

ENROLLED SENATE
BILL NO. 1370

By: Dickerson of the Senate

and

Paulk, Adair, Boyd (Betty),
Mass, Matlock, Weaver and
Pettigrew of the House

An Act relating to cities and towns, counties and county officers, and elections; amending 11 O.S. 1991, Sections 3-106 and 4-106, which relate to notice of election of town and city officers and fees and expenses; providing for payment and reimbursement of certain expenses; amending 19 O.S. 1991, Section 901.5, as last amended by Section 1, Chapter 221, O.S.L. 1997 (19 O.S. Supp. 1997, Section 901.5), which relates to elections for fire protection district board of directors; changing date for certain regular elections; amending 26 O.S. 1991, Sections 2-124, 2-129, as amended by Section 3, Chapter 315, O.S.L. 1995, 3-105.1, as amended by Section 3, Chapter 290, O.S.L. 1995, 3-105.2, as amended by Section 4, Chapter 290, O.S.L. 1995, 4-112, as amended by Section 13, Chapter 260, O.S.L. 1994, 4-120.2, as last amended by Section 1, Chapter 177, O.S.L. 1997, 4-120.3, 12-106, 14-113.2, as amended by Section 16, Chapter 176, O.S.L. 1997, and 14-121, as amended by Section 18, Chapter 176, O.S.L. 1997 (26 O.S. Supp. 1997, Sections 2-129, 3-105.1, 3-105.2, 4-112, 4-120.2, 14-113.2, and 14-121), which relate to appointment of certain judge and clerk by county election board, compensation of inspectors, judges, clerks,

and counters, compensation and benefits for election personnel and election expenses, distribution of certain vouchers by mail, cancellation of registration of deceased persons, vacancies in State Senate and State House of Representatives, marking and return of certain ballots, and authorization for certain military personnel to vote; modifying area from which certain precinct board members may be appointed; modifying amount of reimbursement for certain travel by precinct officials; adding absentee voting board members as election personnel and providing for compensation, benefits and distribution of vouchers; modifying information requirements on application for registering voters; deleting language relating to certain optional information from voter registration application; adding requirements for identifying voters to receive an address confirmation mailing; requiring inactive voters be identified on precinct registry; modifying information required for identifying duplicate voter registrations; modifying procedures for canceling registration of deceased persons; providing procedures for special election to fill vacancy in State Senate caused by resignation becoming effective during certain period; modifying requirements for return of absentee ballots; making language gender neutral; and modifying procedures authorizing certain military personnel to vote; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 3-106, is amended to read as follows:

Section 3-106. The order of the board of county commissioners shall be submitted to the secretary of the county election board for the purpose of conducting the election of town officers. If the town is eligible to come within the provisions of the Oklahoma Town Meeting Act and a majority of the petitioners desire to comply with the provisions of the Oklahoma Town Meeting Act, the petitioners shall call the election in accordance with the provisions of the Oklahoma Town Meeting Act. Notice of any election of town officers shall be in the manner provided by law for municipal elections. All expenses for any election on the question of incorporation and the election of officers shall be paid by the county and reimbursed by the town when fully organized.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 4-106, is amended to read as follows:

Section 4-106. The order of the board of county commissioners shall be submitted to the secretary of the county election board for the purpose of conducting the election. Notice of the election of city officers shall be in the manner provided by law for municipal elections. All expenses for the election on the question of incorporation and the election of officers shall be paid by the county and reimbursed by the city when fully organized.

SECTION 3. AMENDATORY 19 O.S. 1991, Section 901.5, as last amended by Section 1, Chapter 221, O.S.L. 1997 (19 O.S. Supp. 1997, Section 901.5), is amended to read as follows:

Section 901.5 A. Directors of a fire protection district shall be the surface owners of real property in and residents of the district.

B. 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 the election, the qualified person receiving the highest number of votes for member of board of directors of the district shall hold 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.

C. 1. 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.

2. 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.

3. All board members elected thereafter to a five-member board shall serve a term of five (5) years with elections held yearly.

D. 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.

E. 1. The regular election in the district shall be held at the same time as the General Election in this state or on the second Tuesday in November in those years that a General Election is not held.

