

1 **SENATE FLOOR VERSION**

2 February 20, 2017

3 SENATE BILL NO. 542

By: Shortey

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5  
6 An Act relating to administrative rules; amending 75  
7 O.S. 2011, Section 308, as amended by Section 4,  
8 Chapter 357, O.S.L. 2013 and Section 6, Chapter 357,  
9 O.S.L. 2013 (75 O.S. Supp. 2016, Sections 308 and  
10 308.3), which relate to legislative review of  
11 administrative rules; modifying circumstances under  
12 which rule increasing fee may become effective;  
13 requiring certain joint resolutions; exempting such  
14 rules from certain approval provisions; and providing  
15 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. 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; and

1           2. If such rules are received after April 1, the Legislature  
2 shall have until the last day of the regular legislative session of  
3 the next year to review such rules.

4           B. By the adoption of a joint resolution during the review  
5 period specified in subsection A of this section, the Legislature  
6 may disapprove or approve any rule. In order for a rule which  
7 increases a fee to become effective, the Legislature shall approve  
8 the rule by the adoption of a joint resolution during the review  
9 period specified in subsection A of this section. Each rule which  
10 increases a fee shall be required to be approved in a separate joint  
11 resolution.

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17 which would have been superseded by a disapproved permanent rule  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

1 D. Unless otherwise provided by specific vote of the  
2 Legislature, joint resolutions introduced for purposes of  
3 disapproving or approving a rule or the omnibus joint resolution  
4 described in Section ~~6~~ 308.3 of this ~~act~~ title shall not be subject  
5 to regular legislative cutoff dates, shall be limited to such  
6 provisions as may be necessary for disapproval or approval of a  
7 rule, and any such other direction or mandate regarding the rule  
8 deemed necessary by the Legislature. The resolution shall contain  
9 no other provisions.

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

12 1. Approved by the Legislature pursuant to Section ~~6~~ 308.3 of  
13 this ~~act~~ title, provided that any such joint resolution becomes law  
14 in accordance with Section 11 of Article VI of the Oklahoma  
15 Constitution;

16 2. Approved by the Governor pursuant to subsection D of Section  
17 ~~6~~ 308.3 of this ~~act~~ title;

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

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

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

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

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

14 SECTION 2. AMENDATORY Section 6, Chapter 357, O.S.L.  
15 2013 (75 O.S. Supp. 2016, Section 308.3), is amended to read as  
16 follows:

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

19 B. The joint resolution shall be substantially in the following  
20 form: "All proposed permanent rules of Oklahoma state agencies  
21 filed on or before April 1, other than those which increase fees,  
22 are hereby approved except for the following:".

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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 5. The provisions of this subsection shall not apply to any  
12 rule which increases fees.

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

14 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT  
15 February 20, 2017 - DO PASS  
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