

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL NO. 556

By: Dickerson of the Senate

and

Steidley of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to elections; amending 26 O.S. 1991, Sections 2-131, 2-132, as last amended by Section 1, Chapter 55, O.S.L 1994, 3-105.1, 3-105.2, 4-117, as amended by Section 16, Chapter 260, O.S.L. 1994, 4-120.1, as amended by Section 20, Chapter 260, O.S.L. 1994, 4-120.4, as amended by Section 22, Chapter 260, O.S.L. 1994, 6-117, 6-120, 7-116, 7-130, 11-112, as amended by Section 16, Chapter 247, O.S.L. 1992, 11-113, 14-105, 14-110.1, 14-120.1 and 14-117, as amended by Section 23, Chapter 247, O.S.L. 1992 (26 O.S. Supp. 1994, Sections 2-132, 4-117, 4-120.1, 4-120.4, 11-112 and 14-117), which relate to organization, general administration, voter registration, ballots, conduct of elections, judicial officers and absentee voting; modifying requirements to serve on county or precinct election board; excluding counters from certain election procedures; modifying procedure for change of residence requirements; modifying procedure for cancellation of voter registration; requiring court clerk to forward certain document to the county election board secretary within certain time period; requiring county election board secretary to cancel certain voter registration; requiring Secretary of the State Election Board to prescribe sample ballot cards; authorizing state and county election boards to select certain bidder for printing; requiring certain procedure if voter is denied the right to vote; prohibiting the presence of watchers during certain time period; modifying procedure for election of judicial officers; modifying certain voting procedure; allowing registered voters to apply for absentee ballots by facsimile device; deleting obsolete language; clarifying statutory reference; repealing 26 O.S. 1991, Sections 3-121.1 and 7-107.1, which relate to voting devices and ballot boxes; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 1991, Section 2-131, is amended to read as follows:

Section 2-131. To be eligible for membership on a county or precinct election board, ~~or to serve as a counter for a precinct election board,~~ one must be a registered voter of the county or precinct, whichever is applicable, in which he will serve and demonstrate competence to perform his duties. Persons thus qualified and appointed shall be trained in their duties in a manner prescribed by the Secretary of the State Election Board.

SECTION 2. AMENDATORY 26 O.S. 1991, Section 2-132, as last amended by Section 1, Chapter 55, O.S.L. 1994 (26 O.S. Supp. 1994, Section 2-132), is amended to read as follows:

Section 2-132. No person shall serve on a county election board, precinct election board, or absentee voting board ~~or as a counter for a precinct election board,~~ at any election in which he or she is a candidate for office, or is a deputy or regular employee of a candidate for office. No person shall serve as ~~chairman~~ chair or ~~vice-chairman~~ vice-chair of a county election board, ~~or on a~~ precinct election board, or absentee voting board ~~or as a counter for a precinct election board,~~ at any election in which he or she 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~~ the office or position no later than ten (10) days following the close of the filing period during which such candidacy was filed.

The secretary of the county election board shall not participate in or carry out any duties or functions associated with the office during the actual conduct of a contest of candidacy or recount if the secretary is related within the third degree by either consanguinity or affinity to a candidate who is the petitioner or contestee in the contest of candidacy or who is a candidate in an election being recounted. The Secretary of the

State Election Board shall appoint a replacement to carry out the duties or functions of the office, including voting as a member of the county election board, during the actual conduct of the contest of candidacy or recount.

SECTION 3. AMENDATORY 26 O.S. 1991, Section 3-105.1, is amended to read as follows:

Section 3-105.1 A. When any county, municipality, school district or other governmental entity authorizes an election to be conducted by the county election board, the secretary of the county election board shall, not less than thirty-five (35) days prior to the election, submit to the governmental entity for whom the election is authorized:

1. An itemized estimate of the number of precinct inspectors, judges, and clerks ~~and counters~~ necessary for the election; and
2. An estimate of the compensation and employer's share of any benefits to be provided to each precinct inspector, judge, and clerk ~~and counter~~.

B. Not less than fifteen (15) days prior to the election, the county, municipality, school district or other governmental entity authorizing the election shall submit to the secretary of the county election board an amount of funds equal to the estimate of compensation and benefits for precinct inspectors, judges, and clerks ~~and counters~~ as provided in subsection A of this section. If such amount is not submitted ten (10) days prior to the election, the secretary of the county election board shall not be required to hold the election. Upon receipt of the funds, the secretary of the county election board shall deposit the funds in the County Election Board Special Depository Account.

