STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 410 By: Dickerson

AS INTRODUCED

An Act relating to elections; amending 26 O.S. 1991, Sections 1-109, 1-110, 3-105.1, as last amended by Section 6, Chapter 357, O.S.L. 1998, 4-112, as last amended by Section 8, Chapter 357, O.S.L. 1998, 4-120.2, as last amended by Section 9, Chapter 357, O.S.L. 1998, 4-120.3, as amended by Section 14, Chapter 357, O.S.L. 1998, 5-121, 6-120, as amended by Section 9, Chapter 290, O.S.L. 1995, 8-103, 8-111, as amended by Section 12, Chapter 176, O.S.L. 1997 (26 O.S. Supp. 1998, Sections 3-105.1, 4-112, 4-120.2, 4-120.3, 6-120, and 8-111), which relate to political party affiliation, election personnel, voter registration applications, registered voters, deceased voters, deposit for contest, certificates of election, and petition for recount; providing that political parties that cease to be recognized be designated as a political organization; providing for termination of such designation; changing party affiliation of certain voters to Independent; deleting obsolete language; clarifying language; providing for active voter status; modifying certain requirements for contracts for ballots; providing that Certificates of Election for unopposed candidates may be issued at a certain time; modifying amount of deposit to be paid for recount petition; and declaring an emergency.

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

SECTION 1. AMENDATORY 26 O.S. 1991, Section 1-109, is amended to read as follows:

Section 1-109. A. Any recognized political party whose nominee for Governor or nominees for electors for President and Vice President fail to receive at least ten percent (10%) of the total votes cast for said offices in any General Election shall cease to be a recognized political party. Said party may regain recognition only by following the procedure prescribed for formation of new political parties. The State Election Board shall proclaim the fact

of a party's failure to receive a sufficient number of votes and shall order that said party cease to be recognized.

B. Any recognized political party that ceases to be recognized under provisions of this section shall be designated as a political organization. Such political organization designation shall terminate four (4) years from the date that the political party ceases to be recognized or when the political organization regains recognition as a political party, whichever is earlier.

SECTION 2. AMENDATORY 26 O.S. 1991, Section 1-110, is amended to read as follows:

Section 1-110. A. The secretary of each county election board shall, within sixty (60) days after such proclamation by the State Election Board, change to Independent the party affiliation in the Oklahoma Election Management System of each registered voter of a political party which ceases to be a recognized political party.

B. The secretary of the State Election Board shall change to Independent the party affiliation in the Oklahoma Election Management System of each registered voter of a political organization which ceases to be a political organization.

SECTION 3. AMENDATORY 26 O.S. 1991, Section 3-105.1, as last amended by Section 6, Chapter 357, O.S.L. 1998 (26 O.S. Supp. 1998, 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, and 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 4. AMENDATORY 26 O.S. 1991, Section 4-112, as last amended by Section 8, Chapter 357, O.S.L. 1998 (26 O.S. Supp. 1998, 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~~ voters full name and date of birth, county and place of residence and mailing address; the ~~name~~ names of ~~the~~ political ~~party~~ parties recognized by the laws of the State of Oklahoma with which the voter ~~is~~ may be 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 recognized political party or political organization 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 5. AMENDATORY 26 O.S. 1991, Section 4-120.2, as last amended by Section 9, Chapter 357, O.S.L. 1998 (26 O.S. Supp. 1998, 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 active 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 6. AMENDATORY 26 O.S. 1991, Section 4-120.3, as amended by Section 14, Chapter 357, O.S.L. 1998 (26 O.S. Supp. 1998, 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 7. AMENDATORY 26 O.S. 1991, Section 5-121, is amended to read as follows:

Section 5-121. ~~Said~~ The petition~~, if filed with the Secretary of the State Election Board,~~ must be accompanied by a cashier's check or certified check in the amount of Two Hundred Fifty Dollars ($250.00). ~~Said petition, if filed with the secretary of the county election board, must be accompanied by a cashier's check or certified check in the amount of One Hundred Fifty Dollars ($150.00).~~

SECTION 8. AMENDATORY 26 O.S. 1991, Section 6-120, as amended by Section 9, Chapter 290, O.S.L. 1995 (26 O.S. Supp. 1998, Section 6-120), is amended to read as follows:

Section 6-120. The State Election Board is authorized to contract with the Department of Central Services for all ballots required by the State Election Board. If ballots are not printed by the 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 cost of the most expensive ballots for any election covered by 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 9. AMENDATORY 26 O.S. 1991, Section 8-103, is amended to read as follows:

Section 8-103. The county election board shall certify a list of successful candidates for county offices and shall provide Certificates of Election to the same following the General Election~~.~~, except that Certificates of Election may be issued to unopposed candidates after 5 p.m. on the second day following the

close of the filing period. The State Election Board shall certify a list of successful candidates for offices for which the Board accepts filings of Declarations of Candidacy and shall provide Certificates of Election to the same following the General Election~~.~~, except that Certificates of Election may be issued to unopposed candidates after 5 p.m. on the second day following the close of the filing period.

