

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 734

By: Sykes of the Senate

and

Osborn of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to administrative procedures;
12 amending 75 O.S. 2011, Section 250.4, as last amended
13 by Section 12, Chapter 430, O.S.L. 2014 (75 O.S.
14 Supp. 2014, Section 250.4), which relates to the
15 Administrative Procedures Act; removing exception for
16 the Oklahoma Health Care Authority Board and
17 Administrator; and providing an effective date.

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

19 SECTION 1. AMENDATORY 75 O.S. 2011, Section 250.4, as
20 last amended by Section 12, Chapter 430, O.S.L. 2014 (75 O.S. Supp.
21 2014, Section 250.4), is amended to read as follows:

22 Section 250.4 A. 1. Except as is otherwise specifically
23 provided in this subsection, each agency is required to comply with
24 Article I of the Administrative Procedures Act.

1 2. The Corporation Commission shall be required to comply with
2 the provisions of Article I of the Administrative Procedures Act
3 except for subsections A, B, C and E of Section 303 of this title
4 and Section 306 of this title. To the extent of any conflict or
5 inconsistency with Article I of the Administrative Procedures Act,
6 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
7 it is expressly declared that Article I of the Administrative
8 Procedures Act is an amendment to and alteration of Sections 18
9 through 34 of Article IX of the Oklahoma Constitution.

10 3. The Oklahoma Military Department shall be exempt from the
11 provisions of Article I of the Administrative Procedures Act to the
12 extent it exercises its responsibility for military affairs.

13 4. The Oklahoma Ordnance Works Authority, the Northeast
14 Oklahoma Public Facilities Authority, the Oklahoma Office of
15 Homeland Security and the Board of Trustees of the Oklahoma College
16 Savings Plan shall be exempt from Article I of the Administrative
17 Procedures Act.

18 5. The Transportation Commission and the Department of
19 Transportation shall be exempt from Article I of the Administrative
20 Procedures Act to the extent they exercise their authority in
21 adopting standard specifications, special provisions, plans, design
22 standards, testing procedures, federally imposed requirements and
23 generally recognized standards, project planning and programming,
24 and the operation and control of the State Highway System.

1 6. The Oklahoma State Regents for Higher Education shall be
2 exempt from Article I of the Administrative Procedures Act with
3 respect to:

- 4 a. prescribing standards of higher education,
- 5 b. prescribing functions and courses of study in each
6 institution to conform to the standards,
- 7 c. granting of degrees and other forms of academic
8 recognition for completion of the prescribed courses,
- 9 d. allocation of state-appropriated funds, and
- 10 e. fees within the limits prescribed by the Legislature.

11 7. Institutional governing boards within The Oklahoma State
12 System of Higher Education shall be exempt from Article I of the
13 Administrative Procedures Act.

- 14 8. a. The Commissioner of Public Safety shall be exempt from
15 Sections 303.1, 304, 307.1, 308 and 308.1 of this
16 title insofar as it is necessary to promulgate rules
17 pursuant to the Oklahoma Motor Carrier Safety and
18 Hazardous Materials Transportation Act, to maintain a
19 current incorporation of federal motor carrier safety
20 and hazardous material regulations, or pursuant to
21 Chapter 6 of Title 47 of the Oklahoma Statutes, to
22 maintain a current incorporation of federal commercial
23 driver license regulations, for which the Commissioner
24 has no discretion when the state is mandated to

1 promulgate rules identical to federal rules and
2 regulations.

3 b. Such rules may be adopted by the Commissioner and
4 shall be deemed promulgated twenty (20) days after
5 notice of adoption is published in "The Oklahoma
6 Register". Such publication need not set forth the
7 full text of the rule but may incorporate the federal
8 rules and regulations by reference.

9 c. Such copies of promulgated rules shall be filed with
10 the Secretary as required by Section 251 of this
11 title.

12 d. For any rules for which the Commissioner has
13 discretion to allow variances, tolerances or
14 modifications from the federal rules and regulations,
15 the Commissioner shall fully comply with Article I of
16 the Administrative Procedures Act.

