

1 **SENATE FLOOR VERSION**

2 April 3, 2017

3 ENGROSSED HOUSE
4 BILL NO. 1553

By: Faught of the House

5 and

6 Sykes of the Senate

7
8 An Act relating to statutes and reports; amending 75
9 O.S. 2011, Sections 308, as amended by Section 4,
10 Chapter 357, O.S.L. 2013, and 6, Chapter 357, O.S.L.
11 2013 (75 O.S. Supp. 2016, Section 308 and 308.3),
12 which relate to the Administrative Procedures Act;
13 requiring approval of certain rules; providing
14 exception to the omnibus joint resolution; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 75 O.S. 2011, Section 308, as
18 amended by Section 4, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2016,
19 Section 308), is amended to read as follows:

20 Section 308. A. Upon receipt of any adopted rules, the Speaker
21 of the House of Representatives and the President Pro Tempore of the
22 Senate shall assign such rules to the appropriate committees of each
23 house of the Legislature for review. Except as otherwise provided
24 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15 which would have been superseded by a disapproved permanent rule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.

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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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