

THE HOUSE OF REPRESENTATIVES
Tuesday, March 31, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 458

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 458 - By:
BRANAN of the Senate and DUNCAN AND DORMAN of the House.

An Act relating to elections; amending 26 O.S. 2001, Sections 14-116, 14-117 and 14-118, as amended by Sections 14, 15 and 16, Chapter 485, O.S.L. 2003, 14-119, 14-120 and 14-120.1, as amended by Sections 18 and 19, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008, Sections 14-116, 14-117, 14-118, 14-120 and 14-120.1), which relate to absentee ballots; allowing certain electors to make electronic application for absentee ballots; providing for ballots to be in electronic form and transmitted electronically under certain circumstances; specifying certain duties of secretary of county election board; providing that certain information be confidential; applying certain provisions of law to electronically transmitted ballots; modifying materials to accompany ballots; specifying procedures for return of electronically transmitted ballots; providing procedures if multiple ballots returned; providing for electronic transmission and return of special write-in absentee ballots; 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 14-116, as amended by
2 Section 14, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008, Section 14-116), is amended to
3 read as follows:

4 Section 14-116. Any qualified elector covered by the federal Uniformed and
5 Overseas Citizens Absentee Voting Act of 1986, as amended, and the spouse or
6 dependent of the elector may make written or electronic application to the secretary of

1 the county election board in the county of the residence of the elector for absentee ballots
2 and shall be entitled, without being registered to vote, to receive absentee ballots for all
3 elections in which the elector is eligible to participate that occur both during the
4 remainder of the calendar year in which the application is received and during the
5 subsequent calendar year without requiring further application. Voter registration in
6 the county shall not be required for a qualified elector covered by the federal Uniformed
7 and Overseas Citizens Absentee Voting Act of 1986, as amended, although the elector
8 must be eligible to be registered to vote as provided by Section 4-101 of this title.

9 SECTION 2. AMENDATORY 26 O.S. 2001, Section 14-117, as amended by
10 Section 15, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008, Section 14-117), is amended to
11 read as follows:

12 Section 14-117. Electors identified by Section 14-116 of this title may apply for
13 absentee ballots as provided for in the federal Uniformed and Overseas Citizens
14 Absentee Voting Act of 1986, as amended, or by letter setting forth substantially the
15 same facts. Said application shall be transmitted by United States mail ~~or~~ by facsimile
16 device as defined in Section 1862 of Title 21 of the Oklahoma Statutes or in an electronic
17 form as provided in Section 14-118 of this title, to the secretary of the county election
18 board of the elector's residence.

19 SECTION 3. AMENDATORY 26 O.S. 2001, Section 14-118, as amended by
20 Section 16, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008, Section 14-118), is amended to
21 read as follows:

1 Section 14-118. A. When an application for an absentee ballot pursuant to Section
2 14-117 of this title is received by the secretary of a county election board, it shall be the
3 duty of the secretary to transmit, by United States mail ~~or~~, by facsimile device as defined
4 in Section 1862 of Title 21 of the Oklahoma Statutes, or as provided in subsection B of
5 this section, the ballots which ~~said~~ the elector has requested and is entitled to receive.

6 B. The secretary of the county election board may transmit balloting materials to
7 an electronic mail address in a form and manner prescribed by the Secretary of the State
8 Election Board if the voter:

9 1. Is a federal postcard application registrant and is eligible to receive an absentee
10 ballot as provided by law;

11 2. Provides a current address that is located outside the United States and is voting
12 from outside the United States;

13 3. Provides an electronic mail address; and

14 4. Requests that balloting materials be sent by electronic mail.

15 If the secretary of the county election board transmits a ballot to a voter at an
16 electronic mail address as provided in this subsection, the secretary shall amend the
17 voter's federal postcard application for future elections to include the voter's electronic
18 mail address.

19 C. An electronic mail address provided under this section is confidential and does
20 not constitute public information for purposes of the Oklahoma Open Records Act. The
21 secretary of the county election board shall ensure that an electronic mail address
22 provided under this section is excluded from disclosure.

1 D. All other provisions of this title that would normally apply to a ballot voted
2 under this title apply to a ballot provided pursuant to the provisions of subsection B of
3 this section.

4 E. The Secretary of the State Election Board may suspend the provisions of
5 subsection B of this section if the Secretary determines that electronic transmission of
6 balloting materials is not in the best interest of the people of this state due to a potential
7 problem with the security of the balloting materials.

