

THE HOUSE OF REPRESENTATIVES
Monday, February 16, 2009

Committee Substitute for
House Bill No. 1568

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1568 - By: SCHWARTZ of the House.

An Act relating to elections; amending 26 O.S. 2001, Section 8-105, as amended by Section 11, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2008, Section 8-105), which relates to the Election Code; modifying procedure the election board uses to select a nominee or electee in a tie vote; 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. 2008, Section 14-115.4), which relates to absentee voting; modifying days for in-person absentee voting; and providing an effective date.

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

1 SECTION 1. AMENDATORY 26 O.S. 2001, Section 8-105, as amended by
2 Section 11, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2008, Section 8-105), is amended to
3 read as follows:
4 Section 8-105. A. When a tie vote is certified in the nomination or election of any
5 candidate in any Runoff Primary, General Election or any Primary Election, the election
6 board which is authorized by law to issue the certified list or certificate of election shall,
7 at a public meeting of the board and in the presence of the candidates involved or their
8 designee, if they or any of them desire to be present, select the nominee or electee who
9 won the majority of precincts. If no nominee or electee wins a majority of precincts, the
10 election board shall select the nominee or electee by lot.

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

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

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

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

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

1 5. The meeting shall be held on a weekday, holidays excepted, between the hours of
2 7:00 a.m. and 7:00 p.m.

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

6 SECTION 2. AMENDATORY 26 O.S. 2001, Section 14-115.4, as last amended
7 by Section 8, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2008, Section 14-115.4), is
8 amended to read as follows:

9 Section 14-115.4 A. A registered voter may apply for an in-person absentee ballot
10 at a location designated by the secretary of the county election board from 8 a.m. to 6
11 p.m. on Thursday and Friday ~~and Monday~~ immediately preceding any election and from
12 8 a.m. to 1 p.m. on Saturday immediately preceding a state or federal election. As part of
13 the application for an in-person absentee ballot such registered voter shall swear or
14 affirm that the voter has not voted a regular mail absentee ballot and that the voter will
15 not vote at the regular polling place in the election for which the in-person absentee
16 ballot is requested.

17 B. One or more absentee voting boards shall be on duty from 8 a.m. to 6 p.m. at the
18 in-person absentee polling place on Thursday and Friday ~~and Monday~~ immediately
19 preceding any election and from 8 a.m. to 1 p.m. on Saturday immediately preceding a
20 state or federal election. If the secretary of a county election board receives an
21 application from a registered voter requesting to vote by in-person absentee ballot the
22 secretary shall cause to be implemented the following procedures:

1 1. An absentee voting board shall provide to each registered voter who applies for
2 an in-person absentee ballot appropriate ballots and materials as may be necessary to
3 vote;

4 2. The voter must sign an in-person absentee voter record, and the signature of the
5 voter on such record must be certified by both members of the absentee voting board,
6 except that the secretary of the county election board and one other member of the
7 absentee voting board may certify the signature of another member of the absentee
8 voting board;

9 3. The voter must mark the ballots of the voter in the manner provided by law in
10 the presence of the absentee voting board, but in such a manner as to make it impossible
11 for any person other than the voter to ascertain how said ballots are marked. Insofar as
12 is possible, the voting procedure shall be the same as if the voter were casting a vote in
13 person at a precinct;

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

16 5. When the in-person polling place is closed on each day of in-person absentee
17 voting the in-person absentee voting board shall, without obtaining a printout of results,
18 remove the vote data pack from the voting device and seal ballots counted that day in a
19 transfer case which shall be secured by the sheriff of the county in the same manner as
20 provided in Section 8-110 of this title. The vote data pack shall be sealed in a container
21 prescribed by the Secretary of the State Election Board. The sheriff shall secure the
22 sealed vote data pack container and return it to the in-person absentee voting board no

1 later than 7:45 a.m. on the next day of in-person absentee voting or to the secretary of
2 the county election board at the time of the county election board meeting to count
3 absentee ballots on election day;

4 6. The vote data pack or packs used for in-person absentee voting shall be used by
5 the county election board to count absentee ballots on election day as provided in Section
6 14-125 of this title; and

7 7. If there is a malfunction in such a way that the vote data pack used for in-person
8 absentee voting will not function, the sheriff is authorized to return the transfer cases
9 containing in-person absentee ballots to the county election board to be recounted as
10 provided in Section 7-134.1 of this title.

11 SECTION 3. This act shall become effective November 1, 2009.

12 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02-12-09 - DO PASS, As
13 Amended.