C. The secretary of the county election board shall issue vouchers for the compensation and benefits of precinct inspectors, judges, and clerks ~~and counters~~ from the County Election Board Special Depository Account, pursuant to Section 681 et seq. of Title 19 of the Oklahoma Statutes. The secretary of the county election board shall provide the vouchers to the precinct inspector, except the voucher for the inspector, at the time the inspector receives supplies and ballots for the election. The

vouchers shall be distributed to the appropriate precinct judges, and clerks ~~and counters~~ upon closing of the polls on the day of the election, according to procedures to be prescribed by the Secretary of the State Election Board. Each precinct inspector, judge, or clerk ~~or counter~~ shall sign a form prescribed by the Secretary of the State Election Board acknowledging receipt of compensation and benefits. The inspector shall return the form, together with any unclaimed vouchers, to the county election board, together with the results of the election and other supplies and materials. At such time, the secretary of the county election board shall provide a voucher for payment to the inspector. The secretary of the county election board shall return any unclaimed vouchers to the county treasurer within seven (7) days after the election. If any additional vouchers for compensation and benefits are required, the secretary of the county election board shall issue such vouchers not less than seven (7) days after the election. In no event shall compensation be made until after services have been rendered.

D. As soon as practicable after conducting an election for a municipality, school district, or other governmental entity, except the state or county, the secretary of the county election board shall submit a claim to the governing body of the entity for whom the election was conducted. The claim shall itemize all expenses associated with the election, and shall deduct any amount paid by the municipality, school district or other governmental entity for the compensation and employer's share of any benefits provided to precinct inspectors, judges, and clerks ~~and counters~~ pursuant to the provisions of subsection B of this section. Upon receipt of such itemized claim, the governing body shall make payment to the county election board within thirty (30) days. Upon receipt of the payment, the secretary of the county election board shall deposit the payment in the County Election Board Special Depository Account. The secretary shall disburse payments for the expenses incurred in the election, pursuant to Section 681 et seq. of Title 19 of the Oklahoma Statutes.

E. The State Election Board shall provide the compensation and employer's share of benefits for precinct inspectors, judges, and clerks ~~and counters~~ in the payment made to the respective counties for elections for which said precinct inspectors, judges, and clerks ~~and counters~~ are paid by the State Election Board, in the same manner as provided in subsections A and B of this section. For the foregoing elections, the county shall place in the County Election Board Special Depository Account an amount of funds equal to Two Dollars (\$2.00) for each inspector, judge, and clerk ~~and counter~~ at each election in the same manner as provided in subsections A and B of this section. The Secretary of the State Election Board shall prescribe a procedure by which the State Election Board or the county shall be reimbursed for any overpayment made to a county election board for compensation and employer's share of benefits paid to precinct inspectors, judges, and clerks ~~and counters~~.

SECTION 4. AMENDATORY 26 O.S. 1991, Section 3-105.2, is amended to read as follows:

Section 3-105.2 In lieu of the procedure for distribution of vouchers for precinct inspectors, judges, and clerks ~~and counters~~ provided in Section 3-105.1 of ~~Title 26 of the Oklahoma Statutes~~ this title, the secretary of the county election board may distribute the vouchers by United States mail. When vouchers are distributed by United States mail, the vouchers shall be distributed by mailing no later than the Tuesday next succeeding the day of the election.

SECTION 5. AMENDATORY 26 O.S. 1991, Section 4-117, as amended by Section 16, Chapter 260, O.S.L. 1994 (26 O.S. Supp. 1994, Section 4-117), is amended to read as follows:

Section 4-117. If a registered voter of a county has changed ~~his or her~~ name or residence within the same county, and has not executed a transfer as hereinbefore provided, ~~he or she~~ the voter shall be entitled to a ~~transfer~~ change upon ~~his or her~~ executing an application on a form to be prescribed by the Secretary of the State Election Board and presenting such form along with ~~his or her~~ the voter identification card to the inspector of the precinct

in which ~~he~~ the voter is registered or to a member of an in-person absentee voting board of the county in which the voter is registered on the day of the next ensuing election or of in-person absentee voting. Upon doing so, such registered voter shall be permitted to vote ~~in~~ on the ballots of such precinct, and only ~~in~~ of such precinct, for the election being conducted on that day only. The inspector or in-person absentee voting board member shall deliver such form to the secretary of the county election board, who shall ~~transfer such~~ change the registration in the manner prescribed by the Secretary of the State Election Board.

SECTION 6. AMENDATORY 26 O.S. 1991, Section 4-120.1, as amended by Section 20, Chapter 260, O.S.L. 1994 (26 O.S. Supp. 1994, Section 4-120.1), is amended to read as follows:

Section 4-120.1 A registered voter may have his or her name removed from the registries of a county by executing a personally signed and notarized written notice for same to the Secretary of the State Election Board or any county election board.

