

CS for SB 458

THE STATE SENATE
Monday, February 23, 2009

Committee Substitute for
Senate Bill No. 458

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 458 - By: Branam of the Senate and Duncan of the House.

[elections - absentee ballots - electronic application - effective date]

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

SECTION 1. AMENDATORY 26 O.S. 2001, Section 14-116, as amended by Section 14, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008, Section 14-116), is amended to read as follows:

Section 14-116. Any qualified elector covered by the federal Uniformed and Overseas Citizens Absentee Voting Act of 1986, as amended, and the spouse or dependent of the elector may make written or electronic application to the secretary of the county election board in the county of the residence of the elector for absentee ballots and shall be entitled, without being registered to vote, to receive absentee ballots for all elections in which the elector is eligible to participate that occur both during the remainder of the calendar year in which the application is received and during the subsequent calendar year without requiring further application. Voter registration in the county shall not be required for a qualified elector covered by the federal Uniformed and Overseas

1 Citizens Absentee Voting Act of 1986, as amended, although the
2 elector must be eligible to be registered to vote as provided by
3 Section 4-101 of this title.

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

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

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

19 Section 14-118. A. When an application for an absentee ballot
20 pursuant to Section 14-117 of this title is received by the
21 secretary of a county election board, it shall be the duty of the
22 secretary to transmit, by United States mail ~~or~~, by facsimile device
23 as defined in Section 1862 of Title 21 of the Oklahoma Statutes, or

1 as provided in subsection B of this section, the ballots which ~~said~~
2 the elector has requested and is entitled to receive.

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

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

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

11 3. Provides an electronic mail address that contains the
12 voter's name and the suffix ".mil"; and

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

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

20 C. An electronic mail address provided under this section is
21 confidential and does not constitute public information for purposes
22 of the Open Records Act. The secretary of the county election board

1 shall ensure that an electronic mail address provided under this
2 section is excluded from disclosure.

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

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

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

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

16 1. A plain opaque envelope in which voted ballots must be
17 placed by the voter;

18 2. An envelope bearing an affidavit stating that the voter is
19 qualified to vote, that he or she has personally marked the ballots,
20 and has not exhibited the marked ballots to any other person; and

21 3. A return envelope addressed to the secretary of the county
22 election board.

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

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

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

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

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

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

7 Section 14-120.1 A. Notwithstanding any other law to the
8 contrary, any qualified elector who is covered by the federal
9 Uniformed and Overseas Absentee Voting Act of 1986, as amended, may
10 make written or electronic application within ninety (90) days
11 before an election for presidential preference, presidential
12 electors, or members of the United States Senate and United States
13 House of Representatives to the secretary of the county election
14 board of residence of the elector for a special write-in absentee
15 ballot for said federal offices being contested in the election.
16 The elector shall be entitled, without being registered, if a
17 qualified elector in the precinct of residence, to receive the
18 special write-in absentee ballot.

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

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

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

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

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

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

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