

ENROLLED SENATE
BILL NO. 653

BY: BROWN of the SENATE

and

PAULK of the HOUSE

AN ACT RELATING TO ELECTIONS AND SCHOOLS;
AMENDING 26 O.S. 1991, SECTIONS 2-107, 3-101, 4-
109, 4-120, 4-120.5, 4-120.7, 6-104, 6-107, 6-
109, 6-112, 6-115, 7-105, 8-115, 11-112, 12-116,
13A-103, 13A-105, 13A-109, 14-115.4, 14-115.5,
14-117, AND 70 O.S. 1991, SECTION 5-134, WHICH
RELATE TO ELECTION PROCEDURES; PROVIDING FOR PER
DIEM AND EXPENSES FOR STATE ELECTION BOARD
MEMBERS; STATING AUTHORITY OF THE STATE ELECTION
BOARD SECRETARY; MODIFYING DATES FOR SPECIAL
ELECTIONS; AUTHORIZING CERTAIN REIMBURSEMENTS
FOR ELECTION SUPPLIES; MODIFYING CANCELLATION OF
REGISTRATION OF REGISTERED VOTERS; STATING
LOCATION FOR VOTER REGISTRATION; PROVIDING FOR
VOTER REGISTRATION TO BE CANCELLED UNDER CERTAIN
CIRCUMSTANCES; REQUIRING COURT CLERK TO PREPARE
CERTAIN LISTS; REQUIRING SECRETARY TO CANCEL
REGISTRATION OF CERTAIN INCAPACITATED VOTERS;
STATING PROCEDURE FOR CANCELLATION OF CERTAIN
VOTER'S REGISTRATION; DELETING REQUIREMENT FOR
STATE ELECTION BOARD TO PROVIDE CERTAIN BALLOTS;
STATING PROCEDURE DETERMINING ORDER OF NAMES ON
CERTAIN BALLOTS; REQUIRING CERTAIN
IDENTIFICATION OF BALLOTS; REQUIRING SECRETARY
OF STATE AND COUNTY ELECTION BOARDS TO DETERMINE
NUMBER OF BALLOTS TO BE PRINTED FOR CERTAIN
ELECTIONS; MODIFYING CERTAIN TIME FOR DELIVERIES
OF ELECTION SUPPLIES; STATING PROCEDURES TO BE
USED IN TIED ELECTIONS; STATING PROCEDURES FOR
JUDICIAL ELECTIONS; MODIFYING TIME PERIOD OF
CERTAIN SPECIAL ELECTIONS; MODIFYING DATE OF
CERTAIN SCHOOL ELECTIONS; MODIFYING FILING
PERIOD FOR CERTAIN SCHOOL ELECTION; MODIFYING
PROCEDURES FOR IN-PERSON ABSENTEE BALLOTS;
REQUIRING CERTAIN LISTS OF ABSENTEE VOTING BOARD
MEMBERS TO BE SUBMITTED BY CERTAIN DATE;
PROVIDING MILEAGE REIMBURSEMENT FOR CERTAIN
VOTING BOARD MEMBERS; MODIFYING NAME OF CERTAIN
FEDERAL VOTING ACT; MODIFYING DATE OF CERTAIN
SCHOOL ELECTION; REPEALING 26 O.S. 1991, SECTION
13-112, WHICH RELATES TO PROHIBITION OF
MUNICIPALITIES SCHEDULING ELECTIONS ON CERTAIN
DATES; 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 the rate provided by the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 26 O.S. 1991, Section 2-107, is amended to read as follows:

Section 2-107. The Secretary of the State Election Board shall be the administrative officer of the State Election Board and shall have general supervisory authority over the several county election boards and shall have the authority to provide administrative supervision to any county election board. The Secretary shall have the authority to employ and fix the salaries and duties of such personnel as may be necessary to perform the duties of the State Election Board. The Secretary may promulgate, repeal or modify such rules or regulations as he deems necessary to facilitate and assist in achieving and maintaining uniformity in the application, operation and interpretation of the state and federal election laws and a maximum degree of correctness, impartiality and efficiency in administration of the election laws; provided, however, that such rules or regulations, to be binding and effective, must have been officially adopted by the State Election Board; the procedure and adoption of such rules and regulations shall be subject to the provisions of the Administrative Procedures Act, Section 250.1 et seq. of Title 75 of the Oklahoma Statutes. The Secretary shall promote and encourage voter registration and voter participation in elections.

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,~~ May, June, July, August, September, October, November and December, ~~and the first Tuesday in March and April and May and the third Tuesday in June~~ in odd-numbered years and the second Tuesday of January, February, March, ~~April,~~ May, June, October and December, the first Tuesday in ~~May~~ April, ~~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 4. 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 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 the local elections. Such reimbursement shall be deposited in the State Election Board Revolving Fund.

SECTION 5. 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 where large numbers of potential voters may be located.

