

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 653

BY: BROWN of the SENATE

and

PAULK of the HOUSE

COMMITTEE SUBSTITUTE AN ACT RELATING TO ELECTIONS; AMENDING 26 O.S. 1991, SECTIONS 3-101, 4-109, 4-120.5, 6-104, 6-107, 6-109, 6-112, 6-115, 7-105, 8-115, 11-112, 12-116, 13A-103, 14-115.4, 14-115.5, AND 14-117, WHICH RELATE TO ELECTION PROCEDURES; AUTHORIZING CERTAIN PER DIEM FOR STATE ELECTION BOARD MEMBERS FOR CERTAIN MEETINGS; ALLOWING MILEAGE REIMBURSEMENT FOR STATE ELECTION BOARD MEMBERS; AUTHORIZING COUNTY ELECTION BOARD TO REIMBURSE STATE ELECTION BOARD FOR COMPUTER SUPPLIES USED FOR CERTAIN ELECTIONS; PROVIDING FOR REIMBURSEMENT TO BE DEPOSITED IN CERTAIN FUND; MODIFYING DATES FOR CERTAIN SPECIAL ELECTIONS; STATING PREFERENCE FOR CERTAIN BUILDINGS TO BE USED FOR VOTER REGISTRATION; STATING PROCEDURES FOR INCAPACITATED VOTERS; PROVIDING FOR COUNTY TO PRINT CERTAIN BALLOT CARDS; MODIFYING TIME FOR DETERMINATION OF ORDER OF NAMES FOR CERTAIN ABSENTEE BALLOTS; PROVIDING FOR NAMES OF CANDIDATES TO BE ROTATED ON ABSENTEE BALLOTS; ALLOWING SCHOOL ELECTION CANDIDATES' NAMES TO BE PRINTED BY LOT; DELETING CERTAIN INFORMATION ON BALLOTS; AUTHORIZING THE SECRETARY OF THE STATE ELECTION BOARD TO DETERMINE NUMBER OF BALLOTS PRINTED FOR CERTAIN ELECTIONS; AUTHORIZING SECRETARY OF COUNTY ELECTION BOARDS TO DETERMINE NUMBER OF BALLOTS PRINTED FOR CERTAIN ELECTIONS; MODIFYING TIME FOR DELIVERY OF ELECTION SUPPLIES; PROVIDING

PROCEDURE FOR DETERMINING CERTAIN TIED ELECTIONS; STATING PROCEDURES FOR ELECTION OF DISTRICT JUDGES; MODIFYING TIME FOR HOLDING CERTAIN SPECIAL ELECTIONS; MODIFYING DATES FOR CERTAIN SCHOOL DISTRICT AND VOCATIONAL-TECHNICAL SCHOOL DISTRICT ELECTIONS; MODIFYING PROCEDURES FOR APPLICATION FOR IN-PERSON ABSENTEE BALLOTS; MODIFYING PROCEDURES FOR IN-PERSON ABSENTEE VOTING BY CERTAIN PERSONS; AUTHORIZING CERTAIN MILEAGE REIMBURSEMENT; CLARIFYING FEDERAL LAW PERTAINING TO ABSENTEE BALLOTS; REPEALING 26 O.S. 1991, SECTIONS 2-111.2, WHICH RELATES TO ELECTION OF OFFICERS OF COUNTY ELECTION BOARDS, AND 13-112, WHICH RELATES TO DAYS MUNICIPAL ELECTIONS ARE NOT PERMITTED TO BE SCHEDULED; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-101.9 of Title 26, unless there is created a duplication in numbering, reads as follows:

Members of the State Election Board shall be paid Fifty Dollars (\$50.00) per diem for each meeting for the purpose of conducting hearings required by law, and Thirty-five Dollars (\$35.00) per diem for other meetings, and shall be allowed mileage reimbursement at a rate provided by the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-108.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

County election boards are hereby authorized to reimburse the State Election Board for computer supplies consumed for the benefit of schools, municipalities and other local entities for the conduct of local elections. Such reimbursement shall be deposited in the State Election Board Revolving Fund.

