

ENROLLED SENATE
BILL NO. 1346

By: Monson of the Senate

and

Dorman of the House

An Act relating to elections; amending 26 O.S. 2001, Section 1-106, which relates to determination of dates; authorizing the Secretary of the State Election Board to change the date of an event in certain circumstances; amending 26 O.S. 2001, Section 2-107, as amended by Section 2, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2003, Section 2-107), which relates to the duties of the Secretary of the State Election Board; modifying duties; amending 26 O.S. 2001, Sections 3-113 and 3-119, which relate to instructions to voters and creation of subprecincts; requiring instructions to include all information required by law; designating certain areas as a subprecinct; amending 26 O.S. 2001, Sections 4-112, as amended by Section 4, Chapter 447, O.S.L. 2002 and 4-113 (26 O.S. Supp. 2003, Section 4-112), which relate to voter registration; modifying information to be provided in registration application; clarifying statutory reference; requiring certain voters to provide identification to vote in federal elections; providing acceptable forms of identification; providing exception to requirement; allowing certain voters to cast provisional ballots; requiring provisional ballots to be available for all elections conducted by a county election board; requiring the Secretary of the State Election Board to promulgate rules pertaining to provisional ballots; providing who is entitled to cast a provisional ballot; providing procedure for casting and counting provisional ballots; making certain information confidential; providing for an extension of time to investigate and verify provisional ballots; requiring the secretary of a county election board to retain materials pertaining to provisional ballots for a certain period of time; amending 26 O.S. 2001, Sections 7-136 and 7-138, which relate to canvassing returns and credit for voting; clarifying language; stating certain time for transmission of election results and certification of certain election; authorizing registered voter to be credited with voting; amending 26 O.S. 2001, Sections 8-105, 8-106, 8-110 and 8-114, which relate to tie votes, certifications and contests; modifying time for certain recertification of tie votes; modifying time for issuance of lists of successful candidates and

certificates of election; modifying time related to security and transfer of ballot boxes and transfer cases; providing that procedure for recount applies to provisional ballots; amending 26 O.S. 2001, Section 9-100, which relates to voting devices; authorizing the Secretary of the State Election Board to use experimental vote counting devices in certain counties; amending 26 O.S. 2001, Section 11-106, which relates to certification of election of judicial officers; modifying time for certification of election results; amending 26 O.S. 2001, Section 13A-106, as amended by Section 12 of Enrolled House Bill No. 2677 of the 2nd Session of the 49th Oklahoma Legislature, which relates to school board candidates; modifying qualifications to be a candidate for certain board seats; providing election dates for municipalities with home rule charters; requiring home rule charter cities to change their charter to allow certain elections be held on statutory election days; amending 26 O.S. 2001, Sections 13-102 and 13-103, which relate to notice and conduct of municipal elections; providing notice for certain regular elections; requiring certain municipal elections to be held on certain dates as identified by statute; amending Section 9, Chapter 485, O.S.L. 2003 and 26 O.S. 2001, Sections 14-115.5 and 14-121, as last amended by Section 20, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2003, Sections 14-104.1 and 14-121), which relate to absentee voting; providing that certain absentee ballot procedure applies to ballots cast by voters who are absent from the United States; modifying procedures for expenses for members of an absentee voting board; modifying date for submission of specified list; providing for absentee provisional ballots; amending 11 O.S. 2001, Sections 16-101, 16-102, 16-107, 16-108, 16-109, 16-110, 16-111 and 16-114, which relate to notice of municipal elections; making certain provisions not applicable to municipalities, primary elections, conduct of primary elections, eligibility of becoming a candidate, independent candidates, unopposed candidates in primary elections and conduct of special elections; requiring the governing body of municipalities to give notice of certain elections; providing for statutory reference; requiring elections conducted by the county election board be scheduled on statutory dates; modifying date of certain primary elections in certain years; providing for governing of partisan municipal primary elections; stating eligibility requirements for certain persons to become candidate; providing for candidates names printed on nonpartisan municipal election ballot; making language gender neutral; requiring forty-five days between municipal primary and general special elections; stating certain facts to be included in resolution or order of governing body calling certain elections; repealing 26 O.S.