SECTION 7. AMENDATORY 26 O.S. 1991, Section 4-120.4, as amended by Section 22, Chapter 260, O.S.L. 1994 (26 O.S. Supp. 1994, Section 4-120.4), is amended to read as follows:

Section 4-120.4 A. The Department of Corrections shall transmit each month a list of all persons convicted of felonies, which convictions have become final, and deliver said list to the Secretary of the State Election Board. The Secretary of the State Election Board shall accept written notice from the United States Attorney of persons convicted of felonies in a district court of the United States, which convictions have become final. The Secretary of the State Election Board shall transmit said list and notice to the secretary of each county election board who shall cancel the registrations of all registered voters included on said list and notice, and such persons shall be ineligible for registration for a period of time equal to the time prescribed in the judgment and sentence.

B. The court clerk in each county shall forward a copy of each journal entry of judgment and sentence for each person convicted in the county of a felony to the secretary of the county

election board within forty-five (45) days after the journal entry is filed. The secretary shall cancel the registration of all registered voters included on the journal entries and the registered voters shall be ineligible for registration for a period of time equal to the time prescribed in the journal entry.

SECTION 8. AMENDATORY 26 O.S. 1991, Section 6-117, is amended to read as follows:

Section 6-117. Sample ballot cards for all elections conducted by any county election board shall be ~~exact duplicates of the regular ballot cards for such elections, except that a stub need not be attached,~~ prepared as prescribed by the Secretary of the State Election Board and the words "Sample Ballot" shall be printed in letters at least one-half (1/2) inch high across the face of the ballot card. Sample ballot cards shall be printed in a sufficient number to be used at each precinct polling place and as otherwise provided by law.

SECTION 9. AMENDATORY 26 O.S. 1991, Section 6-120, is amended to read as follows:

Section 6-120. The State Election Board is authorized to contract with the ~~Office of Public Affairs~~ Department of Central Services for all ballots required by the State Election Board. If ballots are not printed by the ~~Office of Public Affairs~~ Department of Central Services, the State Election Board and each county election board, for required ballot printing, shall cause advertisement for bids for printing of all ballots to be made, and shall provide specifications and copy for said ballots. A contract for printing said ballots shall be awarded to the lowest and best bidder. The successful bidder shall be required to post a bond of double the amount of the bid, said bond taken in the name of the state or county, as the case may be, and conditioned upon the faithful performance of said contract.

SECTION 10. AMENDATORY 26 O.S. 1991, Section 7-116, is amended to read as follows:

Section 7-116. A. If the precinct registry does not contain a voter's name, or if a precinct official should deny the voter the right to vote, said voter shall be allowed to vote only if ~~he~~

the voter presents his a voter identification card showing him the voter to be a registered voter of the precinct to the judge, completes a voter registration application for a residence address within the county and signs an affidavit swearing or affirming that he the voter is currently registered and eligible to vote in said precinct and that he has not cast an absentee ballot for said election.

B. If a person alleges to an election official in the county of the person's residence on a day of regular or in-person absentee voting that the person applied to become a registered voter twenty-five (25) days or more prior to the election, the person shall be allowed to vote a ballot for the precinct of the person's residence if:

1. The county election board secretary of the person's county of residence confirms that a valid application for the person is on file at the county election board office and the application became valid twenty-five (25) days or more prior to the election; and

2. The person signs an affidavit swearing or affirming that the person applied to become a registered voter of the precinct of the person's residence twenty-five (25) days or more prior to the election.

SECTION 11. AMENDATORY 26 O.S. 1991, Section 7-130, is amended to read as follows:

Section 7-130. Any candidate or any recognized political party shall be entitled to have a watcher present at any place where an official count is being conducted. Said watcher must be commissioned in writing by the candidate, or by the ~~chairman~~ chair of the recognized political party of the county in which the watcher is being authorized. Said commission must be filed with the secretary of the appropriate county election board no later than 5:00 p.m. on Wednesday preceding the election. Watchers must subscribe to an oath to observe all laws and rules prescribed for watchers as hereinafter provided. Said oath must be administered by the inspector of the precinct in which the watcher is authorized. Watchers shall be entitled to observe the voting

device both before the polls are opened and after the polls are closed; provided, further, that said watchers ~~need~~ shall not be present at the polling place at other times. Watchers may be commissioned to observe voting device testing and to accompany personnel assigned to repair or maintain machines during the period of the election. In such case, the watchers shall be limited to observing the repair or maintenance work being performed and making a written record of such work.

