

THE HOUSE OF REPRESENTATIVES  
Monday, March 30, 2009

Committee Substitute for  
ENGROSSED  
Senate Bill No. 718

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 718 - By:  
BARRINGTON AND GUMM of the Senate and HOLLAND of the House.

An Act relating to elections; amending 26 O.S. 2001, Section 1-105, which relates to substitute candidates; modifying time period for selection of substitute candidate upon death of nominee; clarifying language; amending 26 O.S. 2001, Sections 2-118, as last amended by Section 1, Chapter 83, 2nd Extraordinary Session, O.S.L. 2006, 7-130, as amended by Section 7, Chapter 307, O.S.L. 2004, 14-107 and 14-121, as last amended by Section 23, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2008, Sections 2-118, 7-130 and 14-121), which relate to county election board secretaries, conduct of elections, declarations of candidacy, absentee ballots and voter registration; providing that certain compensation be considered minimum; providing that certain provisions not preclude additional compensation from certain sources; deleting obsolete 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.

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

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

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

4 1. If the deceased nominee was a candidate for county office, the political party's  
5 central committee of ~~said~~ the county shall notify the secretary of the county election  
6 board of the name of an alternative candidate to be placed on the General Election  
7 ballot. Such notice shall be submitted in writing, within ~~five (5)~~ fifteen (15) days after  
8 ~~said~~ the death has occurred and shall be signed by at least two duly authorized members  
9 of the political party's county central committee; and

10 2. If the deceased nominee was a candidate who filed ~~his~~ a Declaration of  
11 Candidacy with the State Election Board, the state central committee of the party  
12 affected shall notify the Secretary of the State Election Board of the name of an  
13 alternative candidate to be placed on the General Election ballot. Such notice shall be  
14 submitted in writing, within ~~five (5)~~ fifteen (15) days after ~~said~~ the death has occurred  
15 and shall be signed by at least two duly authorized members of the political party's state  
16 central committee.

17 ~~3.~~ B. If ~~said~~ the death of a candidate should occur five (5) or more days ~~or more~~  
18 following the Runoff Primary Election date, a special General Election shall be called by  
19 the Governor and shall be conducted according to the laws governing such elections,  
20 Section 12-101 et seq. of this title, except that there shall be no filing period or special  
21 Primary Election and the candidates in the special General Election shall be the  
22 substitute candidate named by the central committee and the nominee of other political

1 parties elected in the Primary or Runoff Primary, and any previously filed independent  
2 candidates.

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

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

10 Section 2-118. A. The secretary of each county election board shall be paid ~~an a~~ a  
11 minimum annual salary to be determined by the ~~following~~ schedule specified in  
12 subsection B of this section. However, ~~the salary of a county election board secretary~~  
13 ~~shall not fall below the level of the April 30, 2003, salary, and the salary of any person~~  
14 who is reappointed to the position of county election board secretary shall not fall below  
15 the salary received in the immediately preceding term, regardless of the number of active  
16 registered voters in the county. ~~A county election board secretary serving on April 30,~~  
17 ~~2004, shall not receive a salary increase if said secretary is paid an amount greater than~~  
18 ~~the salary indicated in this section according to the number of registered voters in said~~  
19 ~~county.~~ A county election board secretary shall not receive a salary increase while the  
20 county is under the administrative supervision of the State Election Board.

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

1	<del>Registered Voters</del>	<del>Salary</del>
2	<del>0 to 10,000</del>	<del>\$21,588.28</del>
3	<del>10,001 to 15,000</del>	<del>\$22,388.28</del>
4	<del>15,001 to 17,500</del>	<del>\$26,252.45</del>
5	<del>17,501 to 25,000</del>	<del>\$29,429.93</del>
6	<del>25,001 to 50,000</del>	<del>\$35,846.94</del>
7	<del>50,001 to 75,000</del>	<del>\$45,174.66</del>
8	<del>75,001 to 150,000</del>	<del>\$50,611.26</del>
9	<del>150,001 or more</del>	<del>\$56,043.00</del>

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

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

12	Registered Voters	Salary
13	0 to 10,000	\$22,667.69
14	10,001 to 15,000	\$23,507.68
15	15,001 to 17,500	\$27,565.07
16	17,501 to 25,000	\$30,901.43
17	25,001 to 50,000	\$37,639.29
18	50,001 to 75,000	\$47,433.39
19	75,001 to 150,000	\$53,141.82
20	150,001 or more	\$58,845.15

21 ~~B. C.~~ The minimum salary and fringe benefits paid to each secretary shall be paid  
 22 from county funds on a monthly basis and shall be reimbursed from funds appropriated

1 to the State Election Board by the Legislature for that purpose at a rate of not to exceed  
2 one hundred thirty-five percent (135%) of the above-specified minimum salaries. Claims  
3 for ~~said~~ the reimbursement shall be filed according to procedures prescribed by the  
4 Secretary of the State Election Board and approved by the Director of State Finance.  
5 ~~Said~~ The claims for reimbursement shall only be paid for actual expenditures made by  
6 the county. The number of registered voters, for the purposes of this section, shall be  
7 determined by the number of registered voters, excluding inactive voters, in the county  
8 on January 1, ~~1979, and every two (2) years thereafter~~ of every odd-numbered year.

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

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

16 Section 7-130. Any candidate or any recognized political party shall be entitled to  
17 have a watcher present at any place where an official count is being conducted. Such  
18 watcher must be commissioned in writing by the candidate, or by the chair of the  
19 recognized political party of the county in which the watcher is being authorized. Such  
20 commission must be filed with the secretary of the appropriate county election board no  
21 later than 5:00 p.m. on Wednesday preceding the election. Watchers must subscribe to  
22 an oath to observe all laws and rules prescribed for watchers as hereinafter provided.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 Such oath must be administered by the inspector of the precinct in which the watcher is  
2 authorized. Watchers shall be entitled to observe the voting device both before the polls  
3 are opened and after the polls are closed; provided, further, that such watchers shall not  
4 be present at the polling place at other times. Watchers may be commissioned to observe  
5 voting device testing and to accompany personnel assigned to repair or maintain  
6 machines during the period of the election. In such case, the watchers shall be limited to  
7 observing the repair or maintenance work being performed and making a written record  
8 of such work. Any watcher who violates the law prescribed for watchers shall be deemed  
9 guilty of a misdemeanor. ~~Each absentee ballot shall state clearly that it is illegal to~~  
10 ~~charge a fee for the use of a notary public for certifying an absentee ballot.~~

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

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

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

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

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

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

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03-26-09 - DO PASS, As  
16 Amended.