

1 ENGROSSED SENATE
2 BILL NO. 718

By: Barrington and Gumm of the
Senate

3 and

4 Holland of the House
5
6

7 An Act relating to elections; amending 26 O.S. 2001,
8 Section 1-105, which relates to substitute
9 candidates; modifying procedure for selection of
10 substitute candidate upon death of nominee for
11 legislative office; clarifying language; amending
12 Sections 2-118, as last amended by Section 1, Chapter
13 83, 2nd Extraordinary Session, O.S.L. 2006, 7-130, as
14 amended by Section 7, Chapter 307, O.S.L. 2004, 14-
15 107 and 14-121, as last amended by Section 23,
16 Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2008,
17 Sections 2-118, 7-130 and 14-121), which relate to
18 county election board secretaries, conduct of
19 elections, declarations of candidacy, absentee
20 ballots and voter registration; providing that
21 certain compensation be considered minimum; providing
22 that certain provisions not preclude additional
23 compensation from certain sources; deleting obsolete
24 language; deleting provision relating to charges for
certification of absentee ballot; requiring certain
notice to accompany absentee ballot; modifying time
period in which return of certain persons from
overseas entitles such persons to vote provisional
ballots at subsequent election; amending 49 O.S.
2001, Section 5, as last amended by Section 2,
Chapter 101, O.S.L. 2004 (49 O.S. Supp. 2008, Section
5), which relates to notaries public; prohibiting
charging of fee for notarization of official absentee
ballot affidavit; and declaring an emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
24

1 SECTION 1. AMENDATORY 26 O.S. 2001, Section 1-105, is
2 amended to read as follows:

3 Section 1-105. A. In the event of the death of a political
4 party's nominee for office prior to the date of the General
5 Election, the name of a substitute candidate will be ~~permitted to~~
6 ~~have his name~~ placed on the General Election ballot as follows:

7 1. If the deceased nominee was a candidate for county office,
8 the political party's central committee of ~~said~~ the county shall
9 notify the secretary of the county election board of the name of an
10 alternative candidate to be placed on the General Election ballot.
11 Such notice shall be submitted in writing, ~~within five (5)~~ ten (10)
12 days after ~~said~~ the death has occurred if the death occurred more
13 than thirty (30) days prior to such General Election and within five
14 (5) days if the death occurred within thirty (30) days of such
15 General Election, and shall be signed by at least two duly
16 authorized members of the political party's county central
17 committee;

18 2. ~~If~~ Except as otherwise provided in paragraph 3 of this
19 subsection for nominees for legislative office, if the deceased
20 nominee was a candidate who filed ~~his~~ a Declaration of Candidacy
21 with the State Election Board, the state central committee of the
22 party affected shall notify the Secretary of the State Election
23 Board of the name of an alternative candidate to be placed on the
24 General Election ballot. Such notice shall be submitted in writing,

1 within ~~five (5)~~ ten (10) days after ~~said~~ the death has occurred if
2 the death occurred more than thirty (30) days prior to such General
3 Election and within five (5) days if the death occurred within
4 thirty (30) days of such General Election, and shall be signed by at
5 least two duly authorized members of the political party's state
6 central committee-; and

7 3. If the deceased nominee was a candidate for the State Senate
8 or Oklahoma House of Representatives, a majority of the members of
9 the political party of the house of the Legislature of which the
10 deceased nominee would have been a member if elected shall select an
11 alternative candidate to be placed on the General Election ballot.
12 Such selection shall be made in consultation with the family of the
13 deceased nominee and the county central committees of the nominee's
14 political party of all counties in which the affected district is
15 located. The duly elected leader of the legislative political party
16 caucus of which the deceased nominee would have been a member if
17 elected shall notify the Secretary of the State Election Board of
18 the name of the alternative candidate within ten (10) days after the
19 death has occurred if the death occurred more than thirty (30) days
20 prior to such General Election or within five (5) days if the death
21 occurred within thirty (30) days of such General Election. Such
22 notification shall be in writing and shall be signed by the duly
23 elected leader of the political party caucus of the house of the

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1 Legislature of which the deceased nominee would have been a member
2 if elected.

