

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1031

BY: BEGLEY

AS INTRODUCED

AN ACT RELATING TO 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; PROVIDING FOR CODIFICATION; 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 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 (2) 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 (2) 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 (2) 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 (2) 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 (2) 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 (2) 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 (1) candidate from a list of three (3) 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 (1) 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 (2) 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 2. 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.

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