SECTION 12. AMENDATORY 26 O.S. 1991, Section 11-112, as amended by Section 16, Chapter 247, O.S.L. 1992 (26 O.S. Supp. 1994, 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 or electoral division of a 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 or electoral division of a 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 13. AMENDATORY 26 O.S. 1991, Section 11-113, is amended to read as follows:

Section 11-113. If one candidate for the office of an associate district judge receives a majority of all votes cast for that office at the Primary Election and, in the case of district judges, if the nominating district is coextensive with the whole judicial district or electoral division of a judicial district, the candidate who received the majority of all votes cast at the Primary Election shall be deemed to have been elected to that office, and that office shall not be listed on the ballot for the General Election.

SECTION 14. AMENDATORY 26 O.S. 1991, Section 14-105,
is amended to read as follows:

Section 14-105. Any registered voter may apply for an absentee ballot ~~either~~ in person at the county election board, by United States mail, ~~or~~ by telegraph or by facsimile device as defined in Section 1862 of Title 21 of the Oklahoma Statutes. The Secretary of the State Election Board shall prescribe a form to be used for said application, although any ~~written or telegraphed~~ application setting forth substantially the same facts shall be valid.

SECTION 15. AMENDATORY 26 O.S. 1991, Section 14-110.1
is amended to read as follows:

Section 14-110.1 A registered voter who swears or affirms that ~~he~~ the voter is physically unable to vote in person at ~~his~~ the precinct on the day of the election because the voter is:

1. ~~He is physically~~ Physically incapacitated; or
2. ~~He is charged~~ Charged with the care of another person who is physically incapacitated and who cannot be left unattended;

may apply for an absentee ballot by United States mail ~~or~~, by telegraph or by facsimile device as defined by Section 1862 of Title 21 of the Oklahoma Statutes. The Secretary of the State Election Board shall prescribe a form to be used for said application, although any ~~written or telegraphed~~ application setting forth substantially the same facts shall be valid.

SECTION 16. AMENDATORY 26 O.S. 1991, Section 14-120.1,
is amended to read as follows:

Section 14-120.1 A. Notwithstanding any other law to the contrary, any qualified elector who is in the Armed Forces of the United States or in the Merchant Marine of the United States, and the spouse or officially accredited dependent of such elector, or who is a citizen of the United States, temporarily residing outside the territorial limits of the United States and the District of Columbia, and who is absent from the place of residence of the elector may make written application within ninety (90) days before an election for presidential preference, presidential electors, or members of the United States Senate and

Req. No. 1291Page 10

United States House of Representatives to the secretary of the county election board of residence of the elector for a special write-in absentee ballot for said federal offices being contested in the election. The elector shall be entitled, without being registered, if a qualified elector in the precinct of ~~his~~ residence, to receive the special write-in absentee ballot.

B. Application shall be by using Standard Form 76, Post Card Application for Absentee Ballot, as provided for in the Federal ~~Voting Assistance Act of 1955, as amended,~~ Uniformed and Overseas Citizens Absentee Voting Act of 1986 or by letter setting forth substantially the same facts. The special write-in absentee ballots shall be issued only if the applicant states that due to military contingencies or due to living in an isolated or extremely remote area of the world, the regular application procedure cannot be followed.

C. Upon receipt of the application, the secretary of the county election board shall issue to the elector the ballot which shall be prescribed by the Secretary of the State Election Board, a list of the offices to be voted upon, and other materials as described in Section 14-119 of this title. As soon as a completed list of nominated candidates including the party designations of the candidates is available, the secretary shall send the list to each applicant. If the list of candidates is not available when the ballot is issued, the secretary shall include a statement indicating that the list shall be mailed as soon as it becomes available.

D. The ballot shall permit the elector to vote by writing in the names of specific candidates, the names of persons whom the voter prefers, or, in the case of a general election, the party preference for each office. The ballot shall be returned in the manner specified in Section 14-120 of this title.

E. A voter who requests a special write-in absentee ballot pursuant to the provisions of this section may also request regular absentee ballots pursuant to the provisions of Section 14-116 of this title. If the regular absentee ballots are properly returned, the special write-in absentee ballot shall be

deemed void and shall be rejected without the opaque envelope being opened.

F. Special write-in absentee ballots shall be counted and tabulated according to procedures prescribed by the Secretary of the State Election Board.

SECTION 17. AMENDATORY 26 O.S. 1991, Section 14-117, as amended by Section 23, Chapter 247, O.S.L. 1992 (26 O.S. Supp. 1994, Section 14-117), is amended to read as follows:

Section 14-117. Said electors may apply for absentee ballots ~~by using Standard Form 76, Post Card Application for Absentee Ballot,~~ as provided for in the 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 or by facsimile device as defined in Section 1862 of Title 21 of the Oklahoma Statutes to the secretary of the county election board of the elector's residence.

SECTION 18. REPEALER 26 O.S. 1991, Sections 3-121.1 and 7-107.1, are hereby repealed.

SECTION 19. This act shall become effective November 1, 1995.

45-1-1291 RH