2001, Section 7-116, which relates to voter identification cards; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2001, Section 1-106, is amended to read as follows:

Section 1-106. In determining the date of any event pertaining to elections which date is fixed by statute as occurring a certain number of days before or after an election, neither the day of the election nor the day of the event shall be counted. If the date set by law for an event pertaining to an election falls on an official holiday, the Secretary of the State Election Board shall have the authority to move the event to a preceding business day or to the next succeeding business day as appropriate for completion of the event.

SECTION 2. AMENDATORY 26 O.S. 2001, Section 2-107, as amended by Section 2, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2003, Section 2-107), is amended to read as follows:

Section 2-107. The Secretary of the State Election Board shall be the administrative officer of the State Election Board and shall have general supervisory authority over county election boards and shall have the authority to provide administrative supervision to any county election board, as well as the authority to stand in the place of the secretary of the county election board for the purpose of employing county election board personnel when a vacancy exists in the office of the secretary of the county election board. The Secretary shall have the authority to employ and fix the salaries and duties of such personnel as may be necessary to perform the duties of the State Election Board. The Secretary may promulgate, repeal or modify such rules or regulations as the Secretary deems necessary to facilitate and assist in achieving and maintaining uniformity in the application, operation and interpretation of the state and federal election laws and a maximum degree of correctness, impartiality and efficiency in administration of the election laws; provided, however, that such rules or regulations, to be binding and effective, must have been officially adopted by the Secretary of the State Election Board; the procedure and adoption of such rules and regulations shall be subject to the provisions of the Administrative Procedures Act. The Secretary shall promote and encourage voter registration and voter participation in elections. The Secretary shall be the chief state election official responsible for coordination of state responsibilities under the National Voter Registration Act of 1993 and under the Help America Vote Act of 2002. The Secretary shall have the authority to implement programs for confirmation of voter registration and for removal of ineligible voters in compliance with general Oklahoma election law and requirements of the National Voter Registration Act of 1993.

SECTION 3. AMENDATORY 26 O.S. 2001, Section 3-113, is amended to read as follows:

Section 3-113. Instructions to voters describing the manner for casting one's vote shall be posted outside each polling place and inside each voting booth. Said instructions shall be prescribed by the Secretary of the State Election Board and shall include all information required by federal or state law.

SECTION 4. AMENDATORY 26 O.S. 2001, Section 3-119, is amended to read as follows:

Section 3-119. ~~Where~~ A. Except as provided in subsection B of this section, if fewer than one hundred registered voters are affected, an area constituting the maximum area possible without crossing boundaries of any district court judicial district electoral division or any congressional, legislative or county commissioner district may be designated as a subprecinct.

B. In metropolitan statistical areas, if fewer than three hundred registered voters are affected, an area constituting the maximum area possible without crossing boundaries of any district court judicial district electoral division or any congressional, legislative or county commissioner district may be designated as a subprecinct.

C. Registration records shall be maintained for subprecincts in like manner as for other precincts. Subprecincts need not have a polling place separate from another precinct, nor shall they be required to have a precinct election board. The secretary of the county election board may authorize registered voters of a subprecinct to vote at a specific adjacent precinct. Provided, separate election materials shall be there afforded for the subprecinct in order that a separate certification will be made of the subprecinct's election results. Appropriate ballots shall be issued to the voters of the subprecinct.

SECTION 5. AMENDATORY 26 O.S. 2001, Section 4-112, as amended by Section 4, Chapter 447, O.S.L. 2002 (26 O.S. Supp. 2003, Section 4-112), is amended to read as follows:

Section 4-112. A. The Secretary of the State Election Board shall devise and distribute a registration application form to be used for registering voters. Such registration application shall contain the following information: ~~voter's~~ applicant's full name and date of birth, county and place of residence, and mailing address pursuant to the provisions of subsection B of this section; the names of political parties recognized by the laws of the State of Oklahoma with which the ~~voter~~ applicant may be affiliated; the Oklahoma driver license or identification card number if the applicant has been issued a current and valid driver license or identification card by the Department of Public Safety, or if the applicant does not have a valid Oklahoma driver license or identification card, the last four digits of the voter's social security number; an oath of the ~~voter's~~ applicant's eligibility of the applicant to become a registered voter; and such other information as may be deemed necessary by the Secretary to identify such ~~voter~~ applicant

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 a 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 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.

