

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 461

By: Bergstrom

AS INTRODUCED

An Act relating to the Administrative Procedures Act; amending 75 O.S. 2021, Section 250.3, which relates to definitions; modifying definition; updating statutory reference; and declaring an emergency.

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

SECTION 1. AMENDATORY 75 O.S. 2021, 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;

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

5 a. the Legislature or any branch, committee or officer
6 thereof, and

7 b. the courts;

8 4. "Concurrent majority" means a majority of members on the
9 Joint Committee on Administrative Rules from both the Oklahoma
10 Senate and the Oklahoma House of Representatives. Concurrent
11 majority shall not be construed to mean a majority of the quorum
12 present of the Joint Committee on Administrative Rules;

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

15 6. "Expedited repeal" means the procedure utilized by a rule-
16 making agency as specified in Section ~~9~~ 303a of this ~~act~~ title ;

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

21 a. approved by the Legislature pursuant to Section 308.3
22 of this title, provided that any such joint resolution
23 becomes law in accordance with Section 11 of Article
24 VI of the Oklahoma Constitution,

- 1 b. approved by the Governor pursuant to subsection C of
2 Section 308.3 of this title,
3 c. approved by a joint resolution pursuant to subsection
4 B of Section 308 of this title, provided that any such
5 resolution becomes law in accordance with Section 11
6 of Article VI of the Oklahoma Constitution, or
7 d. disapproved by a joint resolution pursuant to
8 subsection B of Section 308 of this title or Section
9 308.3 of this title, which has been vetoed by the
10 Governor in accordance with Section 11 of Article VI
11 of the Oklahoma Constitution and the veto has not been
12 overridden;

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

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

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

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

6 12. "Office" means the Office of the Secretary of State;

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

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

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

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

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

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

23 19. "Rule" means any agency statement or group of related
24 statements of general applicability and future effect that

1 implements, interprets or prescribes law or policy, or describes the
2 procedure or practice requirements of the agency. The term "~~rule~~"
3 rule includes the amendment or revocation of an effective rule but
4 does not include:

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

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

1 21. "Secretary" means the Secretary of State;

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

4 23. "Technical legal defect" means an error that would
5 otherwise invalidate an action by a court of law.

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

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