

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 573

By: Dickerson

AS INTRODUCED

An Act relating to elections; amending 11 O.S. 1991, Section 16-307, which relates to voting in town meetings; clarifying language; deleting certain reference to pollbooks; providing for adoption of procedures to encourage students to become involved in the electoral process; authorizing certain students to work as members of precinct election boards; authorizing the Secretary of the State Election Board to adopt certain procedures to keep confidential mailing addresses of certain persons; amending 26 O.S. 1991, Sections 8-111, as last amended by Section 10, Chapter 88, O.S.L. 1999, 13-108, 14-113.2, as last amended by Section 12, Chapter 358, O.S.L. 2000, 14-114, 14-115, 14-115.4, as last amended by Section 17, Chapter 176, O.S.L. 1997, 14-115.5, as last amended by Section 4, Chapter 315, O.S.L. 1995, 14-121, as last amended by Section 13, Chapter 357, O.S.L. 1998, and 14-121.1 (26 O.S. Supp. 2000, Sections 8-111, 14-113.2, 14-115.4, 14-115.5 and 14-121), which relate to recounts, eligible voters, marking ballots, in-person absentee ballots, voters confined to nursing homes outside the county, voters confined to nursing homes within the county, absentee voting boards, discharged military personnel, and replacement absentee ballots; authorizing the Secretary of the State Election Board to determine validity of certain signatures; limiting permission to vote in municipal elections to specified persons; providing for certain persons to witness signature of affidavits of persons who are unable to vote in person; providing for certification of signature of certain persons; adding other residential facilities to origin of request for delivery of absentee ballots; authorizing mileage reimbursement to other residential facilities; authorizing certain family members of returning members of military service the right to vote in certain circumstances; modifying witnesses required on affidavit to receive second set of absentee ballots; setting penalty for witnessing signatures on certain affidavits; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 16-307, is amended to read as follows:

Section 16-307. A. The presiding officer at a town meeting shall follow reasonable and necessary procedures to ensure that persons who are not registered voters of the town do not vote. Registered voters shall be seated in a clearly marked area separate from persons not registered to vote.

B. To be eligible to vote at a town meeting, a person must be registered with the county election board at an address located within the municipality. Before being seated in the section reserved for registered voters, each voter shall sign his or her name in a town meeting pollbook, said signature to constitute a sworn affidavit on the part of the voter that he or she is eligible to vote at the election. The pollbook shall be prepared by the municipal clerk ~~and shall be substantially the same form as the pollbook prescribed by the State Election Board for school district elections.~~ For such purpose, the municipal clerk or designee of the municipal clerk shall be authorized to administer the oath or affirmation contained in the affidavit. The town meeting pollbook shall be on file in the office of the municipal clerk and shall be open to public inspection during reasonable office hours; provided, however, that such town meeting pollbooks may be destroyed by the municipal clerk at the end of six (6) months from the date of the election wherein such town meeting pollbook was used. Any person knowingly voting illegally or found guilty of casting more than one vote for any office or on any question considered at the meeting shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not to exceed thirty (30) days or both such fine and imprisonment.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-134.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any law to the contrary, the Secretary of the State Election Board may adopt procedures and authorize any county election board secretary to, in cooperation with local school officials, enter into experimental projects to encourage students to become involved in the electoral process. This may include but is not limited to appointing students who are under the age of eighteen (18), but otherwise eligible to be registered voters and qualified to be precinct officials, to work as members of precinct election boards and to receive the same compensation as regular precinct officials.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-115.2 of Title 26, unless there is created a duplication in numbering, reads as follows:

The Secretary of the State Election Board is authorized to adopt procedures to keep confidential the residence and mailing address, upon application to do so, of individual registered voters who are members of certain classes. These classes shall be limited to the judiciary, district attorneys and assistant district attorneys, law enforcement personnel, correctional officers and persons who are covered by victim's protection orders. Such address information shall not be a public record but shall be provided to any lawful authority as part of a contest of candidacy or contest of an election as provided for in Title 26 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 26 O.S. 1991, Section 8-111, as last amended by Section 10, Chapter 88, O.S.L. 1999 (26 O.S. Supp. 2000, 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, it must set forth in the petition the precincts and absentee ballots which 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 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 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, and directly affected by said contest, a true copy of said petition and a true copy of said order. 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 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 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. Within twenty-four (24) hours after a petition required in subsections B and C of this section is filed, not counting Saturday, Sunday or legal state holidays, the Secretary of the State Election Board who received the petition shall determine, using standards and procedures prescribed by the Secretary of the State Election Board, if the petition contains a sufficient number of valid signatures of registered voters who participated in the election.