SECTION 3. AMENDATORY 26 O.S. 1991, Section 3-101, is amended to read as follows:

Section 3-101. A. No election required to be conducted by any county election board shall be scheduled for a day other than Tuesday.

B. Except as otherwise provided by law, no special election shall be held by any county, school district, vocational-technical school district, municipality or other entity authorized to call elections except on the second Tuesday of January, February, ~~March~~, July, August, September, October, November and December, the first Tuesday in March, April and May and the ~~third~~ last Tuesday in June in odd-numbered years and the second Tuesday of January, February, March, April, October and December, the first Tuesday in May, the ~~third~~ last Tuesday in June, the fourth Tuesday in August, the third Tuesday in September and the first Tuesday after the first Monday in November of any even-numbered year.

SECTION 4. AMENDATORY 26 O.S. 1991, Section 4-109, is amended to read as follows:

Section 4-109. The secretary of the county election board shall assign the locations at which voter registrars may conduct registration transactions. Preference shall be given to public libraries, public buildings and other locations with adequate accommodations for a potentially large number of voters.

SECTION 5. AMENDATORY 26 O.S. 1991, Section 4-120.5, is amended to read as follows:

Section 4-120.5 The court clerk in each county shall prepare each month a list of all persons who have been adjudged ~~mentally incompetent~~ incapacitated and hold said list for the secretary of the county election board. The secretary shall cancel the registration of each registered voter included on said list, and such person shall be ineligible for registration until he has been

~~declared mentally competent~~ adjudged no longer incapacitated by a court of competent jurisdiction.

SECTION 6. AMENDATORY 26 O.S. 1991, Section 6-104, is amended to read as follows:

Section 6-104. Each county election board shall cause ballots to be printed on ballot cards ~~provided by the State Election Board~~ for county, municipal, school or other local elections not held in conjunction with statewide elections at such time as to insure distribution of said ballots to the several precinct election boards within each county prior to election day. Said board shall cause ballots to be printed for offices in the order they appear in the statutes. The county election board shall cause a sufficient number of ballots to be printed for each precinct, taking into account the highest percentage of registered voters likely to vote in a given election based on historical experience and other factors, but shall not necessarily require a ballot to be printed for each registered voter.

SECTION 7. AMENDATORY 26 O.S. 1991, Section 6-107, is amended to read as follows:

Section 6-107. ~~On the Monday~~ Immediately following the close of the ~~filing~~ contest period prescribed by law, the State Election Board shall determine the order in which the name of each candidate for each of the offices shall appear on the absentee ballots printed by said Board for the Primary Election. The determination shall be at a drawing conducted in a public meeting in which the names of all candidates for each office of each political party shall be drawn from a receptacle. The determination of the order of names of candidates on absentee ballots printed by county election boards shall be made in the same manner as provided heretofore for the State Election Board.

SECTION 8. AMENDATORY 26 O.S. 1991, Section 6-109, is amended to read as follows:

Section 6-109. On all Primary and Runoff Primary Election ballots, except absentee ballots, the names of the candidates for each office shall be rotated in such a manner that all candidates' names appear in each position on said ballots an equal number of times. Provided, however, the names of candidates for school, city and town offices shall be placed on the ballot according to lot.

SECTION 9. AMENDATORY 26 O.S. 1991, Section 6-112, is amended to read as follows:

Section 6-112. All ballots for Primary, Runoff Primary and General Elections must ~~bear the name of the county and precinct in which said ballots are to be used, or must~~ be designated in such a manner as the Secretary of the State Election Board may prescribe to achieve the ~~same~~ identification of a ballot for a particular precinct.

SECTION 10. AMENDATORY 26 O.S. 1991, Section 6-115, is amended to read as follows:

Section 6-115. In every Primary, Runoff Primary and General Election, ~~at least one ballot shall be printed for each voter eligible to cast such ballot in each precinct~~ the Secretary of the State Election Board shall determine the number of ballots to be printed for statewide elections and the secretary of the county election board shall determine the number of ballots to be printed for county, school, municipal and other local elections.

