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THE STATE SENATE
Thursday, February 19, 2009

Committee Substitute for
Senate Bill No. 4

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 4 - By: Ford and Sykes of
the Senate and Tibbs of the House.

An Act relating to elections; amending 26 O.S. 2001,
Sections 7-114, Section 8, Chapter 545, O.S.L. 2004, 14-
115.4, as last amended by Section 8, Chapter 307, O.S.L.
2004, 14-121, as last amended by Section 23, Chapter 545,
O.S.L. 2004 and 16-120 (26 O.S. Supp. 2008, Sections 7-
116.1, 14-115.4 and 14-121), which relate to voting
procedures; requiring persons appearing to vote or applying
for in-person absentee ballot to provide proof of identity;
defining term; providing exception to certain requirements;
providing procedure if person declines to or is unable to
provide proof of identity; allowing certain persons to cast
provisional ballots; modifying time period in which return
of certain persons from overseas entitles such persons to
vote provisional ballots at subsequent election; modifying
certain penalties; repealing Section 7, Chapter 545, O.S.L.
2004 (26 O.S. Supp. 2008, Section 7-115.2), which relates to
certain applications for voter registration; and providing
an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2001, Section 7-114, is
amended to read as follows:

Section 7-114. A. Each person ~~presenting himself~~ appearing to
vote shall announce ~~his~~ that person's name to the judge of the
precinct and shall provide proof of identity, whereupon the judge
shall determine whether ~~said~~ the person's name is in the precinct

1 registry. As used in this section, "proof of identity" shall mean a
2 document that satisfies all of the following:

3 1. The document shows the name of the person to whom the
4 document was issued, and the name substantially conforms to the name
5 in the precinct registry;

6 2. The document shows a photograph of the person to whom the
7 document was issued;

8 3. The document includes an expiration date, which is after the
9 date of the election in which the person is appearing to vote. The
10 provisions of this paragraph shall not apply to an identification
11 card issued to a person sixty-five (65) years of age or older which
12 is valid indefinitely, as provided in Section 6-105.3 of Title 47 of
13 the Oklahoma Statutes; and

14 4. The document was issued by the United States, the State of
15 Oklahoma or the government of a federally recognized Indian tribe or
16 nation.

17 Provided, if the person presents a voter identification card
18 issued by the appropriate county election board, such card may serve
19 as proof of identity without meeting the requirements of paragraphs
20 2 and 3 of this subsection.

21 B. 1. If a person declines to or is unable to produce proof of
22 identity, the person may sign a statement under oath, in a form
23 approved by the Secretary of the State Election Board, swearing or

1 affirming that the person is the person identified on the precinct
2 registry, and shall be allowed to cast a provisional ballot as
3 provided in Section 7-116.1 of this title.

4 2. False swearing or affirming under oath shall be punishable
5 as a felony as provided in Section 16-103 of this title, and the
6 penalty shall be distinctly set forth on the face of the statement.

7 SECTION 2. AMENDATORY Section 8, Chapter 545, O.S.L.
8 2004 (26 O.S. Supp. 2008, Section 7-116.1), is amended to read as
9 follows:

10 Section 7-116.1 A. Provisional ballots shall be available for
11 all elections conducted by the county election board. Provisional
12 ballots shall include all offices, candidates and questions and
13 shall be identical to the regular ballots for each precinct. The
14 Secretary of the State Election Board shall promulgate rules and
15 shall prescribe materials necessary for the implementation of
16 provisional ballots.

17 B. Persons who are not listed in the precinct registry, but who
18 claim to be registered voters in the precinct and eligible to vote
19 in the election, shall be entitled to vote a provisional ballot upon
20 execution of an affidavit prescribed by the Secretary of the State
21 Election Board. Registered voters required to show identification
22 ~~before voting for the first time in a federal election~~, as described
23 in Section ~~7 of the act~~ 7-114, 14-115.4 or 14-121 of this title and

1 who are unable to show one of the acceptable forms of identification
2 described in ~~said section~~ such sections, shall be entitled to cast a
3 provisional ballot. Persons identified in Section 14-121 of ~~Title~~
4 ~~26 of the Oklahoma Statutes~~ this title shall be entitled to vote a
5 provisional ballot upon execution of an affidavit prescribed by the
6 Secretary of the State Election Board. Persons who are listed in
7 the precinct registry for a partisan primary election, but who
8 dispute the political affiliation indicated by ~~said~~ such precinct
9 registry, shall be entitled to vote a provisional ballot for a party
10 other than the one indicated. However, such provisional ballot
11 shall be counted only if evidence is found by the secretary of the
12 county election board of the voter's valid voter registration in the
13 party for which the provisional ballot was cast.

14 C. Provisional ballots shall be segregated from the regular
15 ballots cast in the precinct in the manner prescribed by the
16 Secretary of the State Election Board and shall not be inserted in
17 the precinct voting device. Information provided by a person who
18 votes a provisional ballot shall be investigated by the secretary of
19 the county election board after the election. A provisional ballot
20 shall be counted only if it is cast in the precinct of the voter's
21 residence and if evidence of the provisional voter's valid voter
22 registration, or of the voter's identity, is found, except a

1 provisional ballot cast by a voter identified in Section 14-121 of
2 ~~Title 26 of the Oklahoma Statutes~~ this title shall be counted.