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

SECTION 5. AMENDATORY 26 O.S. 1991, Section 13-108, is amended to read as follows:

Section 13-108. Only ~~registered voters who reside~~ persons who are registered to vote at an address within the municipal limits of any municipality shall be permitted to vote in any election held for said municipality.

SECTION 6. 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 A. 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 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.

B. No person, except members of absentee voting boards, shall witness the signature of more than two affidavits of persons who swear they are physically incapacitated and unable to vote in person at their precinct on election day.

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 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 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 voter's signature on such record must be certified by both members of the absentee voting board, except that the secretary of the county election board and one other member of the absentee voting board may certify the signature of another member of the absentee voting board;

3. The voter must mark ~~his~~ the voter's 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 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. AMENDATORY 26 O.S. 1991, Section 14-114, is amended to read as follows:

Section 14-114. If the secretary of a county election board receives such a request from an incapacitated elector confined to a nursing home ~~or~~, convalescent hospital, or other residential facility for the care of incapacitated persons as identified by the State Department of Health outside the county of ~~his~~ the secretary's jurisdiction, the secretary shall provide ballots and materials in the manner hereinbefore prescribed.

SECTION 9. 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, or other residential facility for the care of incapacitated persons as identified by the State Department of Health within the county of ~~his~~ the secretary's jurisdiction, 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, or other residential facility for the care of incapacitated persons as identified by the State Department of Health 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 or her 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 or her 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 or her signature on same must be witnessed by both members of the absentee voting board-;

4. The envelope bearing an affidavit 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-; and

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

SECTION 10. AMENDATORY 26 O.S. 1991, Section 14-115.5, as last amended by Section 4, Chapter 315, O.S.L. 1995 (26 O.S. Supp. 2000, Section 14-115.5), is amended to read as follows:

Section 14-115.5 To carry out the provisions of Section 14-115 of this title and Section 14-115.4 of this title, the secretary of the county election board shall designate one or more absentee voting boards, to be composed of two (2) members each, with each member to be of a different political affiliation. No later than August 1 in each even-numbered year, the chairmen of the county central committees of the two political parties having the highest number of registered voters in the county shall each submit a list of ten names to the secretary. Said lists shall contain names of registered voters of the county, who may be members of the county election board, except the secretary, or precinct election boards or counters. The secretary shall be confined to said list in designating membership on the absentee voting board or boards, unless all persons on said lists are ineligible or unwilling to serve. In the event the chairman of the county central committee of a political party fails to submit a list as herein provided, the secretary shall appoint membership to said board or boards from the ranks of registered voters of said party within the county. Provided further, that in the event the list of names of either or both parties is exhausted and additional absentee voting boards are needed, the secretary shall appoint additional members to said boards from the ranks of said party or parties in the county. Members of an absentee voting board shall be reimbursed for their expenses at the rate of Forty Dollars ~~(40.00)~~ (\$40.00) per day. One member of each such board serving a nursing home ~~or~~, convalescent hospital, or other residential facility for the care of incapacitated persons as identified by the State Department of

Health and both members of the board serving the in-person absentee polling place shall be allowed mileage reimbursement at the rate prescribed for travel by state employees according to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 11. AMENDATORY 26 O.S. 1991, Section 14-121, as last amended by Section 13, Chapter 357, O.S.L. 1998 (26 O.S. Supp. 2000, 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, or who is the spouse or dependent of a person who has been honorably discharged, is on 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 12. AMENDATORY 26 O.S. 1991, Section 14-121.1, is amended to read as follows:

Section 14-121.1 A registered voter whose application is on file and who lost or did not receive absentee ballots may apply for a second set of absentee ballots if more than seven (7) days have passed since the ballots were transmitted to the voter by the county election board. To receive a second set of ballots, the voter must swear or affirm that he or she lost or did not receive the original set of ballots for that election and that he or she will vote only

one set of ballots. The Secretary of the State Election Board shall prescribe a form to be used for such application, although any written application setting forth substantially the same facts shall be valid. The written application for replacement ballots shall be personally signed by the voter and acknowledged before a notary public or witnessed as required on the affidavit for return of the original absentee ballots; and may be transmitted to the county election board in person by the voter, by United States Mail or by an agent designated by the voter. The person transmitting such application 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 or related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. No person may be the agent for more than one voter at any election. Such second ballot set shall be transmitted by the voter to the county election board in the same manner as provided in the original set.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-123.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

Any person, except members of absentee voting boards, who witnesses the signature of more than two affidavits of persons who swear they are physically incapacitated and unable to vote in person at their precinct on election day shall, upon conviction, be deemed guilty of a misdemeanor.

SECTION 14. This act shall become effective November 1, 2001.

48-1-124 JT 6/12/2015 11:15:46 AM