SECTION 11. AMENDATORY 26 O.S. 1991, Section 7-105, is amended to read as follows:

Section 7-105. No later than ~~6:45~~ 6:30 a.m. on the day of the election, the precinct election board shall assemble at the polling place. The inspector shall deliver supplies and ballots required by law for the election at said time.

SECTION 12. AMENDATORY 26 O.S. 1991, Section 8-115, is amended to read as follows:

Section 8-115. When all the ballots have been counted, the county election board shall tabulate the votes and shall certify the results. In the case of county office, said certification shall be used to issue appropriate lists and certificates. In the case of state or district office, copies of said certification shall be transmitted immediately to the State Election Board, whose duty it shall be to retabulate all pertinent county returns and issue appropriate lists and certificates.

In the event of a tie involving candidates, the election board authorized by law to issue the certified list or certificate of election shall, at the meeting called to conduct the recount or to issue the certified list or certificate of election, in the presence of the candidates involved, if they or any of them desire to be present, select the nominee or electee by lot substantially as prescribed in paragraphs 3 and 4 of Section 8-105 of this title.

SECTION 13. AMENDATORY 26 O.S. 1991, Section 11-112, is amended to read as follows:

Section 11-112. If no candidate for the office of an associate district judge, or district judge, if the nominating district is coextensive with the entire judicial district, receives a majority of the votes cast for that office at the Primary Election, the two candidates who receive the highest number of votes will have their names placed on the ballot for the General Election. In the case of district judges, if the nominating district is not coextensive with the whole judicial district, the two candidates who receive the highest number of votes at the Primary Election will have their names placed on the ballot for the General Election, whether or not one receives a majority of votes cast for that office at the Primary Election.

SECTION 14. AMENDATORY 26 O.S. 1991, Section 12-116, is amended to read as follows:

Section 12-116. In the event the Governor or the Legislature shall call for a special statewide election on any measure to be submitted to a vote of the people, said election shall be held not fewer than sixty (60) days from the date said election is called. In the event the board of county commissioners or the governing body of a municipality or school district or vocational-technical school district or any other governmental subdivision calls for a special election on any question, said election shall be held not fewer than ~~forty-five (45)~~ sixty (60) days from the date said election is called; provided, ~~a special election pursuant to the provisions of Section 5 of this act which is called by the board of county commissioners on or before March 1, 1991, shall be held not fewer than thirty (30) days from the date said election is called~~ that a special election called by a school or vocational-technical school district to be held on the date of the annual school runoff election shall not be held fewer than forty-five (45) days from the date said special election is called. A special election to fill a vacancy for member of the board of education of a school district or to fill a vacancy for municipal office shall be scheduled not fewer than ~~forty-five (45)~~ sixty (60) days from the date said election is called.

SECTION 15. AMENDATORY 26 O.S. 1991, Section 13A-103, is amended to read as follows:

Section 13A-103. A. The election of members of the board of education of every school district and vocational-technical school district shall be conducted on the ~~first~~ second Tuesday in ~~May~~ February of each year.

If no candidate receives more than fifty percent (50%) of the votes cast in the election provided for in this subsection, an election between the two candidates with the highest number of votes shall be conducted on the ~~last~~ first Tuesday in ~~June~~ March of that year.

B. Elections on the question of making a levy or levies for schools under Section 9, Section 9B or Section 10 of Article X of the Oklahoma Constitution shall be held on the ~~first~~ second Tuesday in ~~May~~ February of each year.

C. The board of education of every school district or vocational-technical school district may call a special election for the purpose of voting on any matter or question authorized by law.

SECTION 16. AMENDATORY 26 O.S. 1991, Section 14-115.4, is amended to read as follows:

Section 14-115.4 A. A registered voter may apply for an in-person absentee ballot ~~during regular office hours~~ at the office of the county election board or at such other location designated by the county election board secretary from 9:00 a.m to 5:00 p.m. on Thursday, Friday and Monday immediately preceding any statewide election and on Monday only for all other elections. As part of the application for an in-person absentee ballot such registered voter shall swear or affirm that he or she has not ~~applied for~~ voted a regular mail absentee ballot and that he or she will not vote at the regular polling place in the election for which the in-person absentee ballot is requested.