2. 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 directly attributable to district election.

3. 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.

4. 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.

5. 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.

F. 1. 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.

2. 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.

G. 1. The office of a member of the board of directors may be declared vacant by the board of directors if such member:

a. is absent from more than one-half (1/2) of all meetings of the board of directors, regular and special, held within any period of four (4) consecutive months,

b. ceases to be eligible for office pursuant to this section,

c. has a conviction in a court of any felony or crime involving moral turpitude,

d. uses alcohol, any stimulant, any drug or other substance which impairs intellect, judgment or physical ability to such an extent as to incapacitate the member to such a degree that the member is prevented from performing duties pursuant to Chapter 21 of this title, and

e. has a mental or physical weakness or inability which incapacitates the member to such a degree that the member is prevented from performing duties required pursuant to Chapter 21 of this title.

2. Vacancies determined pursuant to this subsection shall be filled pursuant to subsection F of this section after notice to the board member of such action and opportunity for a hearing.

3. Vacancies shall be determined at an official meeting of the board and shall be a specific agenda item.

4. Any appeal from a decision declaring an office vacant pursuant to this subsection shall be made to the district court within thirty (30) days of such determination.

SECTION 4. AMENDATORY 26 O.S. 1991, Section 2-124, is amended to read as follows:

Section 2-124. The county election board shall appoint two members of each precinct election board, to serve terms of four (4) years each. No later than June 15, 1975, and every four (4) years thereafter, the county central committees of the two parties with the highest number of registered voters in the state, based on the latest January 15 registration report, shall submit a list of three nominees for each precinct to the county election board. The county election board shall be confined to the list of nominees submitted by either party and shall appoint one member of each precinct election board from each party no later than July 1, 1975, and every four (4) years thereafter. If no list is submitted by a county central committee for any precinct by the specified date, or if the nominees for a precinct are unable to serve, then the county election board shall appoint one member of said precinct election board from the ranks of said party within the precinct. Terms shall begin July 1, 1975, and every four (4) years thereafter. In the event of a vacancy, the county election board shall fill the unexpired term from the last list previously submitted by the county central committee. If there is no prior list, then the vacancy shall be filled from within the ranks of the same party within the affected county. The county election board shall designate one member as judge and the other as clerk for each precinct.

SECTION 5. AMENDATORY 26 O.S. 1991, Section 2-129, as amended by Section 3, Chapter 315, O.S.L. 1995 (26 O.S. Supp. 1997, Section 2-129), is amended to read as follows

Section 2-129. The inspector shall be paid Seventy-five Dollars (\$75.00) for each election and shall be allowed mileage reimbursement at the rate provided by the State Travel Reimbursement Act for mileage incurred to receive or return ballots and materials for the election. Judges, clerks and counters shall be paid Sixty-five Dollars (\$65.00) for each election. Precinct officials assigned to work a polling place ten (10) miles or more outside their precinct, shall be allowed mileage reimbursement at the rate provided by the State Travel Reimbursement Act for mileage incurred from their home to and from their assigned polling place. An additional Two Dollars (\$2.00) per election shall be paid to each inspector, judge, clerk and counter of a precinct from the funds of the county. Compensation provided herein shall be paid for any state, county, municipal or school district election; provided, however, that compensation for elections conducted concurrently shall not exceed in total the amount herein prescribed. Said compensation shall be paid by the State Election Board for all regular Primary, Runoff Primary and General Elections, all statewide special elections and all special elections for United States Representatives or United States Senators and State Senators or State Representatives.

SECTION 6. AMENDATORY 26 O.S. 1991, Section 3-105.1, as amended by Section 3, Chapter 290, O.S.L. 1995 (26 O.S. Supp. 1997, 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, clerks, and absentee voting board members 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, clerk, and absentee voting board member.

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, clerks, and absentee voting board members 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, clerks, and absentee voting board members 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 and absentee voting board members, at the time the inspector receives supplies and ballots for the election. The vouchers shall be distributed to the appropriate precinct judges and clerks upon closing of the polls on the day of the election and to absentee voting board members upon completion of their prescribed duties, according to procedures to be prescribed by the Secretary of the State Election Board. Each precinct inspector, judge or clerk 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, clerks, and absentee voting board members 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, clerks, and absentee voting board members in the payment made to the

respective counties for elections for which said precinct inspectors, judges, clerks, and absentee voting board members 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, clerk, and absentee voting board member 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, clerks, and absentee voting board members.

