

ENGROSSED HOUSE
BILL NO. 1722

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

and

HOBSON of the SENATE

AN ACT RELATING TO ELECTIONS; AMENDING 26 O.S. 1981,
SECTION 3-101, WHICH RELATES TO DAYS ON WHICH
ELECTIONS ARE HELD; DESIGNATING WHEN CERTAIN
ELECTIONS SHALL BE HELD; AMENDING 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),
WHICH RELATES TO TIE VOTES; MAKING PROCEDURES USED
IN GENERAL AND RUNOFF ELECTIONS APPLICABLE TO ALL
PRIMARY ELECTIONS; ESTABLISHING PROCEDURES FOR
ELECTIONS IN EVENT OF DEATH OF CANDIDATE; REQUIRING
GOVERNOR TO CALL A SPECIAL ELECTION IN CERTAIN
CIRCUMSTANCES; REQUIRING SPECIAL ELECTIONS TO BE
CONDUCTED ACCORDING TO EXISTING LAWS; PROVIDING FOR
A GENERAL ELECTION WITHOUT A PRIMARY IN CERTAIN
SITUATIONS; REQUIRING GOVERNOR TO SELECT NAME
SUBMITTED BY JUDICIAL NOMINATING COMMISSION IN
CERTAIN SITUATIONS; PROVIDING THAT NAMES OF
DECEASED CANDIDATES NOT BE PRINTED ON BALLOTS;
SPECIFYING EFFECT OF VOTES CAST FOR DECEASED
CANDIDATES; AMENDING 26 O.S. 1981, SECTION 14-115,
WHICH RELATES TO ABSENTEE VOTING BY VOTERS CONFINED
TO NURSING HOME OR CONVALESCENT HOSPITAL;
INCREASING REIMBURSEMENT FOR MEMBERS OF ABSENTEE

VOTING BOARD; AMENDING 26 O.S. 1981, SECTION 14-115.1, WHICH RELATES TO ABSENTEE BALLOTS FOR PHYSICALLY INCAPACITATED PERSONS; 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. 1990 (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, 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 candidates for which the vote was tied. Such notice shall include the time, date and location, 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 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.~~

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. In the event of the death of a candidate for the office of district judge or associate district judge, the following procedures shall apply:

1. If two persons file Declarations of Candidacy for the same judicial office, and a candidate dies after the filing period has ended and before the General Election, the Governor shall, within five (5) days after receiving written notice of the death of the candidate as evidenced by a death certificate, issue a proclamation calling a special election and providing for a filing period for Declarations of Candidacy for that office, the date of any Special Primary Election if more than two persons shall file for the office, and the date of a Special General Election. Any special election called by the Governor pursuant to this section, shall be conducted according to the laws governing special elections, Section 12-101 et seq. of this title and according to the laws governing election of judicial officers, Section 11-101 et seq. of this title.

2. a. If more than two persons have filed Declarations of Candidacy for the same judicial office pursuant to

Section 5-110 of this title, and a candidate dies prior to the date of the Primary Election, no change shall be made in the date of the Primary Election and the Primary Election for the office shall be held as planned, provided more than two Declarations of Candidacy remain filed and survive any contest of candidacy. If the death of a candidate prior to a Primary Election results in two live candidates remaining on the ballot, no Primary Election shall be held and the names of the candidates shall appear on the ballot only at the time of the General Election if the Secretary of the State Election Board has been notified of the death of the candidate prior to the Primary and prior to the distribution of absentee ballots for the Primary.

- b. If more than two persons have filed Declarations of Candidacy for the same judicial office pursuant to Section 5-110 of this title, and a candidate whose name should appear on the ballot for the General Election, dies after the date of the Primary Election and before forty-five (45) days prior to the General Election, then the Governor, upon receiving written notice of the death of the candidate as evidenced by a death certificate, shall select a candidate before thirty-five (35) days prior to the General Election whose name shall be placed on the ballot for the General Election. The Governor shall select one candidate from a list of three nominees who have been submitted to the Governor and the Chief Justice of the Supreme Court by the Judicial Nominating Commission. Each nominee shall have previously notified the Judicial Nominating Commission in writing that the

nominee will run as a candidate for the judicial office if selected. If the Governor fails to select a nominee before thirty-five (35) days prior to the General Election, the Chief Justice shall select one of the nominees no later than thirty-four (34) days prior to the General Election, and shall notify the Secretary of the State Election Board of the selection upon selection.

- c. If more than two persons have filed Declarations of Candidacy for the same judicial office pursuant to Section 5-110 of this title, and a candidate whose name should appear on the ballot for the General Election, dies after the Primary Election and within forty-five (45) days prior to the General Election, then the Governor shall call for a special election pursuant to paragraph 1 of this subsection.

B. The names of deceased candidates for judicial office shall not be printed on ballots if ballot printing has not started. In the event that the name of a deceased candidate remains on a ballot and the deceased candidate receives a majority of votes in an election, the votes cast for the deceased candidate shall not be considered nullities which result in the election of a candidate to office who receives less than a majority of votes. In such case where the deceased candidate receives a majority of votes, the office shall be declared vacant and shall be filled in the manner prescribed by law. Votes cast for a deceased candidate who does not receive a majority of votes shall not be counted for the purpose of calculating which candidates have received the highest number of votes in the Primary Election pursuant to Section 11-112 of this title. In no event shall the name of a deceased candidate whose name was on the Primary Election ballot, be placed on the General Election ballot.

SECTION 4. AMENDATORY 26 O.S. 1981, Section 14-115, is amended to read as follows:

Section 14-115. If the secretary of a county election board receives a request from an incapacitated elector confined to a nursing home or convalescent hospital within the county of his jurisdiction, the secretary shall cause to be implemented the following procedures:

1. The secretary shall designate one or more absentee voting boards, to be composed of two members each, with each member to be of a different political affiliation. No later than August 1, 1974, and each two (2) years thereafter, 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.

2. On the Friday, Saturday or Monday preceding the election, said absentee voting board shall deliver to each registered voter who is confined to a nursing home or convalescent hospital and who requested ballots for an incapacitated voter said ballots and materials as may be necessary to vote same.

3. The voter must mark his ballots in the manner hereinbefore provided 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.

4. The voter shall then seal said ballots in the plain 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.

5. The envelope bearing an affidavit then must be sealed in the return envelope, which shall be returned by the absentee voting board to the secretary of the county election board on the same day said affidavit was executed.

6. Members of an absentee voting board shall be reimbursed for their expenses at the rate of ~~Twenty Dollars (\$20.00)~~ Thirty Dollars (\$30.00) per day. One member of each such board shall also be allowed mileage reimbursement at the rate prescribed for travel by state employees.

SECTION 5. 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 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 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 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 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 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 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 6. REPEALER Section 8, Chapter 193, O.S.L. 1985, as amended by Section 1, Chapter 296, O.S.L. 1990 (26 O.S. Supp. 1990, Section 1-111), is hereby repealed.

SECTION 7. Sections 1 and 8 of this act shall become effective March 1, 1992.

SECTION 8. Sections 2, 3, 4, 5, 6 and 7 of this act shall become effective September 1, 1991.

Passed the House of Representatives the 6th day of March, 1991.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate