

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)
2ND CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL NO. 150

By: Robinson of the Senate

and

Settle, Monks and
Ferguson of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to elections by cities and towns, counties and county officers and schools; amending 11 O.S. 1991, Section 18-102, which relates to municipal charters and election procedures; modifying dates of certain election; amending 11 O.S. 1991, Section 20-101, which relates to changing municipal wards; prohibiting municipal governing bodies from subdividing county voting precincts when practicable; amending 19 O.S. 1991, Section 901.5, as amended by Section 4, Chapter 397, O.S.L. 1992 (19 O.S. Supp. 1992, Section 901.5), which relates to board of directors of fire protection districts; clarifying filing period for certain offices; amending 26 O.S. 1991, Section 2-111, which relates to appointment of county election board members; authorizing alternates; providing for nomination of alternates by political parties; specifying duties of alternates; amending 26 O.S. 1991, Section 2-132, which relates to county election board members; modifying disqualification requirements; amending 26 O.S. 1991, Sections 6-111, 7-120 and 7-122, which relate to ballots and conduct of elections; adding information to ballot stubs; deleting certain ballot stub requirements; modifying requirement to return certain spoiled ballots; amending 26 O.S. 1991, Section 12-111, which relates to vacancies in elective county offices in certain counties; modifying manner for filling vacancies; amending 26 O.S. 1991, Section 13-102, which relates to notice of elections; modifying time period for giving certain notice; amending 26 O.S. 1991, Section 14-115.4, as amended by Section 21, Chapter 247, O.S.L. 1992 (26 O.S. Supp. 1992, Section 14-115.4), which relates to in-person absentee voting; directing county election board secretary to designate places to apply for in-person absentee ballots; specifying procedures for conducting in-person absentee voting; providing procedures for counting ballots; amending 26 O.S. 1991, Sections 14-123 and 14-125, which relate to absentee voting; modifying procedure for absentee voting and processing and county absentee votes; amending 51 O.S. 1991, Section 10, which relates to appointment for filling vacancies in county offices; specifying manner of filling vacancies in certain counties; amending 70 O.S. 1991, Section 7-101, as amended by Section 11, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1992, Section 7-101),

which relates to school elections; modifying date of annexation elections; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 18-102, is amended to read as follows:

Section 18-102. The question of changing the statutory form of city government shall be submitted to the registered voters of the city at a general or special election to be held in the city not less than ~~thirty (30)~~ sixty (60) days nor more than ~~sixty (60)~~ ninety (90) days after the date of the order calling for the election. Notice of the election on the question shall be given by the governing body in the manner required for municipal elections.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 20-101, is amended to read as follows:

Section 20-101. A. As soon as practicable following each federal census, the municipal governing body shall review the wards and ward boundaries of the municipality. The governing body shall change the boundaries or number of wards, if necessary, in the manner provided by this article, so that the wards are formed of compact and contiguous territory and are substantially equal in population.

B. The municipal governing body, to the extent practicable, shall not subdivide precincts established by a county election board in establishing ward or council boundaries.

SECTION 3. AMENDATORY 26 O.S. 1991, Section 2-111, is amended to read as follows:

Section 2-111. The State Election Board shall appoint two members of each county election board, and two alternates, to serve terms of four (4) years each. No later than April 15, 1975, and every four (4) years thereafter, the county central committees of the two political parties with the largest number of registered voters in the state, based upon the latest January 15 registration report, shall each submit to the State Election Board a nominee

for membership on the county election board and a nominee to serve as the alternate. Said ~~nomination~~ nominations must be submitted in writing and signed by at least two members of each county central committee. The State Election Board shall be confined to said nominees in making appointments, one from each party, to the county election board and one from each party to serve as the alternate. Said appointments shall be made no later than May 1, 1975, and every four (4) years thereafter. Alternates shall serve on the county election board at any meeting that the member for whom the person is an alternate is unable to attend. In the event of a vacancy, the State Election Board shall, within sixty (60) days after such vacancy occurs, appoint a member of the same party to fill the unexpired term, based on a nomination submitted by said party's county central committee in the manner hereinbefore provided within thirty (30) days after said vacancy occurs. Should a county central committee fail to submit a nominee within the prescribed period of time, the State Election Board shall appoint a member of the county election board from the ranks of said party within the county. Vacancies shall occur when a member fails to attend five consecutive meetings of the board or when a member changes his party affiliation. It shall be the duty of the other two members of the board to notify the Secretary of the State Election Board should such vacancy occur. Said vacancy shall be filled in the manner hereinbefore provided.

SECTION 4. AMENDATORY 19 O.S. 1991, Section 901.5, as amended by Section 4, Chapter 397, O.S.L. 1992 (19 O.S. Supp. 1992, Section 901.5), is amended to read as follows:

Section 901.5 A. Directors of a fire protection district shall be the owners of real property in and residents of said district. At the time of making its order organizing the district, the board of county commissioners shall appoint three (3) directors who shall hold their office until the next General Election, at which time their successors shall be elected. At such election, the qualified person receiving the highest number of votes for member of board of directors of the district shall hold his respective office for the term of six (6) years. The

qualified person receiving the next highest number of votes shall be elected for four (4) years, and the qualified person having the next highest number of votes shall be elected for two (2) years. Each two (2) years thereafter, there shall be elected for a term of six (6) years one member of said board of directors.

B. A board of directors may increase its membership to five (5) members by resolution of the board. If a board of directors adopts such a resolution, the position of the original board which will be up for election at the next General Election shall be for a five-year term. An additional two members shall be elected at a special election called for that purpose by the board of directors. The two qualified persons who receive the highest number of votes for the additional two positions shall be elected to serve until the next General Election. All board members elected thereafter to a five-member board shall serve a term of five (5) years with elections held yearly.

C. The board of directors of the district shall submit, within fifteen (15) days before the filing period of any district election, a resolution to the secretary of the county election board conducting said election. The resolution shall contain the following:

1. The date of the election;
2. The offices to be filled or the questions to be voted upon at the election;
3. Qualifications for the offices;
4. The location of the polling place or places; and
5. Any other information necessary for conducting said election.

D. The regular election in the district shall be held at the same time as the General Election in this state or on the first Tuesday in November in those years that a General Election is not held. In those years that a General Election is not held the entire cost of the election shall be paid by the district. When the election is held at the same time as the General Election, the district shall pay only for the cost of the ballots required for the district election. All polling places of precincts, all or

any part of which include areas within the boundaries of the district, shall be supplied ballots for the purpose of permitting electors of the district to vote for members of the board of directors of the district. Filing for the office of member of the board of directors shall be with the county election board on a nonpartisan basis during the regular filing period for state and county offices in those years that a General Election is held. In those years that a General Election is not held the filing time will be from 8 a.m. on the first Monday after Independence Day until 5 p.m. on the next succeeding Wednesday and shall be done without the payment of a filing fee.

E. Vacancies on the board shall be filled by the board of directors. In the event a vacancy occurs and the remaining members of the board are unable to make a decision on such vacancy within thirty (30) calendar days, the board of county commissioners shall immediately appoint a member to fill the vacancy. In the event the vacancies on the board are so numerous as to not provide a quorum, the board of county commissioners shall appoint as many members as are necessary to make a quorum. All vacancies filled pursuant to the provisions of this subsection shall be filled until the next regular election, at which time a member shall be elected to serve the remainder of the unexpired term.

SECTION 5. AMENDATORY 26 O.S. 1991, Section 2-132, is amended to read as follows:

Section 2-132. No person shall serve on a county election board ~~or~~, precinct election board, absentee voting board or as a counter for a precinct election board, at any election in which he is a candidate for office, is a deputy or regular employee of a candidate for office or is related within the third degree by either consanguinity or affinity to a candidate for office. In the event a member of a precinct election board is disqualified for one of the aforementioned reasons, it shall be the duty of the secretary of the county election board to appoint a suitable replacement for the official for said election. Any person so disqualified shall resign his office or position no later than ten

(10) days following the close of the filing period during which such candidacy was filed.

SECTION 6. AMENDATORY 26 O.S. 1991, Section 6-111, is amended to read as follows:

Section 6-111. All ballots for Primary, Runoff Primary and General Elections shall be printed with a stub so perforated that the ballot may be easily detached therefrom. Upon the stub shall be printed the number of the stub and the words, "Primary Election Ballot", "Runoff Primary Election Ballot" or "General Election Ballot", as the case may be; in the event of Primary and Runoff Primary Elections, the name of the political party shall be printed above said words. ~~At the upper right hand corner of the stub shall be printed the number of said stub and ballot. The stub shall bear the same number as the ballot. The portion of the ballot on which said number appears shall be so perforated that it may be easily detached and shall contain instructions to the voter for proper deposit of said ballot in the ballot box. All ballots shall be printed on paper of such thickness as to make it impossible to look at the back of the ballot and determine for whom it is voted.~~

SECTION 7. AMENDATORY 26 O.S. 1991, Section 7-120, is amended to read as follows:

Section 7-120. Before leaving the voting booth, the voter may insert his ballot card into a secrecy envelope in such a manner that his votes cannot be seen, ~~but so that the numbered stub is plainly visible. The voter shall remove the numbered stub in the presence of the inspector. The inspector shall examine said numbered stub to determine that the ballot card was the same ballot card said voter was issued.~~ The voter then shall insert his ballot card in the voting device. The voter thereupon shall immediately leave the polling place. ~~Provided however, the failure to remove the numbered stub shall not invalidate the voter's ballot card. The Secretary of the State Election Board shall prescribe procedures to provide for removal of such stubs by the appropriate officials so that the ballots shall be counted in the same manner as other ballots.~~

SECTION 8. AMENDATORY 26 O.S. 1991, Section 7-122, is amended to read as follows:

Section 7-122. Should a voter spoil any ballot in his effort to vote the same, he shall fold the ballot card and return it ~~and all other ballot cards which he was issued~~ to the clerk. The clerk shall destroy said ballot card or cards in the presence of the voter and shall issue said voter another ~~complete set of ballots~~ ballot card in the same manner that the first one was provided. The voter must execute an affidavit prescribed by the Secretary of the State Election Board in which the voter swears or affirms that he spoiled his original ballot card or cards, returned said ballot card or cards to the clerk, that the clerk destroyed the ballot card or cards in his presence and that he was issued a new ballot card or cards.

SECTION 9. AMENDATORY 26 O.S. 1991, Section 12-111, is amended to read as follows:

Section 12-111. Whenever a vacancy shall occur in the office of a county commissioner, or occur in any elective county office of any county in the State of Oklahoma having a population of more than five hundred and fifty thousand (550,000), according to the latest Federal Decennial Census, such vacancy shall be filled at a Special Election to be called by the Governor within thirty (30) days after such vacancy occurs. Provided, no special election shall be called if the vacancy occurs after March 1 of any even-numbered year if the term of said office expires the following year. In such case, the candidate elected to said office at the regular General Election shall be appointed by the Governor to fill the unexpired term.

SECTION 10. AMENDATORY 26 O.S. 1991, Section 13-102, is amended to read as follows:

Section 13-102. Not fewer than fifteen (15) days before the filing period for any municipal election, or in the event of a special election, not fewer than ~~forty-five (45)~~ sixty (60) days before such election, the governing board of any municipality shall submit a resolution to the secretary of the county election

board conducting said election. Said resolution shall contain the following facts:

1. The dates of the election or elections;
2. The offices to be filled or the questions to be voted upon at said election or elections;
3. Qualifications for said offices;
4. Designation of which offices shall be filled by voting by ward and which offices shall be filled by voting at large;
5. Indication of whether the election will be partisan or nonpartisan;
6. For charter cities where the charter is silent, indication of any portion of state law which will apply; and
7. Any other information necessary for conducting said election or elections.

SECTION 11. AMENDATORY 26 O.S. 1991, Section 14-115.4, as amended by Section 21, Chapter 247, O.S.L. 1992 (26 O.S. Supp. 1992, 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 at ~~the office of the county election board~~ a location designated by the secretary 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 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 from 9 a.m. to 5 p.m. at the ~~office of the county election board~~ in-person absentee polling place 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;

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;

4. The voter shall then ~~seal said ballots in an opaque 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~~ deposit the ballot in a voting device designated for in-person absentee voting by the secretary of the county election board; and

5. ~~Ballots cast in said manner shall be counted in the same manner as regular mail absentee ballots. When the in-person polling place is closed on each day of in-person absentee voting the in-person absentee voting board shall, without obtaining a printout of results, remove the vote data pack from the voting device and seal ballots counted that day in a transfer case which shall be secured by the sheriff of the county in the same manner as provided in Section 8-110 of this title. The vote data pack shall be sealed in a container prescribed by the Secretary of the State Election Board. The sheriff shall secure the sealed vote data pack container and return it to the in-person absentee voting board no later than 8:45 a.m. on the next day of the in-person absentee voting or to the secretary of the county election board at the time of the county election board meeting to count absentee ballots on the Tuesday election day;~~

6. The vote data pack or packs used for in-person absentee voting shall be used by the county election board to count

absentee ballots on election day as provided in Section 14-125 of this title; and

7. If there is a malfunction in such a way that the vote data pack used for in-person absentee voting will not function, the sheriff is authorized to return the transfer cases containing in-person absentee ballots to the county election board to be recounted as provided in Section 7-134.1 of this title.

