

1 ENGROSSED SENATE  
2 BILL NO. 734

By: Sykes of the Senate

3 and

4 Osborn of the House

5  
6 [ Administrator of the Oklahoma Health Care Authority  
7 - powers and duties - Administrative Procedures Act -  
8 exceptions - effective date ]  
9

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

11 SECTION 1. AMENDATORY 63 O.S. 2011, Section 5008, is  
12 amended to read as follows:

13 Section 5008. A. The Administrator of the Authority shall have  
14 the training and experience necessary for the administration of the  
15 Authority, as determined by the Oklahoma Health Care Authority  
16 Board, including, but not limited to, prior experience in the  
17 administration of managed health care. The Administrator shall  
18 serve at the pleasure of the Board.

19 B. The Administrator of the Oklahoma Health Care Authority  
20 shall be the chief executive officer of the Authority and shall act  
21 for the Authority in all matters except as may be otherwise provided  
22 by law; provided that all functions executed by the Administrator in  
23 his or her official capacity shall be in compliance with the  
24

1 provisions of the Administrative Procedures Act. The powers and  
2 duties of the Administrator shall include but not be limited to:

3 1. Supervision of the activities of the Authority;

4 2. Formulation and recommendation of rules for approval or  
5 rejection by the Oklahoma Health Care Authority Board and  
6 enforcement of rules and standards promulgated by the Board;

7 3. Preparation of the plans, reports and proposals required by  
8 the Oklahoma Health Care Authority Act, Section 5003 et seq. of this  
9 title, other reports as necessary and appropriate, and an annual  
10 budget for the review and approval of the Board;

11 4. Employment of such staff as may be necessary to perform the  
12 duties of the Authority including but not limited to an attorney to  
13 provide legal assistance to the Authority for the state Medicaid  
14 program; and

15 5. Establishment of a contract bidding process which:

16 a. encourages competition among entities contracting with  
17 the Authority for state-purchased and state-subsidized  
18 health care; provided, however, the Authority may make  
19 patient volume adjustments to any managed care plan  
20 whose prime contractor is a state-sponsored,  
21 nationally accredited medical school. The Authority  
22 may also make education or research supplemental  
23 payments to state-sponsored, nationally accredited  
24 medical schools based on the level of participation in

1 any managed care plan by managed care plan  
2 participants,

3 b. coincides with the state budgetary process, and

4 c. specifies conditions for awarding contracts to any  
5 insuring entity.

6 C. The Administrator may appoint advisory committees as  
7 necessary to assist the Authority with the performance of its duties  
8 or to provide the Authority with expertise in technical matters.

9 SECTION 2. AMENDATORY 75 O.S. 2011, Section 250.4, as  
10 last amended by Section 12, Chapter 430, O.S.L. 2014 (75 O.S. Supp.  
11 2014, Section 250.4), is amended to read as follows:

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

15 2. The Corporation Commission shall be required to comply with  
16 the provisions of Article I of the Administrative Procedures Act  
17 except for subsections A, B, C and E of Section 303 of this title  
18 and Section 306 of this title. To the extent of any conflict or  
19 inconsistency with Article I of the Administrative Procedures Act,  
20 pursuant to Section 35 of Article IX of the Oklahoma Constitution,  
21 it is expressly declared that Article I of the Administrative  
22 Procedures Act is an amendment to and alteration of Sections 18  
23 through 34 of Article IX of the Oklahoma Constitution.

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

4           4. The Oklahoma Ordnance Works Authority, the Northeast  
5 Oklahoma Public Facilities Authority, the Oklahoma Office of  
6 Homeland Security and the Board of Trustees of the Oklahoma College  
7 Savings Plan shall be exempt from Article I of the Administrative  
8 Procedures Act.

9           5. The Transportation Commission and the Department of  
10 Transportation shall be exempt from Article I of the Administrative  
11 Procedures Act to the extent they exercise their authority in  
12 adopting standard specifications, special provisions, plans, design  
13 standards, testing procedures, federally imposed requirements and  
14 generally recognized standards, project planning and programming,  
15 and the operation and control of the State Highway System.