3 B. If ~~said the~~ death of a candidate should occur five (5) or
4 more days ~~or more~~ following the Runoff Primary Election date, a
5 special General Election shall be called by the Governor and shall
6 be conducted according to the laws governing such elections, Section
7 12-101 et seq. of this title, except that there shall be no filing
8 period or special Primary Election and the candidates in the special
9 General Election shall be the substitute candidate named ~~by the~~
10 ~~central committee~~ as provided in this section and the nominee of
11 other political parties elected in the Primary or Runoff Primary,
12 and any previously filed independent candidates.

13 ~~B.~~ C. In the event of the death of a candidate who was
14 unopposed for election, a Special Election shall be called by the
15 Governor. ~~Said Special Election~~ and shall be conducted according to
16 the laws governing such elections, Section 12-101 et seq. of this
17 title.

18 SECTION 2. AMENDATORY 26 O.S. 2001, Section 2-118, as
19 last amended by Section 1, Chapter 83, 2nd Extraordinary Session,
20 O.S.L. 2006 (26 O.S. Supp. 2008, Section 2-118), is amended to read
21 as follows:

22 Section 2-118. A. The secretary of each county election board
23 shall be paid ~~an~~ a minimum annual salary to be determined by the
24 ~~following~~ schedule specified in subsection B of this section.

1 ~~However, the salary of a county election board secretary shall not~~
2 ~~fall below the level of the April 30, 2003, salary, and the salary~~
3 ~~of any person who is reappointed to the position of county election~~
4 ~~board secretary shall not fall below the salary received in the~~
5 ~~immediately preceding term, regardless of the number of active~~
6 ~~registered voters in the county. A county election board secretary~~
7 ~~serving on April 30, 2004, shall not receive a salary increase if~~
8 ~~said secretary is paid an amount greater than the salary indicated~~
9 ~~in this section according to the number of registered voters in said~~
10 ~~county.~~ A county election board secretary shall not receive a
11 salary increase while the county is under the administrative
12 supervision of the State Election Board.

13 ~~1. Beginning May 1, 2003 and ending April 30, 2007, the annual~~
14 ~~salary, payable monthly shall be:~~

Registered Voters	Salary
0 to 10,000	\$21,588.28
10,001 to 15,000	\$22,388.28
15,001 to 17,500	\$26,252.45
17,501 to 25,000	\$29,429.93
25,001 to 50,000	\$35,846.94
50,001 to 75,000	\$45,174.66
75,001 to 150,000	\$50,611.26
150,001 or more	\$56,043.00

24 ~~2. Beginning May 1, 2007, the~~

1 B. The minimum annual salary, payable monthly, shall be:

2 Registered Voters	Salary
3 0 to 10,000	\$22,667.69
4 10,001 to 15,000	\$23,507.68
5 15,001 to 17,500	\$27,565.07
6 17,501 to 25,000	\$30,901.43
7 25,001 to 50,000	\$37,639.29
8 50,001 to 75,000	\$47,433.39
9 75,001 to 150,000	\$53,141.82
10 150,001 or more	\$58,845.15

11 ~~B.~~ C. The minimum salary and fringe benefits paid to each
12 secretary shall be paid from county funds on a monthly basis and
13 shall be reimbursed from funds appropriated to the State Election
14 Board by the Legislature for that purpose at a rate of not to exceed
15 one hundred thirty-five percent (135%) of the above-specified
16 minimum salaries. Claims for ~~said~~ the reimbursement shall be filed
17 according to procedures prescribed by the Secretary of the State
18 Election Board and approved by the Director of State Finance. ~~Said~~
19 The claims for reimbursement shall only be paid for actual
20 expenditures made by the county. The number of registered voters,
21 for the purposes of this section, shall be determined by the number
22 of registered voters, excluding inactive voters, in the county on
23 January 1, ~~1979, and every two (2) years thereafter~~ of every odd-
24 numbered year.

1 D. The provisions of this section shall not preclude a county
2 from providing compensation from county funds for the secretary of
3 the county election board in addition to the minimum salary provided
4 by this section; provided, any such additional compensation shall
5 not be reimbursed by the State Election Board.