8 SECTION 4. AMENDATORY 26 O.S. 2001, Section 14-119, is amended to read
9 as follows:

10 Section 14-119. ~~Said ballots~~ Ballots transmitted pursuant to the provisions of
11 subsection A of Section 14-118 of this title must be accompanied by:

- 12 1. A plain opaque envelope in which voted ballots must be placed by the voter;
- 13 2. An envelope bearing an affidavit stating that the voter is qualified to vote, that
14 he or she has personally marked the ballots, and has not exhibited the marked ballots to
15 any other person; and
- 16 3. A return envelope addressed to the secretary of the county election board.

17 Ballots transmitted to an electronic mail address pursuant to the provisions of
18 subsection B of Section 14-118 of this title shall include a signature sheet for the voter
19 and shall include instructions for return of the ballot by United States mail or a private
20 mail service, as prescribed by the Secretary of the State Election Board.

1 SECTION 5. AMENDATORY 26 O.S. 2001, Section 14-120, as amended by
2 Section 18, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008, Section 14-120), is amended to
3 read as follows:

4 Section 14-120. ~~The~~ A. For ballots transmitted pursuant to the provisions of
5 Section 14-118 of this title, the voter shall be required to mark the voter's ballots in ink
6 or other manner as prescribed by the Secretary of the State Election Board, seal the
7 ballots in the plain opaque envelope, fill out completely and sign the affidavit, seal the
8 plain opaque envelope inside the envelope bearing the affidavit, and return both
9 envelopes, sealed inside the return envelope, by United States mail or by a private mail
10 service, provided such service has delivery documentation.

11 B. If a voter returns both a voted ballot mailed to the voter under subsection A of
12 Section 14-118 of this title and a voted ballot provided electronically to the voter under
13 subsection B of Section 14-118 of this title, only the first ballot received may be counted.

14 C. A ballot received by the county election board which was issued electronically
15 shall be processed in the same manner as any other ballot voted by mail as provided by
16 this title.

17 SECTION 6. AMENDATORY 26 O.S. 2001, Section 14-120.1, as amended by
18 Section 19, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008, Section 14-120.1), is amended
19 to read as follows:

20 Section 14-120.1 A. Notwithstanding any other law to the contrary, any qualified
21 elector who is covered by the federal Uniformed and Overseas Absentee Voting Act of
22 1986, as amended, may make written or electronic application within ninety (90) days

1 before an election for presidential preference, presidential electors, or members of the
2 United States Senate and United States House of Representatives to the secretary of the
3 county election board of residence of the elector for a special write-in absentee ballot for
4 said federal offices being contested in the election. The elector shall be entitled, without
5 being registered, if a qualified elector in the precinct of residence, to receive the special
6 write-in absentee ballot.

7 B. Application shall be by using Standard Form 76, Post Card Application for
8 Absentee Ballot, as provided for in the federal Uniformed and Overseas Citizens
9 Absentee Voting Act of 1986, as amended, or by letter or in electronic form setting forth
10 substantially the same facts.

11 C. Upon receipt of the application, the secretary of the county election board shall
12 issue to the elector the ballot which shall be prescribed by the Secretary of the State
13 Election Board, a list of the offices to be voted upon, and other materials as described in
14 Section 14-119 of this title. As soon as a completed list of nominated candidates
15 including the party designations of the candidates is available, the secretary shall send
16 the list to each applicant. If the list of candidates is not available when the ballot is
17 issued, the secretary shall include a statement indicating that the list shall be mailed or
18 electronically transmitted as soon as it becomes available.

19 D. The ballot shall permit the elector to vote by writing in the names of specific
20 candidates, the names of persons whom the voter prefers, or, in the case of a general
21 election, the party preference for each office. The ballot shall be returned in the manner
22 specified in Section 14-120 of this title.

1 E. A voter who requests a special write-in absentee ballot pursuant to the
2 provisions of this section may also request regular absentee ballots pursuant to the
3 provisions of Section 14-116 of this title. If the regular absentee ballots are properly
4 returned, the special write-in absentee ballot shall be deemed void and shall be rejected
5 without the opaque envelope being opened.

6 F. Special write-in absentee ballots shall be counted and tabulated according to
7 procedures prescribed by the Secretary of the State Election Board.

8 SECTION 7. This act shall become effective January 1, 2010.

9 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03-30-09 - DO PASS, As
10 Amended and Coauthored.