3 D. No information concerning provisional ballots, except the
4 number of provisional ballots cast in the county, shall be made
5 public by any election official prior to 1:00 p.m. on Friday
6 following the election. The county sheriff shall secure sealed
7 ballot transfer cases containing provisional ballots that have been
8 counted after 1:00 p.m. on Friday following the election until 5:00
9 p.m. on Tuesday next succeeding the election or, in the event a
10 recount contest is filed, until such times as ~~said~~ the transfer
11 cases are delivered to the district courtroom.

12 E. In the event that the secretary of any county election board
13 is unable to complete the investigation and verification of
14 provisional ballots by 1:00 p.m. on Friday following the election,
15 the Secretary of the State Election Board shall be authorized to
16 extend the period for the investigation and verification of
17 provisional ballots. When such an extension is required by any
18 county for a statewide election, the extension shall apply
19 statewide. The Secretary shall promulgate rules establishing
20 procedures for requesting and granting such extensions.

21 F. All materials used for procuring and casting a provisional
22 ballot shall be retained by the secretary of the county election

1 board for a period of twenty-four (24) months after the day of the
2 election.

3 SECTION 3. AMENDATORY 26 O.S. 2001, Section 14-115.4, as
4 last amended by Section 8, Chapter 307, O.S.L. 2004 (26 O.S. Supp.
5 2008, Section 14-115.4), is amended to read as follows:

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

16 B. 1. The voter also shall provide proof of identity as
17 defined in Section 7-114 of this title. If the voter declines to or
18 is unable to produce proof of identity, the voter may sign a
19 statement under oath, in a form approved by the Secretary of the
20 State Election Board, swearing or affirming that the person is the
21 person identified on the precinct registry, and shall be allowed to
22 cast a provisional ballot as provided in Section 7-116.1 of this
23 title.

1 2. False swearing or affirming under oath shall be punishable
2 as a felony as provided in Section 16-103 of this title, and the
3 penalty shall be distinctly set forth on the face of the statement.

4 C. One or more absentee voting boards shall be on duty from 8
5 a.m. to 6 p.m. at the in-person absentee polling place on Friday and
6 Monday immediately preceding any election and from 8 a.m. to 1 p.m.
7 on Saturday immediately preceding a state or federal election. If
8 the secretary of a county election board receives an application
9 from a registered voter requesting to vote by in-person absentee
10 ballot the secretary shall cause to be implemented the following
11 procedures:

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

15 2. The voter must sign an in-person absentee voter record, and
16 the signature of the voter on such record must be certified by both
17 members of the absentee voting board, except that the secretary of
18 the county election board and one other member of the absentee
19 voting board may certify the signature of another member of the
20 absentee voting board;

21 3. The voter must mark the ballots of the voter in the manner
22 provided by law in the presence of the absentee voting board, but in
23 such a manner as to make it impossible for any person other than the

1 voter to ascertain how ~~said~~ such ballots are marked. Insofar as is
2 possible, the voting procedure shall be the same as if the voter
3 were casting a vote in person at a precinct;

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

7 5. When the in-person polling place is closed on each day of
8 in-person absentee voting the in-person absentee voting board shall,
9 without obtaining a printout of results, remove the vote data pack
10 from the voting device and seal ballots counted that day in a
11 transfer case which shall be secured by the sheriff of the county in
12 the same manner as provided in Section 8-110 of this title. The
13 vote data pack shall be sealed in a container prescribed by the
14 Secretary of the State Election Board. The sheriff shall secure the
15 sealed vote data pack container and return it to the in-person
16 absentee voting board no later than 7:45 a.m. on the next day of
17 in-person absentee voting or to the secretary of the county election
18 board at the time of the county election board meeting to count
19 absentee ballots on election day;

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

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

6 SECTION 4. AMENDATORY 26 O.S. 2001, Section 14-121, as
7 last amended by Section 23, Chapter 545, O.S.L. 2004 (26 O.S. Supp.
8 2008, Section 14-121), is amended to read as follows:

9 Section 14-121. Any person eligible to register, who has been
10 honorably discharged or is on officially authorized leave from the
11 Uniformed Services of the United States, or who has been terminated
12 in such service or employment overseas, or who is the spouse or
13 dependent of a person who has been honorably discharged, is on
14 authorized leave from the Uniformed Services of the United States or
15 who has been terminated in such service or employment overseas, and
16 returned home ~~too late to register at the time when, and at the~~
17 ~~place where, registration is required, to vote at the next ensuing~~
18 ~~election~~ within ninety (90) days preceding an election, shall be
19 entitled to vote a provisional ballot at such election in the
20 precinct for which the person is a qualified elector without being
21 registered. Such person shall be required to provide proof of
22 identity as required in Section 7-114 of this title and shall be
23 entitled to cast ~~the~~ a provisional ballot and to have the

1 provisional ballot counted upon completion of an affidavit as
2 required by Section ~~§~~ 7-116.1 of this ~~act~~ title.

3 SECTION 5. AMENDATORY 26 O.S. 2001, Section 16-120, is
4 amended to read as follows:

5 Section 16-120. Any person who causes to be printed, or who has
6 in his or her possession ballots or blank or fraudulent voter
7 identification cards not authorized by law shall be deemed guilty of
8 a ~~misdemeanor~~ felony.

9 SECTION 6. REPEALER Section 7, Chapter 545, O.S.L. 2004
10 (26 O.S. Supp. 2008, Section 7-115.2), is hereby repealed.

11 SECTION 7. This act shall become effective June 1, 2010.

12 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 2-16-09 - DO PASS, As
13 Amended and Coauthored.