B. One or more absentee voting boards shall be on duty ~~during regular office hours in the office of the county election board~~ from 9:00 a.m. to 5:00 p.m. at the location designated by the county election board secretary on Thursday, Friday and Monday immediately preceding any statewide election and on Monday only for all other elections. If the secretary of a county election board receives an application from a registered voter requesting to vote by in-person absentee ballot the secretary shall cause to be implemented the following procedures:

1. An absentee voting board shall provide to each registered voter who applies for an in-person absentee ballot appropriate ballots and materials as may be necessary to vote;

2. The voter must sign an in-person absentee voter record, and his signature on such record must be certified by both members of the absentee voting board;

~~2.~~ 3. The voter must mark his ballots in the manner provided by law in the presence of the absentee voting board, but in such a manner as to make it impossible for any person other than the voter to ascertain how said ballots are marked. Insofar as is possible, the voting procedure shall be the same as if the voter were casting his vote in person at a precinct;

~~3.~~ 4. The voter shall than seal said ballots in ~~the plain an~~ an opaque envelope and shall seal said plain opaque envelope in the envelope bearing an affidavit. ~~The voter must complete said affidavit, and his signature on same must be witnessed by both members of the absentee voting board;~~

~~4.~~ The envelope bearing an affidavit then must be sealed in another envelope, prescribed by the Secretary of the State Election Board which shall be deposited in the locked ballot box provided for regular mail absentee ballots; and

5. Ballots cast in said manner shall be counted in the same manner as regular mail absentee ballots.

SECTION 17. AMENDATORY 26 O.S. 1991, Section 14-115.5, is amended to read as follows:

Section 14-115.5 To carry out the provisions of Section 14-115 of ~~Title 26 of the Oklahoma Statutes~~ this title and Section ~~3~~ 14-115.4 of this ~~act~~ title, the secretary of the county election board shall designate one or more absentee voting boards, to be composed of two (2) members each, with each member to be of a different political affiliation. No later than August 1, ~~1974, and each two~~ (2) years thereafter in each even-numbered year, the chairmen of the county central committees of the two political parties having the highest number of registered voters in the county shall each submit a list of ten names to the secretary. Said lists shall contain

names of registered voters of the county, who may be members of the county election board, except the secretary, or precinct election boards or counters. The secretary shall be confined to said list in designating membership on the absentee voting board or boards, unless all persons on said lists are ineligible or unwilling to serve. In the event the chairman of the county central committee of a political party fails to submit a list as herein provided, the secretary shall appoint membership to said board or boards from the ranks of registered voters of said party within the county. Provided further, that in the event the list of names of either or both parties is exhausted and additional absentee voting boards are needed, the secretary shall appoint additional members to said boards from the ranks of said party or parties in the county. Members of an absentee voting board shall be reimbursed for their expenses at the rate of Thirty Dollars (\$30.00) per day. One member of each such board serving a nursing home or convalescent hospital shall be allowed mileage reimbursement at the rate prescribed for travel by state employees according to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 18. AMENDATORY 26 O.S. 1991, Section 14-117, is amended to read as follows:

Section 14-117. Said electors may apply for absentee ballots by using Standard Form 76, Post Card Application for Absentee Ballot, as provided for in the ~~Federal Voting Assistance Act of 1955~~ Federal Uniformed and Overseas Citizens Voting Act of 1986, as amended, or by letter setting forth substantially the same facts. Said application shall be transmitted by United States mail to the secretary of the county election board of the elector's residence.

SECTION 19. REPEALER 26 O.S. 1991, Sections 2-111.2 and 13-112, are hereby repealed.

SECTION 20. Section 15 of this act shall become effective July 1, 1992.

SECTION 21. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-8611

SD