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

- 19           a. prescribing standards of higher education,
- 20           b. prescribing functions and courses of study in each  
21               institution to conform to the standards,
- 22           c. granting of degrees and other forms of academic  
23               recognition for completion of the prescribed courses,
- 24           d. allocation of state-appropriated funds, and

1 e. fees within the limits prescribed by the Legislature.

2 7. Institutional governing boards within The Oklahoma State  
3 System of Higher Education shall be exempt from Article I of the  
4 Administrative Procedures Act.

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

18 b. Such rules may be adopted by the Commissioner and  
19 shall be deemed promulgated twenty (20) days after  
20 notice of adoption is published in "The Oklahoma  
21 Register". Such publication need not set forth the  
22 full text of the rule but may incorporate the federal  
23 rules and regulations by reference.

1 c. Such copies of promulgated rules shall be filed with  
2 the Secretary as required by Section 251 of this  
3 title.

4 d. For any rules for which the Commissioner has  
5 discretion to allow variances, tolerances or  
6 modifications from the federal rules and regulations,  
7 the Commissioner shall fully comply with Article I of  
8 the Administrative Procedures Act.

9 9. The Council on Judicial Complaints shall be exempt from  
10 Section 306 of Article I of the Administrative Procedures Act, with  
11 respect to review of the validity or applicability of a rule by an  
12 action for declaratory judgment, or any other relief based upon the  
13 validity or applicability of a rule, in the district court or by an  
14 appellate court. A party aggrieved by the validity or applicability  
15 of a rule made by the Council on Judicial Complaints may petition  
16 the Court on the Judiciary to review the rules and issue opinions  
17 based upon them.

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

21 a. prescribing internal management procedures for the  
22 management of the state prisons, county jails and city  
23 jails and for the management, supervision and control  
24 of all incarcerated prisoners, and

1           b.    prescribing internal management procedures for the  
2                    management of the probation and parole unit of the  
3                    Department of Corrections and for the supervision of  
4                    probationers and parolees.

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

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

- 12           1.    The Oklahoma Tax Commission;
- 13           2.    The Commission for Human Services;
- 14           3.    The Oklahoma Ordnance Works Authority;
- 15           4.    The Corporation Commission;
- 16           5.    The Pardon and Parole Board;
- 17           6.    The Midwestern Oklahoma Development Authority;
- 18           7.    The Grand River Dam Authority;
- 19           8.    The Northeast Oklahoma Public Facilities Authority;
- 20           9.    The Council on Judicial Complaints;
- 21           10.   The Board of Trustees of the Oklahoma College Savings Plan;
- 22           11.   The supervisory or administrative agency of any penal,  
23 mental, medical or eleemosynary institution, only with respect to  
24 the institutional supervision, custody, control, care or treatment

1 of inmates, prisoners or patients therein; provided, that the  
2 provisions of Article II shall apply to and govern all  
3 administrative actions of the Oklahoma Alcohol Prevention, Training,  
4 Treatment and Rehabilitation Authority;

5 12. The Board of Regents or employees of any university,  
6 college, or other institution of higher learning;

7 13. The Oklahoma Horse Racing Commission, its employees or  
8 agents only with respect to hearing and notice requirements on the  
9 following classes of violations which are an imminent peril to the  
10 public health, safety and welfare:

- 11 a. any rule regarding the running of a race,
- 12 b. any violation of medication laws and rules,
- 13 c. any suspension or revocation of an occupation license  
14 by any racing jurisdiction recognized by the  
15 Commission,
- 16 d. any assault or other destructive acts within  
17 Commission-licensed premises,
- 18 e. any violation of prohibited devices, laws and rules,  
19 or
- 20 f. any filing of false information;

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

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

4 16. Hearings conducted by a public agency pursuant to Section  
5 962 of Title 47 of the Oklahoma Statutes;

6 17. The Oklahoma Military Department;

7 18. The University Hospitals Authority, including all hospitals  
8 or other institutions operated by the University Hospitals  
9 Authority; and

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

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

13 SECTION 3. This act shall become effective November 1, 2015.

14 Passed the Senate the 11th day of March, 2015.

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Presiding Officer of the Senate

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18 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

19 2015.

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Presiding Officer of the House  
of Representatives

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