B. Applicants for voter registration or for change of voter registration in any way shall provide a residence address and, if different from the residence address, a mailing address. A residence address shall include the street address of the residence, including a full house number, street name or number, apartment or suite number, if applicable, and zip code. If a street address is not available for the residence, applicants shall provide such information as the State Election Board deems necessary for voter registration purposes. A post office box may not be given as a residence address. A mailing address, which shall include the city and zip code, may be the actual emergency notification or 911 address on file in the local community, a rural route and box number, a post office box number or a street address.

SECTION 6. AMENDATORY 26 O.S. 2001, Section 4-113, is amended to read as follows:

Section 4-113. A. The Secretary of the State Election Board shall devise a voter identification card which shall be issued to every person who becomes a registered voter in Oklahoma. Said voter identification card shall contain such information as is necessary to determine a registered voter's eligibility.

B. When a person registers to vote or changes his or her registration in any manner to require a new voter identification card, the county election board secretary in the county of the voter's residence shall transmit the new voter identification card as acknowledgment of the transaction which may be the notice required in Section ~~4~~ 4-103.1 of this ~~act~~ title.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-115.2 of Title 26, unless there is created a duplication in numbering, reads as follows:

Registered voters who submitted applications for new voter registration in the county of their residence by mail on or after January 1, 2003, shall be required to provide identification when they vote for the first time in a federal election. Acceptable forms of identification shall include, but shall not be limited to, a current and valid photo identification, a voter identification card issued by the county election board in acknowledgement of the person's valid voter registration application as required by Section 4-113 of Title 26 of the Oklahoma Statutes, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the voter's name and address. Voters who may be subject to the voter identification requirements of this section may submit a copy of one of these forms of identification along with their voter registration application, but they shall not be required to do so. A voter who submits such identification with a voter registration application shall not be required to show identification when voting as outlined in this section. Any registered voter subject to the voter identification requirements of this section who is unable to provide one of the acceptable forms of identification when they appear at the precinct polling place on election day or at the in-person absentee polling place on a day of in-person absentee voting is entitled to cast a provisional ballot as provided in Section 8 of this act and to have said ballot counted upon verification of the voter's identity.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-116.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. Provisional ballots shall be available for all elections conducted by the county election board. Provisional ballots shall include all offices, candidates and questions and shall be identical to the regular ballots for each precinct. The Secretary of the State Election Board shall promulgate rules and shall prescribe materials necessary for the implementation of provisional ballots.

B. Persons who are not listed in the precinct registry, but who claim to be registered voters in the precinct and eligible to vote in the election, shall be entitled to vote a provisional ballot upon execution of an affidavit prescribed by the Secretary of the State Election Board. Registered voters required to show identification before voting for the first time in a federal election, as described in Section 7 of the act and who are unable to show one of the acceptable forms of identification described in said section, shall be entitled to cast a provisional ballot. Persons identified in Section 14-121 of Title 26 of the Oklahoma Statutes shall be entitled to vote a provisional ballot upon execution of an affidavit prescribed by the Secretary of the State Election Board. Persons who are listed in the precinct registry for a partisan primary election, but who dispute the political affiliation indicated by said precinct registry, shall be entitled to vote a provisional ballot for a party other than the one indicated. However, such provisional ballot shall be counted only if evidence is found by the

secretary of the county election board of the voter's valid voter registration in the party for which the provisional ballot was cast.

C. Provisional ballots shall be segregated from the regular ballots cast in the precinct in the manner prescribed by the Secretary of the State Election Board and shall not be inserted in the precinct voting device. Information provided by a person who votes a provisional ballot shall be investigated by the secretary of the county election board after the election. A provisional ballot shall be counted only if it is cast in the precinct of the voter's residence and if evidence of the provisional voter's valid voter registration, or of the voter's identity, is found, except a provisional ballot cast by a voter identified in Section 14-121 of Title 26 of the Oklahoma Statutes shall be counted.

D. No information concerning provisional ballots, except the number of provisional ballots cast in the county, shall be made public by any election official prior to 1:00 p.m. on Friday following the election. The county sheriff shall secure sealed ballot transfer cases containing provisional ballots that have been counted after 1:00 p.m. on Friday following the election until 5:00 p.m. on Tuesday next succeeding the election or, in the event a recount contest is filed, until such times as said transfer cases are delivered to the district courtroom.

E. In the event that the secretary of any county election board is unable to complete the investigation and verification of provisional ballots by 1:00 p.m. on Friday following the election, the Secretary of the State Election Board shall be authorized to extend the period for the investigation and verification of provisional ballots. When such an extension is required by any county for a statewide election, the extension shall apply statewide. The Secretary shall promulgate rules establishing procedures for requesting and granting such extensions.

F. All materials used for procuring and casting a provisional ballot shall be retained by the secretary of the county election board for a period of twenty-four (24) months after the day of the election.

SECTION 9. AMENDATORY 26 O.S. 2001, Section 7-136, is amended to read as follows:

Section 7-136. The county election board shall convene at the county courthouse, or at such other place as the county election board may designate on the day of each election, for the purpose of receiving the official precinct returns and shall remain in session until ~~said~~ such precinct returns are all delivered. The board shall cause to be accumulated and listed the results of such election, as the official precinct returns are received, in a manner and upon forms prescribed by the Secretary of the State Election Board. The county election board shall use such precinct returns to certify the results of such election for county officers and questions and shall transmit electronically or in writing as prescribed by the Secretary of the State Election Board ~~immediately~~ after 5 p.m. on Friday following the election to the State Election Board the completed county returns for all state officers and questions. Such county

returns shall be prima facie evidence of the correctness of the result in the several counties. The State Election Board shall use such county returns to certify the results of such election for all state officers and questions after 5 p.m. on Tuesday next succeeding the election.

SECTION 10. AMENDATORY 26 O.S. 2001, Section 7-138, is amended to read as follows:

Section 7-138. Following the election, the secretary of the county election board shall cause each registered voter who cast a ballot to be credited with voting in said election according to procedures specified by the Secretary of the State Election Board.

SECTION 11. AMENDATORY 26 O.S. 2001, Section 8-105, is amended to read as follows:

Section 8-105. A. When a tie vote is certified in the nomination or election of any candidate in any Runoff Primary, General Election or any Primary Election, the election board which is authorized by law to issue the certified list or certificate of election shall, at a public meeting of the board and in the presence of the candidates involved or their designee, if they or any of them desire to be present, select the nominee or electee by lot.

B. When a nominee or electee is to be selected by lot pursuant to the provisions of this section, the following procedures shall be observed:

1. The secretary of the appropriate election board shall, on or before the ~~seventh~~ tenth day following the election, notify each of the tying candidates for which the vote was tied. The notice shall include the time, date and location of the selection, shall be made in writing by registered or certified mail and shall be postmarked not fewer than five (5) days prior to the meeting;

2. A candidate may designate one person as a witness to attend the meeting on the candidate's behalf. The designation shall be made in writing, signed by the candidate and presented to the secretary of the appropriate election board;

3. The secretary of the appropriate election board shall, in full view of those present at the meeting, clearly write or print the name of each tied candidate on separate pieces of paper measuring approximately equal size. The names of the candidates shall be written or printed on the same color and type of paper. The papers shall be folded in half one time so that the written names are not visible and shall be placed into a container selected by the secretary of the appropriate election board;

4. The secretary shall draw, or may designate a person other than the candidates, witnesses or other person directly interested in the election to draw, one paper, and the name of the nominee or electee appearing on the first drawn paper shall be declared the winner. The secretary shall then expose the other name or names not drawn to all witnesses present; and

5. The meeting shall be held on a weekday, holidays excepted, between the hours of 7:00 a.m. and 7:00 p.m.

C. When there are three (3) or more candidates and a tie for first place occurs for the nomination of a candidate at a Primary Election for which a Runoff Primary will be held, the names of the tied candidates shall be placed on the Runoff Primary ballot.

SECTION 12. AMENDATORY 26 O.S. 2001, Section 8-106, is amended to read as follows:

Section 8-106. No ~~such~~ lists or certificates provided for in Section 8-103 of this title shall be issued either by the county election board or State Election Board before 5:00 p.m. Friday next following a Primary, Runoff Primary or General Election.

SECTION 13. AMENDATORY 26 O.S. 2001, Section 8-110, is amended to read as follows:

Section 8-110. It shall be the duty of the sheriff in each county to provide security for the ballot boxes or transfer cases from the time said ballot boxes or transfer cases are stored by the county election board following an election until ~~5:00 p.m. Friday next following~~ the election results have been certified or, in the event a recount contest is filed, until such time as said ballot boxes or transfer cases are delivered to the district courtroom.

SECTION 14. AMENDATORY 26 O.S. 2001, Section 8-114, is amended to read as follows:

Section 8-114. A. If a recount is to be conducted using electronic voting devices, the devices used shall be tested for accuracy by the county election board, giving all contestants, or their agents, an opportunity to view the testing procedure. In conducting a recount using electronic voting devices, the county election board shall open the transfer cases containing regular ballots and counted provisional ballots from each requested precinct or for absentee ballots individually and shall assign said ballot cards to one or more voting devices operated by persons appointed by the secretary of the county election board. The county election board shall supervise such counting and its decision shall be final in all cases. Each contestant is entitled to have a watcher present at each place where a voting device is being used. Said watcher shall be limited to a challenge, in writing, of any action taken by operators of the voting devices. Such challenge shall be made immediately to the county election board, whose decision on said challenge shall be final.

B. In conducting a manual recount of ballots, the county election board shall open the transfer cases containing regular ballots and counted provisional ballots from each requested precinct or for absentee ballots individually and shall assign said ballot cards to a group of counters appointed by the secretary of the county election board. Counters shall then conduct the recount in the same manner as provided by law for counting ballots in Primary, Runoff Primary and General Elections. The county election board shall supervise such counting and its decision shall be final in all

cases. Each candidate affected by or individual petitioning for the recount is entitled to have a watcher present at each place where a count is being made. Said watcher shall be limited to a challenge, in writing, of any decision made by the counters with regard to counting of a ballot. Such challenge shall be made immediately to the county election board, whose decision on said challenge shall be final. Each group of counters shall have representation of at least two political parties, where possible. Said counters shall be appointed from among the registered voters of the county and shall meet such qualifications as may be imposed for a precinct inspector, judge or clerk. Counters shall be paid on the same basis as precinct judges and clerks are paid for Primary, Runoff Primary or General Elections.

SECTION 15. AMENDATORY 26 O.S. 2001, Section 9-100, is amended to read as follows:

Section 9-100. ~~Officials authorized by law to purchase voting devices and equipment may, with written authorization of the~~ The Secretary of the State Election Board, shall be authorized to allow for the experimental use of one or more vote counting devices or other equipment ~~which they might lawfully purchase, to be used in one or more election precincts in one or more counties,~~ without a formal purchase thereof. The experimental use of such vote counting device or other equipment in any election shall be as valid for all purposes as if it had been purchased.

SECTION 16. AMENDATORY 26 O.S. 2001, Section 11-106, is amended to read as follows:

Section 11-106. If a Declaration of Candidacy is filed, an election held, and no contest thereto is filed, the State Election Board shall certify the result to the Secretary of State by 5:00 p.m. ~~Friday~~ Tuesday next following the General Election. If a contest is filed, the result shall be certified to the Secretary of State either when the contest is determined or when it has been abandoned. If a decision by a majority of those voting thereon is that the officer shall not be retained in office, the Secretary of State shall immediately notify the Governor and the ~~Chairman~~ Chair of the Judicial Nominating Commission of the decision, stating the name and office of the officer, and that a vacancy has occurred or is certain to occur, as is appropriate.

