

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2537

By: Tibbs

COMMITTEE SUBSTITUTE

An Act relating to elections; amending 26 O.S. 2001, Sections 3-126 and 3-127, which relate to election records and results; allowing county election boards to have access to certain records of the State Election Board; requiring precinct registries to be retained for a certain time period; amending 26 O.S. 2001, Section 4-112, as last amended by Section 5, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2005, Section 4-112), which relates to voter registration applications; modifying information required by voter registration application forms; amending 26 O.S. 2001, Section 4-120.3, as last amended by Section 3, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2005, Section 4-120.3), which relates to cancellation of voter registration of persons who are deceased; modifying cancellation procedure; providing time limit for cancellation procedure; providing additional time limit in certain circumstances; amending 26 O.S. 2001, Section 7-114, which relates to eligibility to vote; modifying procedure for determining eligibility to vote; amending 26 O.S. 2001, Section 8-109, which relates to filing election contests; modifying time period for filing election contests; amending 26 O.S. 2001, Section 14-115, as last amended by Section 12, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2005, Section 14-115), which relates to absentee ballots; providing procedure for absentee ballots for persons confined to veterans centers; amending 26 O.S. 2001, Section 14-115.4, as last amended by Section 8, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2005, Section 14-115.4), which relates to in-person absentee voting; modifying requirements for in-person absentee voting; providing penalty for certain voting irregularity; providing for codification; 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. 2001, Section 3-126, is amended to read as follows:

Section 3-126. A. Records required to be maintained by the State Election Board or any county election board in the performance

of their duties shall be retained for a period of twenty-four (24) months, unless otherwise provided by law. However, the State Election Board and county election boards shall continuously maintain records of all official acts and certifications made by such boards.

B. Every county election board shall have access to all records required to be maintained by the State Election Board and all records required to be maintained by all other county election boards.

SECTION 2. AMENDATORY 26 O.S. 2001, Section 3-127, is amended to read as follows:

Section 3-127. A. The State Election Board, with regard to elections certified by same, and the county election boards, with regard to elections certified by same, shall retain permanently results of said elections by precinct.

B. Every precinct registry shall be retained for at least six (6) years after the election for which the registry was prepared.

SECTION 3. AMENDATORY 26 O.S. 2001, Section 4-112, as last amended by Section 5, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2005, 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: 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 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~~ and the voter's social security number; an oath of the eligibility of the applicant to become a registered voter; and such other information as may be deemed necessary by the Secretary to identify such 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 4. AMENDATORY 26 O.S. 2001, Section 4-120.3, as last amended by Section 3, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2005, Section 4-120.3), is amended to read as follows:

Section 4-120.3 A. The State Department of Health 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~~ Within sixty (60) days after receiving the list, the Secretary of the State Election Board shall ~~transmit such list to the secretary of the county election board who shall then~~ use such 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. If the Secretary of the State Election Board decides that the identity of a deceased person as a registered voter in this state cannot be accurately determined, the Secretary shall have an additional sixty (60) days to make the determination. ~~Such~~ The list from the State Department of Health 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 such 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. Such form must be executed in person by the deceased voter's

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 deceased voter's precinct polling place or at the next of kin's precinct polling place in the same county on the day of any election, in which case it shall be witnessed by the inspector of such precinct, or the form may be personally signed by the next of kin, such signature to be notarized by a notary public, and returned to the county election board. The administrator of a nursing facility, as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes, also may execute a form prescribed by the Secretary of the State Election Board to notify the ~~secretary of the county election board~~ Secretary of the State Election Board of the death of a nursing facility resident who is a registered voter. The administrator's signature on such form shall either be witnessed by a member of the nursing home absentee voting board or shall be notarized. ~~Upon~~ Within sixty (60) days after receipt of such form, the ~~secretary of the county election board shall be authorized to~~ Secretary of the State Election Board shall cancel the voter registration of such deceased person.

SECTION 5. AMENDATORY 26 O.S. 2001, Section 7-114, is amended to read as follows:

Section 7-114. A. Each person ~~presenting himself~~ arriving to vote shall announce ~~his~~ the person's name to the judge of the precinct and shall provide proof of identity to the judge, whereupon the judge shall determine whether said person's name is in the precinct registry. A document containing a photograph of the voter, issued by the state, the federal government, a county, a municipality, or a federally recognized Indian tribe may be used to show proof of identity.

B. 1. If a person is unable to produce any of the items of identification provided for in subsection A of this section, the person may sign a statement under oath in a form approved by the

Secretary of the State Election Board, swearing or affirming that the person is the person identified on the precinct registry, and shall be allowed to vote.

2. False swearing or affirming under oath shall be punishable as a felony and the penalty shall be distinctly set forth on the face of the statement.

3. Any vote cast pursuant to this subsection shall be deposited in an envelope designated for such purpose and shall be stored in accordance with procedures established by the Secretary of the State Election Board.

SECTION 6. AMENDATORY 26 O.S. 2001, Section 8-109, is amended to read as follows:

Section 8-109. Any candidate whose name appeared on a Primary, Runoff Primary or General Election ballot, or any individual authorized to request a recount pursuant to Section 8-111 of this title may, at any time before 5:00 p.m. ~~Friday~~ Tuesday next following an election, contest the correctness of the announced results of said election by filing a written petition with the appropriate election board. Contests alleging irregularities or fraud shall not be permitted in any election except those in which candidates are seeking office. Nothing in this section shall be construed to prohibit any proceedings in district court, which are otherwise authorized by law, alleging irregularities or fraud in an election.

SECTION 7. AMENDATORY 26 O.S. 2001, Section 14-115, as last amended by Section 12, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2005, 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 facility, as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center established pursuant to Title 72 of the Oklahoma Statutes within the county of the

jurisdiction of the secretary, the secretary shall cause to be implemented the following procedures:

1. On the Thursday, Friday, Saturday or Monday preceding the election, the absentee voting board shall deliver to each registered voter who is confined to a nursing facility, as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center established pursuant to Title 72 of the Oklahoma Statutes and who requested ballots for an incapacitated voter said ballots and materials as may be necessary to vote same.

2. The voter must mark 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 a 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 the signature of the voter 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.

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

SECTION 8. AMENDATORY 26 O.S. 2001, Section 14-115.4, as last amended by Section 8, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2005, 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 8 a.m. to 6 p.m. on Friday and Monday

immediately preceding any election and from 8 a.m. to 1 p.m. on Saturday immediately preceding a state or federal election. As part of the application for an in-person absentee ballot such registered voter shall swear or affirm that the voter has not voted a regular mail absentee ballot and that 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, as provided in subsection A of Section 7-114 of this title. If the person is unable to produce proof of identity, the person shall be allowed to vote pursuant to subsection B of Section 7-114 of this title. Any person falsely swearing or affirming such statement shall be subject to the penalty provided in subsection B of Section 7-114 of this title.

B. One or more absentee voting boards shall be on duty from 8 a.m. to 6 p.m. at the in-person absentee polling place on Friday and Monday immediately preceding any election and from 8 a.m. to 1 p.m. on Saturday immediately preceding a state or federal 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 the signature of the voter 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 the ballots of the voter 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 a 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 7:45 a.m. on the next day of 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 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 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-109.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

Any person who, after transferring voter registration pursuant to Section 4-116 or 4-118 of Title 26 of the Oklahoma Statutes, votes or attempts to vote in the precinct in which the person was previously registered shall be guilty of a felony.

SECTION 10. This act shall become effective July 1, 2006.

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.

50-2-9651        SCE        03/02/06