

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 187

By: Reynolds

AS INTRODUCED

An Act relating to elections; amending 26 O.S. 1991, Sections 3-101, as last amended by Section 3, Chapter 176, O.S.L. 1997, 7-114, 14-108, 14-113.2, as last amended by Section 12, Chapter 358, O.S.L. 2000, 14-115, 14-115.1, 14-115.4, as last amended by Section 17, Chapter 176, O.S.L. 1997 (26 O.S. Supp. 2000, Section 3-101, 14-113.2, 14-115.4), which relate to general administration of elections, conduct of elections, and absentee voting; modifying dates for special elections in odd-numbered years; requiring the voter to provide proof of identity and residence; requiring proof of identity and place of residence with absentee ballots; making language gender neutral; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 26 O.S. 1991, Section 3-101, as last amended by Section 3, Chapter 176, O.S.L. 1997 (26 O.S. Supp. 2000, Section 3-101), is amended to read as follows:

Section 3-101. A. No election required to be conducted by any county election board shall be scheduled for a day other than Tuesday.

B. Except as otherwise provided by law, no special election shall be held by any county, school district, vocational-technical school district, municipality or other entity authorized to call elections except on the second Tuesday of January, February, May, ~~June~~, July, ~~August~~, September, ~~October~~, and November ~~and December~~ and the first Tuesday in March and April in odd-numbered years and the second Tuesday of January, February, March, May, June and December, the first Tuesday in April, the fourth Tuesday in August,

the third Tuesday in September and the first Tuesday after the first Monday in November of any even-numbered year.

C. In the event that a regular or special election date occurs on an official state holiday, the election shall be scheduled for the next following Tuesday.

SECTION 2. AMENDATORY 26 O.S. 1991, Section 7-114, is amended to read as follows:

Section 7-114. Each person ~~presenting himself~~ wishing to vote shall announce ~~his~~ that person's name to the judge of the precinct and, if requested by the judge of the precinct, shall provide proof of identity and residence to the judge, whereupon the judge shall determine whether said person's name is in the precinct registry. A photocopy of the driver license or state identification card may be used to show proof of identity and place of residence.

SECTION 3. AMENDATORY 26 O.S. 1991, Section 14-108, is amended to read as follows:

Section 14-108. The voter shall be required to mark ~~his~~ the ballot in ink or other manner 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 notarized by a notary public; provide proof of identity and residence; 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. A photocopy of the driver license or state identification card may be used to show proof of identity and place of residence.

SECTION 4. AMENDATORY 26 O.S. 1991, Section 14-113.2, as last amended by Section 12, Chapter 358, O.S.L. 2000 (26 O.S. Supp. 2000, 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; provide proof of identity and residence; seal the ballots in the plain opaque envelope; fill out completely and sign the affidavit or direct a person chosen by the voter to sign the affidavit, such signature to be witnessed by two persons, who did not sign the affidavit, 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. A photocopy of the driver license or state identification card may be used to show proof of identity and place of residence.

SECTION 5. AMENDATORY 26 O.S. 1991, Section 14-115, is amended to read as follows:

Section 14-115. If the secretary of a county election board receives a request from an incapacitated elector confined to a nursing home or convalescent hospital within the county of ~~his~~ jurisdiction of the secretary, the secretary shall cause to be implemented the following procedures:

1. On the Friday, Saturday or Monday preceding the election, the absentee voting board shall deliver to each registered voter who is confined to a nursing home or convalescent hospital and who requested ballots for an incapacitated voter said ballots and materials as may be necessary to vote same.

2. The voter must mark ~~his~~ the ballots in the manner hereinbefore provided 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~~ the vote in person at a precinct.

3. The voter shall then seal said ballots in the plain opaque envelope and shall seal said plain opaque envelope in the envelope bearing an affidavit. The voter must complete said affidavit, and

~~his~~ the signature of the voter on same must be witnessed by both members of the absentee voting board. The voter also must include proof of identity and residence in the envelope bearing the affidavit. A photocopy of the driver license or state identification card may be used to show proof of identity and place of residence.

4. The envelope bearing ~~an~~ the affidavit and proof of identity and residence then must be sealed in the return envelope, which shall be returned by the absentee voting board to the secretary of the county election board on the same day said affidavit was executed.

5. Ballots cast in said manner shall be counted in the same manner as regular mail absentee ballots.

SECTION 6. AMENDATORY 26 O.S. 1991, Section 14-115.1, is amended to read as follows:

Section 14-115.1 A registered voter who becomes incapacitated after 5:00 p.m. on Tuesday preceding an election, is unable to vote in person at the appropriate precinct on the day of the election may make a written request for an absentee ballot. The request shall be signed by the voter, or signed by a witness at the voter's direction if the voter is unable to sign his or her name, and shall be transmitted to the secretary of the county election board. The person transmitting said request on behalf of the voter may be anyone of the voter's choosing at least sixteen (16) years of age; provided, said person is not employed by nor related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. The person becomes the voter's agent for purposes of voting by absentee ballot. The voter's request must be accompanied by a sworn statement by a duly licensed physician. Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote absentee pursuant to this section. The statement must attest to the fact that the voter

is in fact unable to vote in person at the appropriate precinct on the day of the election because of a physical incapacity and that said physical incapacity originated after 5:00 p.m. on Tuesday preceding an election. Upon receipt of the voter's request and accompanying sworn statement, the secretary of the county election board shall issue to the voter's agent the appropriate ballots and envelopes required for voting by incapacitated voters. The ballots and proof of identification and residence must be returned by the agent to the secretary of the county election board no later than 7:00 p.m. on the day of the election. No person may be the agent for more than one voter at any election. Upon return of the absentee ballots, the secretary of the county election board shall cause said ballots to be processed in the same manner as is prescribed for other absentee ballots. A photocopy of the driver license or state identification card may be used to show proof of identity and place of residence.

SECTION 7. AMENDATORY 26 O.S. 1991, Section 14-115.4, as last amended by Section 17, Chapter 176, O.S.L. 1997 (26 O.S. Supp. 2000, 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 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 election. As part of the application for an in-person absentee ballot such registered voter shall swear or affirm that ~~he or she~~ the voter has not voted a regular mail absentee ballot and that ~~he or she~~ the voter will not vote at the regular polling place in the election for which the in-person absentee ballot is requested. The voter also shall provide proof of identity and residence. A photocopy of the driver license or state identification card may be used to show proof of identity and place of residence.

B. One or more absentee voting boards shall be on duty from 9 a.m. to 5 p.m. at the in-person absentee polling place on Thursday, Friday and Monday immediately preceding any election. 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~~ the signature on such record must be certified by both members of the absentee voting board;

3. The voter must mark ~~his~~ the 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~~ the vote in person at a precinct;

4. The voter shall then deposit the ballot in a voting device designated for in-person absentee voting by the secretary of the county election board;

5. 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 8. This act shall become effective July 1, 2001.

SECTION 9. 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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