SECTION 17. AMENDATORY 26 O.S. 2001, Section 13A-106, as amended by Section 12 of Enrolled House Bill No. 2677 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 13A-106. A. To be eligible to be a candidate for member of the board of education of a school district or technology center school district, a person must have resided in the district or, if the board seat is in an independent district, have resided in that district ~~or own property in the independent district and reside in a dependent district that is contiguous with the independent district~~ for at least six (6) months preceding the first day of the filing period, and have been a registered voter registered with the county election board at an address located within the geographical

~~boundaries of the district or, if the board seat is in an independent district, have been a registered voter in that district or own property in the independent district and have been a registered voter in a dependent district that is contiguous with the independent district for six (6) months preceding the first day of the filing period. Beginning May 1, 1990, no person shall be eligible to be a candidate for or elected to be a member of the board of education of a school district or technology center school district unless the person has been awarded a high school diploma or certificate of high school equivalency. In school districts that are divided into election districts, a candidate must have resided in the district or own property in the district and reside in a dependent district that is contiguous with the district for at least six (6) months preceding the first day of the filing period and have been a registered voter registered with the county election board at an address located within the geographical boundaries of the election district or own property in the district and have been a registered voter registered with the county election board at an address located within the geographical boundaries of a dependent district that is contiguous with the election district for six (6) months preceding the first day of the filing period. Beginning May 1, 1990, no person shall be eligible to be a candidate for or elected to be a member of the board of education unless the person has been awarded a high school diploma or certificate of high school equivalency.~~

B. To be eligible to vote in a school district election or a technology center school district election, a person must be registered with the county election board at an address located within the geographical boundaries of the district. To be eligible to vote in an election district election within a school district, a person must be registered with the county election board at an address located within the geographical boundaries of the election district.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 13-101.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

After July 1, 2005, no county election board shall be required to conduct elections for any municipality on a date other than an election date identified in subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes. Municipalities that hold both primary and general elections, in addition to scheduling elections on dates identified in subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes, shall provide no fewer than forty-five (45) days between the primary and general elections.

SECTION 19. AMENDATORY 26 O.S. 2001, Section 13-102, is amended to read as follows:

Section 13-102. Not fewer than fifteen (15) days before the filing period for any regular municipal election, or in the event of a special election, not fewer than sixty (60) days before such election, the governing board of any municipality shall submit a resolution to the secretary of the county election board conducting

~~said~~ such election. ~~Said~~ Such resolution shall contain the following facts:

1. The dates of the election or elections;
2. The offices to be filled or the questions to be voted upon at ~~said~~ such election or elections;
3. Qualifications for ~~said~~ such offices;
4. Designation of which offices shall be filled by voting by ward and which offices shall be filled by voting at large;
5. Indication of whether the election will be partisan or nonpartisan;
6. For charter cities where the charter is silent, indication of any portion of state law which will apply; and
7. Any other information necessary for conducting said election or elections.

SECTION 20. AMENDATORY 26 O.S. 2001, Section 13-103, is amended to read as follows:

Section 13-103. A. All municipal elections shall be held at the same place and in the same manner prescribed for conduct of state and county elections unless otherwise provided by law.

B. A municipality may adopt an ordinance requiring its elections to be partisan. If such an ordinance is adopted, a municipality shall notify the county election board that its election is to be partisan in its resolution calling for an election. If a municipality fails to notify the county election board that its election will be on a partisan basis in the resolution calling for an election, then the municipal election shall be on a nonpartisan basis. Provided, any municipality which is governed by a charter may provide otherwise by charter or ordinance.

C. All precincts totally or partially contained within the limits of a municipality shall be open for all elections held by such municipality; provided, however, that a municipality may authorize any precinct which is only partially contained within the limits of the municipality not to be opened by certifying to the county election board in its resolution calling for an election that no persons reside within that portion of the precinct contained within the limits of the municipality. Polling places shall be open from 7:00 a.m. until 7:00 p.m. Each precinct election board shall be the same as for state and county elections; provided, however, that substitutions, if necessary, shall be made by the county election board. Except as otherwise provided by law, the laws governing state and county Primary and General Elections shall be applicable to all municipal elections.

D. All municipal elections, including elections for municipalities with home rule charters, shall be held only on dates identified by subsection B of Section 3-101 of this title.