17 9. The Council on Judicial Complaints shall be exempt from
18 Section 306 of Article I of the Administrative Procedures Act, with
19 respect to review of the validity or applicability of a rule by an
20 action for declaratory judgment, or any other relief based upon the
21 validity or applicability of a rule, in the district court or by an
22 appellate court. A party aggrieved by the validity or applicability
23 of a rule made by the Council on Judicial Complaints may petition
24

1 the Court on the Judiciary to review the rules and issue opinions
2 based upon them.

3 10. The Department of Corrections, State Board of Corrections,
4 county sheriffs and managers of city jails shall be exempt from
5 Article I of the Administrative Procedures Act with respect to:

6 a. prescribing internal management procedures for the
7 management of the state prisons, county jails and city
8 jails and for the management, supervision and control
9 of all incarcerated prisoners, and

10 b. prescribing internal management procedures for the
11 management of the probation and parole unit of the
12 Department of Corrections and for the supervision of
13 probationers and parolees.

14 11. The State Board of Education shall be exempt from Article I
15 of the Administrative Procedures Act with respect to prescribing
16 subject matter standards as provided for in Section 11-103.6a of
17 Title 70 of the Oklahoma Statutes.

18 B. As specified, the following agencies or classes of agency
19 activities are not required to comply with the provisions of Article
20 II of the Administrative Procedures Act:

- 21 1. The Oklahoma Tax Commission;
- 22 2. The Commission for Human Services;
- 23 3. The Oklahoma Ordnance Works Authority;
- 24 4. The Corporation Commission;

- 1 5. The Pardon and Parole Board;
- 2 6. The Midwestern Oklahoma Development Authority;
- 3 7. The Grand River Dam Authority;
- 4 8. The Northeast Oklahoma Public Facilities Authority;
- 5 9. The Council on Judicial Complaints;
- 6 10. The Board of Trustees of the Oklahoma College Savings Plan;
- 7 11. The supervisory or administrative agency of any penal,
- 8 mental, medical or eleemosynary institution, only with respect to
- 9 the institutional supervision, custody, control, care or treatment
- 10 of inmates, prisoners or patients therein; provided, that the
- 11 provisions of Article II shall apply to and govern all
- 12 administrative actions of the Oklahoma Alcohol Prevention, Training,
- 13 Treatment and Rehabilitation Authority;
- 14 12. The Board of Regents or employees of any university,
- 15 college, or other institution of higher learning;
- 16 13. The Oklahoma Horse Racing Commission, its employees or
- 17 agents only with respect to hearing and notice requirements on the
- 18 following classes of violations which are an imminent peril to the
- 19 public health, safety and welfare:
- 20 a. any rule regarding the running of a race,
- 21 b. any violation of medication laws and rules,
- 22 c. any suspension or revocation of an occupation license
- 23 by any racing jurisdiction recognized by the
- 24 Commission,

- 1 d. any assault or other destructive acts within
2 Commission-licensed premises,
3 e. any violation of prohibited devices, laws and rules,
4 or
5 f. any filing of false information;

6 14. The Commissioner of Public Safety only with respect to
7 driver license hearings and hearings conducted pursuant to the
8 provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

9 15. The Administrator of the Department of Securities only with
10 respect to hearings conducted pursuant to provisions of the Oklahoma
11 Take-over Disclosure Act of 1985;

12 16. Hearings conducted by a public agency pursuant to Section
13 962 of Title 47 of the Oklahoma Statutes;

14 17. The Oklahoma Military Department;

15 18. The University Hospitals Authority, including all hospitals
16 or other institutions operated by the University Hospitals
17 Authority; and

18 19. ~~The Oklahoma Health Care Authority Board and the~~
19 ~~Administrator of the Oklahoma Health Care Authority; and~~

20 ~~20.~~ The Oklahoma Office of Homeland Security.

21 SECTION 2. This act shall become effective November 1, 2015.

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23 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES, dated
24 03/26/2015 - DO PASS, As Amended.