SECTION 7. AMENDATORY 26 O.S. 1991, Section 3-105.2, as amended by Section 4, Chapter 290, O.S.L. 1995 (26 O.S. Supp. 1997, 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, clerks, and absentee voting board members provided in Section 3-105.1 of 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 8. AMENDATORY 26 O.S. 1991, Section 4-112, as amended by Section 13, Chapter 260, O.S.L. 1994 (26 O.S. Supp. 1997, Section 4-112), is amended to read as follows:

Section 4-112. The Secretary of the State Election Board shall devise and distribute a registration application to be used for registering voters. Such registration application shall contain the following information: Voter's full name and date of birth, county and place of residence and mailing address; the name of the political party recognized by the laws of the State of Oklahoma with which the voter is affiliated; the last four digits of the voter's social security number; an oath of the voter's eligibility to become a registered voter; and such other information as may be deemed necessary by the Secretary to identify such voter and to ascertain his or her eligibility. A voter registration application shall be signed by the applicant in writing. The applicant shall personally subscribe his or her name to or make his or her mark on the application, and no agent, representative or employee of the applicant may sign or mark on the applicant's behalf. The signature or mark must be the original, handwritten signature, autograph or mark of the applicant. No facsimile, reproduction, typewritten or other substitute signature, autograph or mark will be valid. Notwithstanding any law to the contrary, the Secretary of the State Election Board shall prescribe procedures to authorize any person incapable of personally making his mark to complete a voter registration application with assistance of an official of any voter registration agency or motor license agency specified in Sections 4-109.2 and 4-109.3 of this title. Persons not affiliated with any political party recognized by the laws of the State of Oklahoma or who do not indicate a political party on their registration application shall be designated as Independents. Any person may apply in writing to the Secretary of the State Election Board for permission to print, copy or otherwise prepare and distribute the registration applications designed by the Secretary of the State Election Board. The Secretary may revoke any such permission at any time. All registration applications shall be distributed to the public at no charge. The Secretary also shall prescribe procedures to accept and use federal registration applications as required by the National Voter Registration Act of 1993.

SECTION 9. AMENDATORY 26 O.S. 1991, Section 4-120.2, as last amended by Section 1, Chapter 177, O.S.L. 1997 (26 O.S. Supp. 1997, Section 4-120.2), is amended to read as follows:

Section 4-120.2 A. No later than June 1 of each odd numbered year and for the previous twenty-four (24) months, any voter for whom a first-class mailing from the county election board was returned, any voter identified by the Secretary of the State Election Board as a potential duplicate, any voter who has surrendered his or her Oklahoma driver license to the Department of Public Safety upon being issued a driver license in another state, and any registered voter who did not vote in the second previous general election or any election conducted by a county election board since the second previous general election and who has initiated no voter registration change shall be sent an address confirmation mailing prescribed by the Secretary of the State Election Board and paid for by the state. Voters who do not respond to the confirmation mailing or whose mailing is returned as nonforwardable shall be designated as inactive sixty (60) days after the mailing. An inactive voter's status shall be changed to active under the following conditions:

1. With any registration change initiated by the voter; or
2. By voting in any election conducted by a county election board.

An inactive voter who does not vote in any election conducted by a county election board during the period beginning on the date of the confirmation mailing and ending on the day after the date of the second successive general election for federal office shall be removed as a registered voter and all the information on that voter shall be destroyed. Each county election board secretary shall maintain a list of the names and addresses of all persons sent a confirmation mailing as described in this section and information on whether or not each such person has responded to the notice. Said list shall be maintained for twenty-four (24) months following the date of the second successive federal general election after the date of the confirmation mailing.

B. The secretary of each county election board shall cause all inactive voters in a precinct to be identified on the precinct registry.