SECTION 21. AMENDATORY Section 9, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2003, Section 14-104.1), is amended to read as follows:

Section 14-104.1 Absentee ballots cast no later than the day of the federal election by voters identified pursuant to Section 14-116 of ~~Title 26 of the Oklahoma Statutes~~ this title who are absent from the United States and who made timely applications for absentee ballots in the Runoff Primary Election, and that are received by the secretary of the county election board by ~~5~~ 5:00 p.m. on the fourteenth day following the Runoff Primary Election shall be accepted as validly cast ballots and shall be tabulated and included in the final election results for federal offices. However, the Secretary of the State Election Board shall not be prevented from declaring the successful candidate in a Runoff Primary Election for a federal office if the total number of the ballots sent to absentee voters identified pursuant to Section 14-116 of ~~Title 26 of the Oklahoma Statutes~~ this title who are absent from the United States is mathematically insufficient to affect the outcome of the election.

SECTION 22. AMENDATORY 26 O.S. 2001, Section 14-115.5, is amended to read as follows:

Section 14-115.5 To carry out the provisions of ~~Section Sections~~ Sections 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~~ July 1 in each even-numbered year, the ~~chairmen~~ chair 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~~ Such 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~~ such list in designating membership on the absentee voting board or boards, unless all persons on ~~said~~ such lists are ineligible or unwilling to serve. In the event the ~~chairman~~ chair of the county central committee of a political party fails to submit a list as herein provided, the secretary shall appoint membership to ~~said~~ such board or boards from the ranks of registered voters of ~~said~~ such 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~~ such boards from the ranks of ~~said~~ such party or parties in the county. Members of an absentee voting board shall be reimbursed for their expenses at the same rate of Forty Dollars (40.00) per day as a precinct judge or clerk, as provided in Section 2-129 of this title. One member of each such board serving a nursing home or convalescent hospital 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 23. AMENDATORY 26 O.S. 2001, Section 14-121, as last amended by Section 20, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2003, 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 Uniformed Services of the United States, or who has been terminated in such 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 Uniformed Services of the United States or who has been terminated in such 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 provisional ballot at such election in the precinct for which the person 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 the person is entitled to vote at such election and completing a voter registration application for an address within the precinct~~ cast the provisional ballot and to have the provisional ballot counted upon completion of an affidavit as required by Section 8 of this act.

SECTION 24. AMENDATORY 11 O.S. 2001, Section 16-101, is amended to read as follows:

Section 16-101. ~~Notice~~ The governing body of a municipality shall give notice of a general municipal election or a special election ~~shall be given by publishing the resolution of the municipal governing body calling for the election. The resolution shall set forth:~~

- ~~1. The date or dates of the election; and~~
- ~~2. The offices to be filled or the questions to be voted upon at the election~~ contain the facts described in Section 13-102 of Title 26 of the Oklahoma Statutes.

The resolution shall be published in a newspaper of general circulation in the municipality at least ten (10) days before the beginning of the filing period for a general municipal election, or at least ten (10) days before the date of a special election. If there is no newspaper of general circulation in the municipality, the notice shall be given by posting a copy of the resolution in at least five (5) public places in the municipality.

SECTION 25. AMENDATORY 11 O.S. 2001, Section 16-102, is amended to read as follows:

Section 16-102. A. The provisions of Section 16-101 et seq. of this title shall not apply to any municipality which is governed by charter; provided, that in any election elections for such municipalities which shall be conducted by the county election board shall be scheduled only on an election date identified by Section

subsection B of 3-101 of Title 26 of the Oklahoma Statutes.
However, such a municipality may, by indicating in its resolution calling ~~the~~ an election, choose to follow any provision of state law governing elections conducted by a county election board when the municipality's charter or ordinances are silent on the matter addressed by such provision. In such instance, if the municipal election or any substantial portion thereof is not conducted by a county election board, the duties required of the county election board or its secretary shall be performed by the municipal authority designated by the municipal governing body and nothing herein shall be construed to require the county election board to perform any such duties. The residency requirements of Sections 16-109 and 16-110 of this title shall apply to all municipalities except to the extent that such residency requirements are governed by municipal charter.

B. The provisions of Sections 16-101 through 16-114 of this title shall not apply to any municipality subject to the provisions of the Oklahoma Town Meeting Act; provided, Section 16-103.1 of this title shall apply to such municipalities.

