

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

COMMITTEE SUBSTITUTE

FOR

ENGROSSED HOUSE BILL NO. 1722

BY: PAULK, BEGLEY, TAYLOR and
DUNLAP of the HOUSE

and

HOBSON of the SENATE

COMMITTEE SUBSTITUTE AN ACT RELATING TO ELECTIONS; AMENDING 26 O.S.
1981, SECTIONS 3-101, 8-105, AS AMENDED BY SECTION 1, CHAPTER 72,
O.S.L. 1988, AND 14-115.1 (26 O.S. SUPP. 1990, SECTION 8-105), WHICH
RELATE TO ADMINISTRATION OF ELECTIONS, CERTIFICATION OF NOMINEES AND
ELECTION CONTESTS, AND ABSENTEE VOTING; DESIGNATING WHEN CERTAIN
ELECTIONS SHALL BE HELD; PROVIDING PROCEDURES FOR CERTAIN TIE VOTES
IN PRIMARY ELECTIONS; PROHIBITING NAMES OF DECEASED JUDICIAL
CANDIDATES FROM BEING PRINTED ON PRIMARY AND GENERAL ELECTION
BALLOTS WITHIN CERTAIN TIME PERIOD; PROVIDING PROCEDURE FOR VOTES
NOT TO BE COUNTED AND FOR PLACEMENT OF CANDIDATES' NAMES ON OTHER
ELECTION BALLOTS; AUTHORIZING GOVERNOR TO CALL SPECIAL ELECTION AND
PROVIDING PROCEDURES; PROVIDING THAT EXPECTED CHILDBIRTH MAY ENTITLE
CERTAIN VOTERS TO VOTE ABSENTEE BY CERTAIN PROCEDURE; REPEALING
SECTION 8, CHAPTER 193, O.S.L. 1985, AS AMENDED BY SECTION 1,
CHAPTER 296, O.S.L. 1988 (26 O.S. SUPP. 1990, SECTION 1-111), WHICH
RELATES TO CERTAIN SCHOOL ELECTIONS; PROVIDING FOR CODIFICATION; AND
PROVIDING EFFECTIVE DATES.

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

SECTION 1. AMENDATORY 26 O.S. 1981, 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 April and May and the third 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 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 2. AMENDATORY 26 O.S. 1981, Section 8-105, as amended by Section 1, Chapter 72, O.S.L. 1988 (26 O.S. Supp. 1990, Section 8-105), is amended to read as follows:

Section 8-105. A. When a tie vote occurs in the nomination or election of any candidate in any Runoff Primary ~~or~~, General Election or any Primary Election ~~for which no Runoff Primary will be held~~, the election board which is authorized by law to issue the certified list or certificate of election shall, at a public meeting of the board and in the presence of the candidates involved or their designee, if they or any of them desire to be present, select the nominee or electee by lot.

B. When a nominee or electee is to be selected by lot pursuant to the provisions of this section, the following procedures shall be observed:

1. The secretary of the appropriate election board shall, on or before the seventh day following the election, notify each of the

tying candidates for which the vote was tied. ~~Such~~ The notice shall include the time, date and location of the selection, shall be made in writing by registered or certified mail and shall be postmarked not fewer than five (5) days prior to the meeting;

2. A candidate may designate one person as a witness to attend ~~such~~ the meeting on the candidate's behalf. The designation shall be made in writing, signed by the candidate and presented to the secretary of the appropriate election board;

3. The secretary of the appropriate election board shall, in full view of those present at the meeting, clearly write or print the name of each tied candidate on separate pieces of paper measuring approximately equal size. The names of the candidates shall be written or printed on the same color and type of paper. The papers shall be folded in half one time so that the written names are not visible and shall be placed into a container selected by the secretary of the appropriate election board;

4. The secretary shall draw, or may designate a person other than the candidates, witnesses or other person directly interested in the election to draw, one paper, and the name of the nominee or electee appearing on the first drawn paper shall be declared the winner. The secretary shall then expose the other name or names not drawn to all witnesses present; and

5. The meeting shall be held on a weekday, holidays excepted, between the hours of 7:00 a.m. and 7:00 p.m.

C. ~~When a tie vote occurs for the nomination of a candidate at a Primary Election for which a Runoff Primary will be held, both names shall be placed on the Runoff Primary ballot.~~ When there are three (3) or more candidates and a tie for first place occurs for the nomination of a candidate at a Primary Election for which a Runoff Primary will be held, the names of the tied candidates shall be placed on the Runoff Primary ballot.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-116 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. If a judicial candidate whose name should be on the Primary Election ballot dies before ballot printing has begun for the election, the name of the deceased candidate shall not be printed on the ballot. If ballot printing has begun, votes for the deceased candidate shall not be counted. If the death of a candidate leaves only two (2) surviving candidates, their names shall not appear on the Primary Election ballot, votes shall not be counted in the race and the two (2) names shall appear on the ballot for the General Election.

B. If a judicial candidate whose name should be on the General Election ballot dies before ballot printing has begun, the name of neither candidate shall be printed on the ballot and the Governor shall call a special election to fill the office. In the call for the election, the Governor shall prescribe a filing period, to be held as nearly as practicable as the regular filing period, followed in no less than forty-five (45) days by a Special Primary Election which shall be followed in no less than forty-five (45) days by a Special General Election. The primary and general elections shall be held in the same manner as regular primary and general elections. If the death of a candidate occurs after ballot printing for the regular General Election has begun, votes shall not be counted in the race and the Governor shall call a special election as specified in this subsection.

SECTION 4. AMENDATORY 26 O.S. 1981, Section 14-115.1, is amended to read as follows:

Section 14-115.1 A registered voter who, ~~because of a physical incapacity which originates~~ becomes incapacitated after 5:00 p.m. on Tuesday preceding an election, is unable to vote in person at ~~his~~ the appropriate precinct on the day of the election may make a

written request for an absentee ballot. The request shall be signed by ~~him~~ the voter, or signed by a witness at the voter's direction if the voter is unable to sign his or her name, and shall be transmitted ~~transmit said request~~ to the secretary of the county election board. The person transmitting said request on behalf of the voter may be anyone of the voter's choosing at least sixteen (16) years of age; provided, said person is not employed by nor related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. ~~Said~~ The person becomes the voter's agent for purposes of voting by absentee ballot. The voter's request must be accompanied by a sworn statement by a duly licensed physician. Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote absentee pursuant to this section. ~~Said~~ The statement must attest to the fact that the voter is in fact unable to vote in person at ~~his~~ the appropriate precinct on the day of the election because of a physical incapacity and that said physical incapacity originated after 5:00 p.m. on Tuesday preceding an election. Upon receipt of the voter's request and accompanying sworn statement, the secretary of the county election board shall issue to the voter's agent the appropriate ballots and envelopes required for voting by incapacitated voters. ~~Said~~ The ballots must be returned by the agent to the secretary of the county election board no later than 7:00 p.m. on the day of the election. No person may be the agent for more than one voter at any election. Upon return of the absentee ballots, the secretary of the county election board shall cause said ballots to be processed in the same manner as is prescribed for other absentee ballots.

SECTION 5. REPEALER Section 8, Chapter 193, O.S.L. 1985, as amended by Section 1, Chapter 296, O.S.L. 1988 (26 O.S. Supp. 1990, Section 1-111), is hereby repealed.

SECTION 6. Sections 1 and 5 of this act shall become effective April 1, 1992.

SECTION 7. Sections 2, 3 and 4 of this act shall become effective September 1, 1991.

43-1-980

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