An Act

ENROLLED SENATE
BILL NO. 912

By: Loveless of the Senate

and

Faught of the House

An Act relating to the Administrative Procedures Act; amending 75 O.S. 2011, Sections 251 and 303.1, which relate to administrative rules; requiring rules filed with Secretary of State, Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives to include statement of the gist of the rule; and providing an effective date.

SUBJECT: Administrative Procedures Act requirements

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

SECTION 1. AMENDATORY 75 O.S. 2011, Section 251, is amended to read as follows:

Section 251. A. 1. Upon the request of the Secretary, each agency shall furnish to the Office a complete set of its permanent rules in such form as is required by the Secretary or as otherwise provided by law.

2. The Secretary shall promulgate rules to ensure the effective administration of the provisions of Article I of the Administrative Procedures Act. The rules shall include, but are not limited to, rules prescribing paper size, numbering system, and the format of documents required to be filed pursuant to the provisions of the Administrative Procedures Act or such other requirements as deemed

necessary by the Secretary to implement the provisions of the Administrative Procedures Act.

B. 1. Each agency shall file the number of copies specified by the Secretary of all new rules, and all amendments, revisions or revocations of existing rules attested to by the agency, pursuant to the provisions of Section 254 of this title, with the Office within thirty (30) calendar days after they become finally adopted.

2. An agency filing rules pursuant to the provisions of this subsection:

a. shall prepare the rules in plain language which can be easily understood,

b. shall not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to effectively convey the meaning of a rule interpreting that language, the reference shall clearly indicate the portion of the language which is statutory and the portion which is the agency's amplification or interpretation of that language,

c. shall indicate whether a rule is new, amends an existing permanent rule or repeals an existing permanent rule. If a rule amends an existing rule, the rule shall indicate the language to be deleted typed with a line through the language and language to be inserted typed with the new language underscored,

d. shall state if the rule supersedes an existing emergency rule,

e. shall include a reference to any rule requiring a new or revised form in a note to the rule. The Secretary shall insert that reference in "The Oklahoma Register" as a notation to the affected rule,

f. shall prepare, in plain language, <u>a statement of the gist of the rule and</u> an analysis of new or amended rules. The analysis shall include but not be limited

to a reference to any statute that the rule interprets, any related statute or any related rule,

g. may include with its rules, brief notes, illustrations, findings of facts, and references to digests of Supreme Court cases, other court decisions, or Attorney General's opinions, and other explanatory material. Such material may be included if the material is labeled or set forth in a manner which clearly distinguishes it from the rules,

h. shall include other information, in such form and in such manner as is required by the Secretary, and

i. may change the format of existing rules without any rulemaking action by the agency in order to comply with the standard provisions established by the Secretary for "Code" and "The Oklahoma Register" publication so long as there is no substantive change to the rule.

C. The Secretary is authorized to determine a numbering system and other standardized format for documents to be filed and may refuse to accept for publication any document that does not substantially conform to the promulgated rules of the Secretary.

D. In order to avoid unnecessary expense, an agency may use the published standards established by organizations and technical societies of recognized national standing, other state agencies, or federal agencies by incorporating the standards or rules in its rules or regulations by reference to the specific issue or issues of publications in which the standards are published, without reproducing the standards in full. The standards shall be readily available to the public for examination at the administrative offices of the agency. In addition, a copy of such standards shall be kept and maintained by the agency pursuant to the provisions of the Preservation of Essential Records Act.

E. The Secretary shall provide for the publication of all Executive Orders received pursuant to the provisions of Section 664 of Title 74 of the Oklahoma Statutes.

F. The Secretary may authorize or require the filing of rules or Executive Orders by or through electronic data or machine readable equipment in such form and manner as is required by the Secretary.

SECTION 2. AMENDATORY 75 O.S. 2011, Section 303.1, is amended to read as follows:

Section 303.1. A. Within ten (10) days after adoption of a permanent rule, the agency shall file two copies of the following with the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate: all such new rules or amendments; revisions or revocations to an existing rule proposed by an agency; and the agency rule report as required by subsection E of this section.

B. If the agency determines in the rule impact statement prepared as part of the agency rule report that the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing a proposed permanent rule, a copy of the proposed rule and rule report shall be filed within ten (10) days after adoption of the permanent rule with the Oklahoma Advisory Committee on Intergovernmental Relations for its review. Said Committee may communicate any recommendations that it may deem necessary to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate during the period that the permanent rules are being reviewed.

C. When the rules have been submitted to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the agency shall also submit to the Office of Administrative Rules for publication in "The Oklahoma Register", a statement that the adopted rules have been submitted to the Governor and the Legislature.

D. The text of the adopted rules shall be submitted to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate in the same format as required by the Secretary pursuant to Section 251 of this title.

E. The report required by subsection A of this section shall include:

1. The date the notice of the intended rulemaking action was published in "The Oklahoma Register" pursuant to Section 255 of this title;

2. The name and address of the agency;

3. The title and number of the rule;

4. A citation to the statutory authority for the rule;

5. The citation to any federal or state law, court ruling, or any other authority requiring the rule;

6. A statement of the gist of the rule and a brief summary of the content of the adopted rule;

7. A statement explaining the need for the adopted rule;

8. The date and location of the meeting, if held, at which such rules were adopted or the date and location when the rules were adopted if the rulemaking agency is not required to hold a meeting to adopt rules;

9. A summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at all hearings or meetings held or sponsored by an agency for the purpose of providing the public an opportunity to comment on the rules or of any written comments received prior to the adoption of the rule. The summary shall include all comments received about the cost impact of the proposed rules;

10. A list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing;

11. A rule impact statement if required pursuant to Section 303 of this title;

12. An incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;

13. The members of the governing board of the agency adopting the rules and the recorded vote of each member;

14. The proposed effective date of the rules, if an effective date is required pursuant to paragraph 1 of subsection B of Section 304 of this title; and

15. Any other information requested by the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate or either rule review committee.

SECTION 3. This act shall become effective November 1, 2016.

Passed the Senate the 28th day of April, 2016.

Presiding Officer of the Senate

Passed the House of Representatives the 4th day of April, 2016.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 2nd day of May, 2016, at 2:40 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 5th day of May, 2016, at 3:01 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 5th day of May, 2016, at 3:38 o'clock P. M.

By: Chris Benge