SECTION 12. AMENDATORY 26 O.S. 1991, Section 14-123, is amended to read as follows:

Section 14-123. At 10:00 a.m. on Saturday preceding the election, or at such time thereafter as the county election board may desire, the county election board may meet and publicly remove the outer envelopes from all absentee ballots then received, examine ~~the~~ and remove properly executed affidavits and place the ~~properly executed envelopes bearing affidavits~~ plain opaque envelopes in a ballot box, locked with three locks. Said procedure shall be repeated until such time as all ballots have been received.

SECTION 13. AMENDATORY 26 O.S. 1991, Section 14-125, is amended to read as follows:

Section 14-125. A. On the day of the election at such time as the secretary of the county election board may prescribe, the county election board shall meet at the county courthouse or at the offices of the county election board if located elsewhere to count absentee ballots in the following manner:

~~1. The ballot box containing the properly executed envelopes bearing affidavits shall be opened and the envelopes bearing affidavits removed;~~

~~2. The plain opaque envelopes shall be placed in a ballot box locked with three locks; and~~

~~3. The ballot box shall be shaken to mix the plain opaque envelopes, after which the box shall be opened, the envelopes removed, and the ballots counted by a voting device assigned to count absentee ballots and operated by persons appointed by the secretary of the county election board.~~

B. The procedure described in this section shall be repeated as is necessary until all ballots have been counted. In no event shall fewer than twelve ballot cards be counted at any time, unless fewer than twelve ballot cards are received in total or after the first count is made. The results of said absentee ballots shall not be announced earlier than 7:00 p.m. on the day of the election.

SECTION 14. AMENDATORY 51 O.S. 1991, Section 10, is amended to read as follows:

Section 10. (a) All vacancies in state offices, except in offices of the members of the Legislature, members of the House of Representatives from Oklahoma in the Congress of the United States of America and members of the Senate of the United States of America, shall be filled by appointment by the Governor. When a vacancy occurs in the office of district judge, associate district judge, or judge of any intermediate appellate court, the Governor shall, in filling such vacancy, utilize the services of the Judicial Nominating Commission in the manner as provided for in the filling of judicial offices under Section 4, Article 7B of the Oklahoma Constitution.

(b) All vacancies in county offices except the board of county commissioners or except for any elective county office of any county in the State of Oklahoma having a population of more than five hundred and fifty thousand (550,000), according to the latest Federal Decennial Census shall be filled by appointment by the board of county commissioners. If such an appointment is made prior to the prescribed filing period for county officers in accordance with the provisions of Section 131 of Title 19 of the Oklahoma Statutes, the county commissioners shall, at the time said appointment is made, proclaim a special election to fill the balance of the unexpired term, providing the balance of the term does not expire in the year following the next succeeding general election. In making the proclamation, the county commissioners shall establish the dates for the filing period, primary election, runoff primary election and general election to be the same as the next succeeding filing period, primary election, runoff primary

election and general election for county officers. The appointee shall be eligible to become a candidate at said special election, providing said appointee is otherwise qualified. The office to be filled shall be printed on the same ballot as other county offices.

SECTION 15. AMENDATORY 70 O.S. 1991, Section 7-101, as amended by Section 11, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1992, Section 7-101), is amended to read as follows:

Section 7-101. A. The territory comprising all or part of a school district may be annexed to another school district or to two or more districts, when approved at an annexation election called by the county superintendent of schools, but except as provided in subsection B of this section, an annexation election may not be held unless the boards of education of the affected districts concur therein. Provided, that such concurrence of the boards of education affected shall not be required in cases of mandatory annexation by the State Board of Education:

1. In pursuance of a petition for annexation signed by a majority of the school district electors in the territory proposed to be annexed, hereinafter referred to as the area affected, said majority being applied to the highest number of voters voting in a regular school district election in the district in the preceding five (5) years as determined by the secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition as provided in this section; or

2. In pursuance of a resolution adopted by the board of education of the district in which the area affected is situated.

