

CS for SB 872

THE STATE SENATE
Monday, February 23, 2009

Committee Substitute for
Senate Bill No. 872

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 872 - By: Coffee of the Senate and Benge of the House.

An Act relating to elections; amending 26 O.S. 2001, Sections 1-102, as amended by Section 2, Chapter 162, O.S.L. 2003, 1-108, as last amended by Section 6, Chapter 53, O.S.L. 2004, 3-101, as last amended by Section 1, Chapter 224, O.S.L. 2005, 4-119, as amended by Section 7, Chapter 485, O.S.L. 2003, 5-110, as last amended by Section 8, Chapter 53, O.S.L. 2004, 5-115, as last amended by Section 4, Chapter 307, O.S.L. 2004, 5-119, 8-103, 12-101, as amended by Section 1, Chapter 380, O.S.L. 2002, 12-103, as last amended by Section 3, Chapter 369, O.S.L. 2004, 12-106, 12-108, as last amended by Section 4, Chapter 369, O.S.L. 2004, Section 1, Chapter 369, O.S.L. 2004, 12-111, as amended by Section 12, Chapter 447, O.S.L. 2002 and 12-113, as last amended by Section 5, Chapter 369, O.S.L. 2004 (26 O.S. Supp. 2008, Sections 1-102, 1-108, 3-101, 4-119, 5-110, 5-115, 12-101, 12-103, 12-108, 12-110.1, 12-111 and 12-113), which relate to various election dates and procedures; changing date of primary election; modifying time period during which recognized political party may be formed and petition circulated; modifying dates of special elections; modifying time period when voter may change political affiliation; modifying time periods during which declarations of candidacy, withdrawals and petitions to contest candidacy must be filed; modifying date upon which certificates of election issued to unopposed candidates; modifying time periods during which vacancy in office requires calling of special election; 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 1-102, as
2 amended by Section 2, Chapter 162, O.S.L. 2003 (26 O.S. Supp. 2008,
3 Section 1-102), is amended to read as follows:

4 Section 1-102. A Primary Election shall be held on the ~~last~~
5 ~~Tuesday in July~~ second Tuesday in June of each even-numbered year,
6 at which time each political party recognized by the laws of
7 Oklahoma shall nominate its candidates for the offices to be filled
8 at the next succeeding General Election, unless otherwise provided
9 by law. No candidate's name shall be printed upon the General
10 Election ballot unless such candidate shall have been nominated as
11 herein provided, unless otherwise provided by law; provided further
12 that this provision shall not exclude the right of a nonpartisan
13 candidate to have his or her name printed upon the General Election
14 ballots. No county, municipality or school district shall schedule
15 an election on any date during the twenty (20) days immediately
16 preceding the date of any such primary election.

17 SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-108, as
18 last amended by Section 6, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
19 2008, Section 1-108), is amended to read as follows:

20 Section 1-108. A group of persons may form a recognized
21 political party at any time except during the period between ~~June 1~~
22 March 1 and November 15 of any even-numbered year if the following
23 procedure is observed:

1 1. Notice of intent to form a recognized political party must
2 be filed in writing with the Secretary of the State Election Board
3 at any time except during the period between March 1 and November 15
4 of any even-numbered year-;

5 2. After such notice is filed, petitions seeking recognition of
6 a political party, in a form to be prescribed by the Secretary of
7 the State Election Board, shall be filed with such Secretary,
8 bearing the signatures of registered voters equal to at least five
9 percent (5%) of the total votes cast in the last General Election
10 either for Governor or for electors for President and Vice
11 President. Each page of such petitions must contain the names of
12 registered voters from a single county. Petitions may be circulated
13 a maximum of one (1) year after notice is filed, provided that
14 petitions shall be filed with such Secretary no later than ~~May 1~~
15 March 1 of an even-numbered year. Such petitions shall not be
16 circulated between ~~May 1~~ March 1 and November 15 of any
17 even-numbered year-; and

18 3. Within thirty (30) days after receipt of such petitions, the
19 State Election Board shall determine the sufficiency of such
20 petitions. If such Board determines there are a sufficient number
21 of valid signatures of registered voters, the party becomes
22 recognized under the laws of the State of Oklahoma with all rights
23 and obligations accruing thereto.