SECTION 26. AMENDATORY 11 O.S. 2001, Section 16-107, is amended to read as follows:

Section 16-107. A primary election shall be held in cities and towns on the ~~first~~ second Tuesday of ~~March~~ February in each odd-numbered year, at which time the several political parties shall nominate candidates for offices which are to be elected at the upcoming general municipal election.

SECTION 27. AMENDATORY 11 O.S. 2001, Section 16-108, is amended to read as follows:

Section 16-108. The general laws relating to primary elections shall govern partisan municipal primaries except as otherwise provided. Party candidates for municipal office, including those from wards as well as at large, shall be nominated at large by the registered voters of the respective parties of the entire municipality.

SECTION 28. AMENDATORY 11 O.S. 2001, Section 16-109, is amended to read as follows:

Section 16-109. To be eligible to become a candidate for a political party nomination in ~~the~~ a municipality's partisan primary election, or an independent candidate in such municipality's general election, a person must for at least six (6) months prior to filing a declaration of candidacy be a registered voter at an address within the municipality or in the ward if an office is from a ward. To become a ~~party~~ candidate, a declaration of candidacy must be filed with the county election board no earlier than 8:00 a.m. on the first Monday in ~~February~~ December and no later than 5:00 p.m. on the next succeeding Wednesday.

SECTION 29. AMENDATORY 11 O.S. 2001, Section 16-110, is amended to read as follows:

Section 16-110. ~~An independent~~ A candidate may have his or her name printed upon the nonpartisan general municipal election ballot as candidate for any office to be filled at the election. To become ~~an independent~~ a candidate, a declaration of candidacy must be filed with the county election board no earlier than 8:00 a.m. on the first Monday in February and no later than 5:00 p.m. on the next succeeding Wednesday. ~~An independent~~ A candidate must also be a registered voter at an address within the municipality, or of the ward where the office is from a ward for at least six (6) months prior to filing a declaration of candidacy. Filing as ~~an independent~~ a candidate in ~~an~~ a nonpartisan municipal election or voting for such candidate shall not affect one's party affiliation or regularity.

SECTION 30. AMENDATORY 11 O.S. 2001, Section 16-111, is amended to read as follows:

Section 16-111. Any candidate who is unopposed for an office in a partisan primary election shall be deemed nominated and so certified; and his or her name shall not appear on the primary election ballot. If there are unopposed candidates for each of the offices which are up for election, no primary election shall be held.

SECTION 31. AMENDATORY 11 O.S. 2001, Section 16-114, is amended to read as follows:

Section 16-114. A. When the office of a municipal elected official is to be filled at a special partisan election, the resolution or order of the governing body calling the election shall contain the following facts:

1. A filing period of three (3) days, on a Monday, Tuesday and Wednesday, not less than fifteen (15) days from the date of the resolution or order;

2. The date of the Special Primary Election, ~~if any,~~ not less than ~~thirty (30)~~ forty-five (45) days after the close of the filing period; and

3. The date of the Special General Election, not less than ~~thirty (30)~~ forty-five (45) days after the date of the Primary Election, ~~if any, but if no primary election is called, not less than thirty (30) days after the close of the filing period.~~ A copy of the resolution or order shall be filed with the secretary of the county election board not less than sixty (60) days preceding the date of the special primary election. The election shall be conducted under the laws applicable to general municipal elections.

B. When the office of a municipal elected official is to be filled at a special nonpartisan election, the resolution or order of the governing body calling the election shall contain the following facts:

1. A filing period of three (3) days, on a Monday, Tuesday and Wednesday, not less than fifteen (15) days from the date of the resolution or order;

2. The date of the special general election, not less than forty-five (45) days after the close of the filing period. A copy of the resolution or order shall be filed with the secretary of the county election board not less than sixty (60) days preceding the date of the special general election.

C. Special municipal elections may be called only on dates established by subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes.

SECTION 32. REPEALER 26 O.S. 2001, Section 7-116, is hereby repealed.

SECTION 33. This act shall become effective July 1, 2005.

Passed the Senate the 25th day of May, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2004.

Presiding Officer of the House
of Representatives

