d.

b. disapproved by a joint resolution pursuant to subsection B of Section 308 of this title ~~or Section 308.3 of this title~~, which has been vetoed by the Governor in accordance with Section 11 of Article VI of the Oklahoma Constitution and the veto has not been overridden;

6. "Final agency order" means an order that includes findings of fact and conclusions of law pursuant to Section 312 of this title, is dispositive of an individual proceeding unless there is a request for rehearing, reopening, or reconsideration pursuant to Section 317 of this title and which is subject to judicial review;

7. "Hearing examiner" means a person meeting the qualifications specified by Article II of the Administrative Procedures Act and who has been duly appointed by an agency to hold hearings and, as required, render orders or proposed orders;

8. "Individual proceeding" means the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature;

9. "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law;

10. "Office" means the Office of the Secretary of State;

11. "Order" means all or part of a formal or official decision made by an agency including but not limited to final agency orders;

12. "Party" means a person or agency named and participating, or properly seeking and entitled by law to participate, in an individual proceeding;

13. "Permanent rule" means a rule that is made pursuant to Section 303 of this title;

14. "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency;

15. "Political subdivision" means a county, city, incorporated town or school district within this state;

16. "Promulgated" means a finally adopted rule which has been filed and published in accordance with the provisions of the Administrative Procedures Act, or an emergency rule or preemptive rule which has been approved by the Governor;

17. "Rule" means any agency statement or group of related statements of general applicability and future effect that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of the agency. The term rule includes the amendment or revocation of an effective rule but does not include:

- a. the issuance, renewal, denial, suspension or revocation or other sanction of an individual specific license,
- b. the approval, disapproval or prescription of rates. For purposes of this subparagraph, the term "rates" shall not include fees or charges fixed by an agency for services provided by that agency including but not limited to fees charged for licensing, permitting, inspections or publications,
- c. statements and memoranda concerning only the internal management of an agency and not affecting private rights or procedures available to the public,
- d. declaratory rulings issued pursuant to Section 307 of this title,
- e. orders by an agency, or
- f. press releases or "agency news releases", provided such releases are not for the purpose of interpreting, implementing or prescribing law or agency policy;

18. "Rulemaking" means the process employed by an agency for the formulation of a rule;

19. "Secretary" means the Secretary of State; and

20. "Small business" means a for-profit enterprise consisting of fifty or fewer full-time or part-time employees; ~~and~~

~~21. "Technical legal defect" means an error that would otherwise invalidate an action by a court of law.~~

SECTION 2. AMENDATORY 75 O.S. 2021, Section 308, as amended by Section 5, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024, Section 308), is amended to read as follows:

Section 308. A. Upon receipt of any proposed permanent 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. If such rules are received on or before April 1, the Legislature shall have until the last day of the regular legislative session of that year to review such rules. Provided, proposed permanent rules for consideration by the 2nd Session of the 59th Legislature shall be submitted on or before March 1. For each legislative session thereafter, proposed permanent rules shall be submitted on or before February 1 of the given year; and

2. If such rules are received after the date established pursuant to paragraph 1 of this subsection, the Legislature shall have until the last day of the regular legislative session of the next year to act on such rules.

B. By the adoption of joint resolutions during the review period specified in subsection A of this section, the Legislature may disapprove or approve any rule and disapprove all or part of a rule or rules. Any rules not acted upon by the adoption of a joint resolution shall be deemed disapproved.

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

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

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

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

~~2.~~ Approved by a joint resolution pursuant to subsection B of this section, provided that any such resolution becomes law in accordance with Section 11 of Article VI of the Oklahoma Constitution; or

~~3.~~ 2. Disapproved by a joint resolution pursuant to subsection B of this section ~~or Section 308.3 of this title~~ which has been vetoed by the Governor in accordance with Section 11 of Article VI of the Oklahoma Constitution and the veto has not been overridden.

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

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

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

SECTION 3. REPEALER 75 O.S. 2021, Section 308.3, as amended by Section 6, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024, Section 308.3), is hereby repealed.

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

Passed the Senate the 15th day of May, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the 7th day of May, 2025.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____