C. No later than June 1 of each odd-numbered year, the Secretary of the State Election Board shall identify duplicate voter registrations in the state and shall direct appropriate county election board secretaries to cancel the voter registration of all but the latest registration of duplicate voter registrations. Each county election board secretary shall maintain for twenty-four (24) months a list of the names and addresses of all canceled duplicate voter registrations. For the purposes of this subsection, duplicate voter registrations are those registrations which contain the following identical information on more than one registration:

1. First name, middle name or initial, last name, and date of birth;
2. Driver license or social security number; or
3. Last name, date of birth, and the last four digits of the social security number.

SECTION 10. AMENDATORY 26 O.S. 1991, Section 4-120.3, is amended to read as follows:

Section 4-120.3 The State Health Department shall each month transmit to the Secretary of the State Election Board a certified list of all deaths of residents that have occurred within the state for the immediately preceding month. The Secretary of the State Election Board shall transmit said list to the secretary of the county election board who shall then use said list to ascertain those voters who are deceased, and shall thereafter remove such deceased person's name from the central registry and the Oklahoma

Election Management System. Said list shall be used only for the purposes hereinbefore described. In addition, the registration of a deceased voter may be canceled by the secretary of a county election board upon the execution by the next of kin of said deceased voter of a form and upon the nature of proof of the fact thereof as prescribed by the Secretary of the State Election Board. Said form must be executed in person by said next of kin at the county election board office, in which case it shall be witnessed by the secretary or other designated employees, at the voter's precinct polling place on the day of any election, in which case it shall be witnessed by the inspector of said precinct, or the form may be personally signed by the next of kin, such signature to be notarized by a notary public, and returned by United States mail to the county election board.

SECTION 11. AMENDATORY 26 O.S. 1991, Section 12-106, is amended to read as follows:

Section 12-106. A. Whenever a vacancy shall occur in the office of a member of the State Senate or the State House of Representatives, the vacancy shall be filled at a Special Election to be called by the Governor within thirty (30) days after the 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 the office expires the same year.

B. If in an even-numbered year an incumbent State Senator with two (2) or more years remaining in the term for which elected shall file with the Oklahoma Secretary of State before June 1 a resignation in writing which states that the resignation will not become effective immediately, but rather will become effective on some date certain that is after the General Election but before the convening of the next session of the Legislature, the vacancy shall be filled by a special election which shall be held in that even-numbered year on the same dates as the regular Primary Election, Runoff Primary Election and General Election. The filing period for the special election shall be the regular filing period prescribed in Section 5-110 of this title. The person elected in the General Election of the special election shall take office on the date the resignation of the incumbent becomes effective and shall serve the remainder of the unexpired term.

SECTION 12. AMENDATORY 26 O.S. 1991, Section 14-113.2, as amended by Section 16, Chapter 176, O.S.L. 1997 (26 O.S. Supp. 1997, Section 14-113.2), is amended to read as follows:

Section 14-113.2 The voter shall be responsible for marking the ballots or directing a person chosen by the voter to mark the ballots in accordance with the provisions of Section 7-123.3 of this title and as prescribed by the Secretary of the State Election Board; seal the ballots in the plain opaque envelope; fill out completely and sign the affidavit, such signature to be witnessed by two persons whose signature and address shall appear on the affidavit; seal the plain opaque envelope inside the envelope bearing the affidavit and return both envelopes, sealed inside the return envelope, by United States mail to the county election board.

SECTION 13. AMENDATORY 26 O.S. 1991, Section 14-121, as amended by Section 18, Chapter 176, O.S.L. 1997 (26 O.S. Supp. 1997, Section 14-121), is amended to read as follows:

Section 14-121. Any person eligible to register, who has been honorably discharged or is on officially authorized leave from the Armed Forces of the United States, or who has been terminated in his or her service or employment overseas and returned home too late to register at the time when, and at the place where, registration is required, to vote at the next ensuing election, shall be entitled to vote a ballot at such election in the precinct for which he or she is a qualified elector without being registered. Such person shall be entitled to vote upon satisfying the precinct inspector or in-

person absentee voting board member that he or she is entitled to vote at such election and completing a voter registration application for an address within the precinct.

SECTION 14. This act shall become effective January 1, 1999.