1 SECTION 3. AMENDATORY 26 O.S. 2001, Section 3-101, as
2 last amended by Section 1, Chapter 224, O.S.L. 2005 (26 O.S. Supp.
3 2008, Section 3-101), is amended to read as follows:

4 Section 3-101. A. No election required to be conducted by any
5 county election board shall be scheduled for a day other than
6 Tuesday.

7 B. Except as otherwise provided by law, no special election
8 shall be held by any county, school district, technology center
9 school district, municipality or other entity authorized to call
10 elections except on the second Tuesday of January, February, May,
11 June, July, August, September, October, November and December and
12 the first Tuesday in March and April in odd-numbered years and the
13 second Tuesday of January, February, May, and December, the first
14 Tuesday in ~~March and April, the last Tuesday in July~~ second Tuesday
15 in June, the fourth Tuesday in August, and the first Tuesday after
16 the first Monday in November of any even-numbered year; except in
17 any year when a Presidential Preferential Primary Election is held
18 in February, the date for the special elections shall be the same
19 date as the Presidential Preferential Primary Election.

20 C. In the event that a regular or special election date occurs
21 on an official state holiday, the election shall be scheduled for
22 the next following Tuesday.

1 SECTION 4. AMENDATORY 26 O.S. 2001, Section 4-119, as
2 amended by Section 7, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008,
3 Section 4-119), is amended to read as follows:

4 Section 4-119. Any registered voter may make application under
5 oath to change political affiliation by executing a form prescribed
6 by the Secretary of the State Election Board at any time. The
7 county election board secretary in the applicant's county of
8 residence shall process and approve any such application for
9 political affiliation change upon receipt, except as provided in
10 Section 4-110.1 of ~~Title 26 of the Oklahoma Statutes~~ this title and
11 except during the period from ~~June 1~~ March 15 through August 31,
12 inclusive, in any even-numbered year. The secretary shall process
13 and approve such applications for change of political affiliation
14 received or postmarked from ~~June 1~~ March 15 through August 31 in any
15 even-numbered year after August 31.

16 SECTION 5. AMENDATORY 26 O.S. 2001, Section 5-110, as
17 last amended by Section 8, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
18 2008, Section 5-110), is amended to read as follows:

19 Section 5-110. Declarations of Candidacy provided herein must
20 be filed with the secretary of the appropriate election board no
21 earlier than 8:00 a.m. on the ~~first Monday in June~~ last Thursday in
22 March of any even-numbered year and no later than 5:00 p.m. on the
23 next succeeding ~~Wednesday~~ Saturday. Such Declarations of Candidacy

1 may be transmitted by United States mail, but in no event shall the
2 secretary of any election board accept such Declarations after the
3 time prescribed by law.

4 SECTION 6. AMENDATORY 26 O.S. 2001, Section 5-115, as
5 last amended by Section 4, Chapter 307, O.S.L. 2004 (26 O.S. Supp.
6 2008, Section 5-115), is amended to read as follows:

7 Section 5-115. Any candidate may withdraw as a candidate only
8 upon the filing of a written notice of withdrawal as a candidate
9 with the secretary of the election board which accepted such
10 candidate's declaration of candidacy. Such notice shall be signed
11 by the candidate or a lawfully appointed personal representative or
12 a lawfully appointed special administrator of any deceased
13 candidate, whose signature shall be notarized by a notary public,
14 and shall be filed on or before 5:00 p.m. on the ~~Friday~~ Tuesday
15 following the close of the filing period prescribed by law.

16 SECTION 7. AMENDATORY 26 O.S. 2001, Section 5-119, is
17 amended to read as follows:

18 Section 5-119. ~~Said~~ A petition to contest a person's candidacy
19 must be filed no later than 5:00 p.m. on the ~~second-day~~ Tuesday
20 following the close of the filing period.