SECTION 10. AMENDATORY 26 O.S. 1991, Section 8-111, as amended by Section 12, Chapter 176, O.S.L. 1997 (26 O.S. Supp. 1998, Section 8-111), is amended to read as follows:

Section 8-111. A. In the event a candidate or individual authorized to request a recount requests a recount of the ballots cast in an election, ~~he~~ it must set forth in ~~his~~ the petition the precincts and absentee ballots which ~~he desires~~ are to be recounted. Said petition must be accompanied by either a cashier's check or certified check in the amount of Six Hundred Dollars ($600.00) for each county affected by the petition. The candidate or individual may indicate in the petition requesting the recount that said candidate or individual desires to have the ballots recounted manually. Failure by the candidate or individual to state such preference for a manual recount in the petition shall result in a recount by electronic voting devices. If the candidate or individual requests that the ballots be recounted manually, the petition must be accompanied by a cashier's check or certified check in the amount of Six Hundred Dollars ($600.00) for the first ~~twelve thousand (12,000)~~ three thousand (3,000) ballots and Six Hundred Dollars ($600.00) for each additional six thousand (6,000) ballots or fraction thereof, to be recounted ~~and Five Hundred Dollars ($500.00) for each additional twelve thousand (12,000) ballots, or fraction thereof, to be recounted,~~ for each county affected. If the petition for a manual recount is filed with the State Election Board, the petition must be accompanied by a cashier's check in the

amount of Three Hundred Dollars ($300.00) in addition to the amount required above. When such petition is properly filed, it shall be the duty of the secretary of the appropriate election board to order said recount to begin not less than three (3) nor more than ten (10) days from the date of filing of said petition. In elections involving candidates, it shall be the duty of such contestant to cause to be served upon the opposing candidate or candidates ~~opposing him~~, and directly affected by said contest, a true copy of said petition and a true copy of said order. ~~Said service~~ Service shall be made in person where possible, within twenty-four (24) hours after the filing of said original petition of contest. Service shall be made by the sheriff of the county as to all offices, except that of sheriff, in which case the same shall be served by the county clerk and the certificate of returns of such sheriff or county clerk, showing the inability to make such service within the above-mentioned time, shall be deemed sufficient proof of the absence of such candidate, or candidates, or the inability to serve such notice upon ~~him~~ the candidate, and to justify the constructive service hereafter provided. Where personal service is impossible, within said time, it is hereby made the duty of said contestant to serve said true copies upon the secretary of the appropriate election board. Provided that for the purpose of such constructive service, the secretaries of the county election boards are hereby made and constituted the service agents for all contests of elections filed in accordance herewith. By filing ~~his~~ declaration of candidacy for election, a candidate shall thereby be conclusively presumed to have accepted the terms and provisions hereof and specifically the aforesaid constructive service. When constructive service becomes necessary, said constructive service shall be made at the date, time and place of said hearing.

B. For elections on issues or questions when no candidate is involved and a majority is required for approval, recounts shall be authorized only when:

1. The margin of votes between those for and those against the issue is one hundred fifty (150) or less when fifteen thousand (15,000) or more total votes are counted for and against the issue or question; or

2. The margin of votes between those for and those against the issue is one percent (1%) or less of the total number of votes cast on the issue when fourteen thousand nine hundred ninety-nine (14,999) or fewer total votes are cast for and against the issue or question.

Provided, furthermore, that a recount is authorized only after an individual, who is a registered voter and who participated in the election, presents to the appropriate county election board a petition signed by one hundred fifty (150) registered voters who participated in the election when fifteen thousand (15,000) or more total votes are counted for and against the question, or if fourteen thousand nine hundred ninety-nine (14,999) or fewer votes are cast for and against the issue, by a number of registered voters who participated in the election equal to one percent (1%) or more of the total votes cast for and against the issue.

C. For elections on issues or questions when no candidate is involved and more than a majority is required for approval, recounts shall be authorized only when:

1. The margin of votes between those for the issue and the number required for approval is one hundred fifty (150) or less when fifteen thousand (15,000) or more total votes are counted for and against the issue or question; or

2. The margin of votes between those for the issue and the number required for approval is one percent (1%) or less of the total number of votes cast on the issue when fourteen thousand nine

hundred ninety-nine (14,999) or fewer total votes are cast for and against the issue or question.

Provided, furthermore, that a recount is authorized only after an individual, who is a registered voter and who participated in the election, presents to the appropriate county election board a petition signed by one hundred fifty (150) registered voters who participated in the election when fifteen thousand (15,000) or more total votes are counted for and against the question, or if fourteen thousand nine hundred ninety-nine (14,999) or fewer votes are cast for and against the issue, by a number of registered voters who participated in the election equal to one percent (1%) or more of the total votes cast for and against the issue.

D. Recounts of issue or question elections shall not be permitted of any statewide election.

SECTION 11. 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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