6 SECTION 3. AMENDATORY 26 O.S. 2001, Section 7-130, as
7 amended by Section 7, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2008,
8 Section 7-130), is amended to read as follows:

9 Section 7-130. Any candidate or any recognized political party
10 shall be entitled to have a watcher present at any place where an
11 official count is being conducted. Such watcher must be
12 commissioned in writing by the candidate, or by the chair of the
13 recognized political party of the county in which the watcher is
14 being authorized. Such commission must be filed with the secretary
15 of the appropriate county election board no later than 5:00 p.m. on
16 Wednesday preceding the election. Watchers must subscribe to an
17 oath to observe all laws and rules prescribed for watchers as
18 hereinafter provided. Such oath must be administered by the
19 inspector of the precinct in which the watcher is authorized.
20 Watchers shall be entitled to observe the voting device both before
21 the polls are opened and after the polls are closed; provided,
22 further, that such watchers shall not be present at the polling
23 place at other times. Watchers may be commissioned to observe
24 voting device testing and to accompany personnel assigned to repair

1 or maintain machines during the period of the election. In such
2 case, the watchers shall be limited to observing the repair or
3 maintenance work being performed and making a written record of such
4 work. Any watcher who violates the law prescribed for watchers
5 shall be deemed guilty of a misdemeanor. ~~Each absentee ballot shall~~
6 ~~state clearly that it is illegal to charge a fee for the use of a~~
7 ~~notary public for certifying an absentee ballot.~~

8 SECTION 4. AMENDATORY 26 O.S. 2001, Section 14-107, is
9 amended to read as follows:

10 Section 14-107. ~~Said~~ Absentee ballots must be accompanied by:

- 11 1. A plain opaque envelope in which voted ballots must be
12 placed by the voter;
- 13 2. An envelope bearing an affidavit stating that the voter is
14 qualified to vote, that ~~he~~ the voter has personally marked the
15 ballots, and has not exhibited the marked ballots to any other
16 person; ~~and~~
- 17 3. A return envelope addressed to the secretary of the county
18 election board; and
- 19 4. A notice that it is illegal for a notary public in this
20 state to charge a fee to notarize an official absentee ballot
21 affidavit.

22 SECTION 5. AMENDATORY 26 O.S. 2001, Section 14-121, as
23 last amended by Section 23, Chapter 545, O.S.L. 2004 (26 O.S. Supp.
24 2008, Section 14-121), is amended to read as follows:

1 Section 14-121. Any person eligible to register, who has been
2 honorably discharged or is on officially authorized leave from the
3 Uniformed Services of the United States, or who has been terminated
4 in such service or employment overseas, or who is the spouse or
5 dependent of a person who has been honorably discharged, is on
6 authorized leave from the Uniformed Services of the United States or
7 who has been terminated in such service or employment overseas, and
8 returned home ~~too late to register at the time when, and at the~~
9 ~~place where, registration is required, to vote at the next ensuing~~
10 ~~election~~ within ninety (90) days preceding an election, shall be
11 entitled to vote a provisional ballot at such election in the
12 precinct for which the person is a qualified elector without being
13 registered. Such person shall be entitled to cast the provisional
14 ballot and to have the provisional ballot counted upon completion of
15 an affidavit as required by Section § 7-116.1 of this ~~act~~ title.

16 SECTION 6. AMENDATORY 49 O.S. 2001, Section 5, as last
17 amended by Section 2, Chapter 101, O.S.L. 2004 (49 O.S. Supp. 2008,
18 Section 5), is amended to read as follows:

19 Section 5. Every notary shall obtain a notarial seal containing
20 the words "State of Oklahoma" and "Notary Public" and the notary's
21 name. This seal may be either a metal seal which leaves an embossed
22 impression or a rubber stamp used in conjunction with a stamp pad
23 and ink. Each notary shall authenticate all official acts,
24 attestations, and instruments with this seal; and shall add to the

1 notary's official signature, the commission number of the notary and
2 the date of expiration of the commission of the notary. Failure to
3 add the commission number or the date of expiration of the
4 commission shall not affect the recordability of the instrument or
5 the notice given by such recording. This date and commission number
6 may be a part of the stamp or seal. If any notary public shall
7 neglect or refuse to attach to the notary's official signature the
8 date of expiration of the notary's commission, the notary shall be
9 deemed guilty of a misdemeanor, and upon conviction thereof shall be
10 fined in any sum not exceeding Fifty Dollars (\$50.00). The maximum
11 fee a notary may charge and collect for each notarial act is Five
12 Dollars (\$5.00); provided, no fee shall be charged for the
13 notarization of an official absentee ballot affidavit.

14 SECTION 7. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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