21 SECTION 8. AMENDATORY 26 O.S. 2001, Section 8-103, is
22 amended to read as follows:

1 Section 8-103. The county election board shall certify a list
2 of successful candidates for county offices and shall provide
3 Certificates of Election to the same following the General Election,
4 except that Certificates of Election may be issued to unopposed
5 candidates after ~~5~~ 5:00 p.m. on the ~~second day~~ Tuesday following the
6 close of the filing period. The State Election Board shall certify
7 a list of successful candidates for offices for which the Board
8 accepts filings of Declarations of Candidacy and shall provide
9 Certificates of Election to the same following the General Election,
10 except that Certificates of Election may be issued to unopposed
11 candidates after ~~5~~ 5:00 p.m. on the ~~second day~~ Tuesday following the
12 close of the filing period.

13 SECTION 9. AMENDATORY 26 O.S. 2001, Section 12-101, as
14 amended by Section 1, Chapter 380, O.S.L. 2002 (26 O.S. Supp. 2008,
15 Section 12-101), is amended to read as follows:

16 Section 12-101. A. Except as otherwise provided by law,
17 whenever a vacancy shall occur in the office of a member of the
18 United States Senate or United States House of Representatives from
19 Oklahoma, such vacancy shall be filled at a Special Election to be
20 called by the Governor within thirty (30) days after such vacancy
21 occurs.

22 B. No special election shall be called if the vacancy occurs
23 after ~~March 1~~ January 1 of any even-numbered year if the term of the

1 office expires the following year. In such case, the candidate
2 elected to the office at the regular General Election shall be
3 appointed by the Governor to fill the remainder of the unexpired
4 term.

5 SECTION 10. AMENDATORY 26 O.S. 2001, Section 12-103, as
6 last amended by Section 3, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
7 2008, Section 12-103), is amended to read as follows:

8 Section 12-103. The proclamation required by Section 12-102 of
9 this title shall contain the following facts:

10 1. A filing period of three (3) days, on a Monday, Tuesday and
11 Wednesday not less than ten (10) days from the date of such
12 proclamation;

13 2. The date of the Special Primary Election, not less than
14 twenty (20) days after the close of the filing period;

15 3. The date of the Special Runoff Primary Election, not less
16 than twenty (20) days after the date of the Special Primary
17 Election; and

18 4. The date of the Special General Election, not less than
19 twenty (20) days after the date of the Special Runoff Primary
20 Election.

21 Should such a vacancy occur between ~~March 1 and June 1~~ January 1
22 and March 1 of an even-numbered year, when a special election is
23 required, the proclamation must contain dates that are the same as

1 are required by law for the regular filing period, Primary Election,
2 Runoff Primary Election and General Election.

3 SECTION 11. AMENDATORY 26 O.S. 2001, Section 12-106, is
4 amended to read as follows:

5 Section 12-106. A. Whenever a vacancy shall occur in the
6 office of a member of the State Senate or the State House of
7 Representatives, the vacancy shall be filled at a Special Election
8 to be called by the Governor within thirty (30) days after the
9 vacancy occurs; provided, no special election shall be called if the
10 vacancy occurs after ~~March 1~~ January 1 of any even-numbered year if
11 the term of the office expires the same year.

12 B. If in an even-numbered year an incumbent State Senator with
13 two (2) or more years remaining in the term for which elected shall
14 file with the Oklahoma Secretary of State before ~~June 1~~ March 1 a
15 resignation in writing which states that the resignation will not
16 become effective immediately, but rather will become effective on
17 some date certain that is after the General Election but before the
18 convening of the next session of the Legislature, the vacancy shall
19 be filled by a special election which shall be held in that even-
20 numbered year on the same dates as the regular Primary Election,
21 Runoff Primary Election and General Election. The filing period for
22 the special election shall be the regular filing period prescribed
23 in Section 5-110 of this title. The person elected in the General

1 Election of the special election shall take office on the date the
2 resignation of the incumbent becomes effective and shall serve the
3 remainder of the unexpired term.