B. An annexation election shall be called by the county or state superintendent of schools without the concurrence of the board of education of the school district which is proposed to be annexed, upon the filing of a petition with the county or state superintendent of schools for annexation that is signed by a majority of the school district electors in the school district proposed to be annexed, said majority being applied to the highest number of voters voting in a regular school district election in the district in the preceding five (5) years as determined by the

secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition. The petition shall contain such information as the state superintendent of schools may require.

C. Annexation elections held pursuant to this section shall be conducted pursuant to the following procedures:

1. Such election shall be held ~~within~~ not less than sixty (60) days nor more than ninety (90) days after the county superintendent of schools receives such petition, at some public place in the school district in which the area affected is situated, between the hours of 7 a.m. and 7 p.m., and notice thereof shall be given by the county superintendent of schools in the same manner as notice of special elections of the school district electors of school districts is given, provided, that the county superintendent of schools shall not be required to call an election for the purpose of annexing a part of a school district more than once during any twelve-month period. Such elections shall be conducted by the county election board.

2. The annexation shall be approved by a majority of the school district electors voting at such election:

- a. Of an entire school district; or
- b. If a majority of the members of a board of education of a school district losing the territory concur with the petitioners, or resolution, only the legal voters of the area so affected shall be eligible to vote at such election.

Provided that, if the area proposed to be annexed constitutes less than two percent (2%) of the total area of the school district in which such area is located, and there are no qualified electors residing in such area, no election shall be held. In such instance the board of education of the school district wherein the area proposed to be annexed is located and the board of education of the school district to which such area is proposed to be annexed shall each adopt a resolution approving such annexation and shall transmit certified copies of both resolutions to the county superintendent of schools who shall, within five (5) days

after receiving copies of such resolutions, make an order declaring the annexation as approved in the resolutions. Copies of the annexation order shall be transmitted to the State Board of Education, Oklahoma Tax Commission, county clerk, county treasurer, county assessor and to the boards of education of the school districts involved.

3. The annexation shall be approved by a majority of the school district electors of the area affected, voting at such election, if the area affected is an area within a school district in which, as a result of condemnation proceedings by the federal government, a majority of the pupils of said area have attended school, for at least one school term, in the district to which the petition requests annexation.

4. If the annexation of an entire district is approved, as hereinbefore provided, the county superintendent of schools shall, within five (5) days after such election, issue an order declaring the annexation as requested in the petition or resolution for annexation to the State Board of Education, Oklahoma Tax Commission, county clerk, county treasurer and county assessor in each county in which any of the territory of the disorganized district lies, but the annexation shall not become effective until the time for filing an appeal, as hereinafter provided, has expired. In the event a majority of the electors voting at such election do not vote for the annexation, the county superintendent of schools shall, within five (5) days after such election, issue an order denying the annexation to the State Board of Education, Oklahoma Tax Commission, county clerk, county treasurer and county assessor in each county in which any of the territory of the disorganized district lies. Within ten (10) days after the order of the county superintendent of schools is issued, twenty-five percent (25%) of the school district electors who were eligible to vote at the annexation election may appeal to the district court of the county in which the territory proposed to be annexed, or the largest part thereof if such territory lies in more than one county, is situated, and thereafter all proceedings shall be stayed until the district court has rendered judgment. The

proceedings shall be given precedence over all other civil matters. In the event the court issues a final order upholding a partial annexation, the effective date of said partial annexation shall be July 1 following the final order. All pending annexation proceedings are hereby exempted from this act. The State Board of Education shall be required to change the boundary lines as described in the declaration after all litigation has expired.

5. Upon the effective date of the annexation of an entire school district to one or more school districts, the board of education of the school district whose territory was annexed shall be declared abolished by the county superintendent of schools. If a school district to which the territory was annexed currently has a five-member board of education, that school district board of education shall have the option of forming a seven-member board of education pursuant to the provisions of Section 5-107A of this title upon the effective date of the annexation.

6. If an independent district annexes to an elementary district not maintaining a high school, both boards of education are abolished. The Governor shall appoint three members of the newly formed district to the board of education and these members shall appoint the remaining two members.

7. If the territory proposed to be annexed is situated in more than one county, the petition or resolution shall be filed with the county superintendent of schools of the county in which the largest part of such territory lies, and he shall call the annexation election and perform the other duties required herein of the county superintendent of schools.

SECTION 16. This act shall become effective September 1, 1993.

44-1-1231 TDS