SECTION 6. AMENDATORY 26 O.S. 1991, Section 4-120, is amended to read as follows:

Section 4-120. The registration of any registered voter may be cancelled only for one of the following reasons: Written notice from the voter; failure to vote; death; conviction of a felony; judicial determination of mental ~~incompetence~~ incapacitation; or registration in another county or state.

SECTION 7. 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 8. AMENDATORY 26 O.S. 1991, Section 4-120.7, is amended to read as follows:

Section 4-120.7 The registration form of registered voters whose registration has been canceled, upon written notice of the voter, death, conviction of a felony, judicial determination of mental ~~incompetence~~ incapacitation or registration in another county or state in the manner hereinbefore provided, shall be removed from the central registry and maintained separately for a period of twenty-two (22) months by the secretary of each county election board. Reason for cancellation and date of said cancellation shall be noted on said registration form. After twenty-two (22) months, the registration form shall be destroyed.

SECTION 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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~~ April 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 19. AMENDATORY 26 O.S. 1991, Section 13A-105, is amended to read as follows:

Section 13A-105. Candidates for member of the board of education of every school district or vocational-technical school district shall file declarations of candidacy in the same place and with the same officials as candidates for county office. Candidates shall file on the ~~second~~ first Monday in ~~March~~ December through the following Wednesday. For school districts and vocational-technical school districts located in more than one county, filing shall be in the county wherein supervision of the district is located.

SECTION 20. AMENDATORY 26 O.S. 1991, Section 13A-109, is amended to read as follows:

Section 13A-109. A. The board of education of every school district and vocational-technical school district shall notify, by resolution, the secretary of the county election board responsible for certifying its election of any regular or special election.

B. The resolution calling for an election or elections shall include, but shall not be limited to, the following information:

1. Date or dates of the election or elections;
2. Identification of the office or offices to be filled, qualifications of candidates for office and the length of term of each;
3. Information describing election districts within the school district, if applicable;
4. Ballot titles of the question or questions to be voted upon;
5. Information describing the persons eligible to vote in the election; and
6. All other information necessary for conducting the election or elections.

C. Resolutions calling for regular elections shall be delivered to the secretary of the county election board no fewer than fifteen (15) days preceding the first day of the filing period. The resolution shall contain all questions to be voted upon at the election to be held on the ~~first~~ second Tuesday in ~~May~~ February.

D. Resolutions calling for special elections shall be delivered to the secretary of the county election board no fewer than ~~forty-five (45)~~ sixty (60) days preceding the election.

SECTION 21. 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 from 9 a.m. to 5 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~~ from 9 a.m. to 5 p.m. at the office of the county election board 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 then seal said ballots in ~~the plain 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 22. 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 23. AMENDATORY 26 O.S. 1991, Section 14-117, is amended to read as follows:

Section 14-117. Saidelectors 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 24. AMENDATORY 70 O.S. 1991, Section 5-134, is amended to read as follows:

Section 5-134. No later than December 31 of each year the board of education of each school district of the state shall prepare, on a form prescribed by the State Board of Education, a preliminary estimate of the amount or amounts of money and tax rate or rates which it then believes will be required for the district for the ensuing fiscal year; and if such preliminary estimate shows an estimated need for a levy requiring the approval of the school district electors of the district under Section 9 or Section 10, Article X, of the Oklahoma Constitution, as amended on April 5, 1955, such preliminary estimate shall contain a call for an election to be held on the ~~first~~ second Tuesday in ~~May~~ February, or on such other date as may be provided for the election of the members of the board of education to vote on the question of making such levy or

levies. In determining the eligibility of the school district to make an emergency levy under the provisions of Section 9(d) of Article X, of the Oklahoma Constitution, as amended, the legal current expenses of the district shall be all the expenditures from the general fund of the district during the preceding year, except (1) expenditures for transportation of pupils; (2) capital outlay; (3) debt service; and (4) the amount appropriated from any previous emergency levy; and the Two Hundred Fifty Dollars (\$250.00) per capita cost fixed by said Section 9(d) of Article X, Oklahoma Constitution, for the fiscal year ending June 30, 1956, is hereby increased to One Thousand Dollars (\$1,000.00) for the fiscal year ending June 30, 1963, and said sum of One Thousand Dollars (\$1,000.00) shall thereafter be increased or decreased by the State Board of Education in proportion to the increase or decrease in the per capita income of Oklahoma citizens. Such preliminary estimate shall be published in one issue of a newspaper having general circulation in the district at least ten (10) days before such election. Provided, that the county excise board or the board of education of any school district may call a special election for any date for the purpose of voting upon a levy authorized by Section 9 or Section 10, Article X of the Oklahoma Constitution, as amended. Notice of any election called under the provisions of this section shall be given by publication in one issue of a newspaper having general circulation in the school district at least ten (10) days before such election.

SECTION 25. REPEALER 26 O.S. 1991, Section 13-112, is hereby repealed.

SECTION 26. Section 18 of this act shall become effective July 1, 1992.

SECTION 27. 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.

Passed the Senate the 12th day of May, 1992.

President of the Senate

Passed the House of Representatives the 14th day of May, 1992.

Speaker of the House of Representatives