4 SECTION 12. AMENDATORY 26 O.S. 2001, Section 12-108, as
5 last amended by Section 4, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
6 2008, Section 12-108), is amended to read as follows:

7 Section 12-108. Such proclamation shall contain the following
8 facts:

9 1. A filing period of three (3) days, on a Monday, Tuesday and
10 Wednesday, not less than ten (10) days from the date of such
11 proclamation;

12 2. The date of the Special Primary Election, not less than
13 twenty (20) days after the close of the filing period; and

14 3. The date of the Special General Election, not less than
15 twenty (20) days after the date of the Special Primary Election.

16 Should such a vacancy occur between ~~March 1 and June 1~~ January 1
17 and March 1 of an even-numbered year, when a special election is
18 required, the proclamation must contain dates that are the same as
19 are required by law for the regular filing period, Primary Election,
20 Runoff Primary Election and General Election.

21 SECTION 13. AMENDATORY Section 1, Chapter 369, O.S.L.
22 2004 (26 O.S. Supp. 2008, Section 12-110.1), is amended to read as
23 follows:

1 Section 12-110.1 A. Elections to fill the seat of a member of
2 the Oklahoma State Senate or the Oklahoma House of Representatives
3 who is not eligible to complete the term of office to which such
4 member was elected due to the provisions of Section 17A of Article V
5 of the Oklahoma Constitution shall be held as provided in this
6 section.

7 B. Whenever a member's eligibility to serve shall expire after
8 ~~March 1~~ January 1 in an even-numbered year, the vacancy shall be
9 filled by a special election to be called by the Governor which
10 shall be held in that even-numbered year on the same dates as the
11 regular Primary Election, Runoff Primary Election and General
12 Election. The filing period for the special election shall be the
13 regular filing period prescribed in Section 5-110 of ~~Title 26 of the~~
14 ~~Oklahoma Statutes~~ this title. The person elected in the special
15 election shall take office on the later of the date other members of
16 the Legislature elected at such election take office or the
17 expiration of the incumbent's eligibility to serve and shall serve
18 the remainder of the unexpired term.

19 C. Whenever a member's eligibility to serve shall expire in an
20 odd-numbered year or prior to ~~March 1~~ January 1 in an even-numbered
21 year, the position shall be filled by a special election to be
22 called by the Governor. The Governor shall issue a proclamation
23 calling such an election no less than sixty (60) days prior to the

1 expiration of the member's eligibility to serve. The person elected
2 shall take office upon the expiration of the incumbent's eligibility
3 to serve.

4 D. The Governor shall issue a proclamation, a copy of which
5 must be filed with the Secretary of the State Election Board, for
6 any election to be held pursuant to this section. Such proclamation
7 shall be issued prior to the date the member's eligibility to serve
8 expires and must be issued at least ten (10) days prior to the
9 filing period. For an election held pursuant to subsection C of
10 this section, the proclamation shall contain the following facts:

11 1. A filing period of three (3) days, on a Monday, Tuesday and
12 Wednesday, not less than ten (10) days from the date of said
13 proclamation;

14 2. The date of the Special Primary Election, not less than
15 twenty (20) days after the close of the filing period; and

16 3. The date of the Special General Election, not less than
17 twenty (20) days after the date of the Primary Election.

18 E. For purposes of this section:

19 1. A full term of service in the Oklahoma House of
20 Representatives shall be counted as two (2) years of service;

21 2. A full term of service in the Oklahoma State Senate shall be
22 counted as four (4) years of service;

1 3. A period of service of less than a full term which is not
2 exempt from the constitutional limitations on length of legislative
3 service shall be calculated from the date the legislator assumes the
4 office for such term until the date the legislator vacates such
5 office; and

6 4. A period of service with respect to a term during which a
7 member reaches the constitutionally limited length of service shall
8 be calculated from the date the legislator assumes the office for
9 such term until the date the legislator completes a total of twelve
10 (12) years of service not exempt from the constitutional
11 limitations.

12 SECTION 14. AMENDATORY 26 O.S. 2001, Section 12-111, as
13 amended by Section 12, Chapter 447, O.S.L. 2002 (26 O.S. Supp. 2008,
14 Section 12-111), is amended to read as follows:

15 Section 12-111. A. Whenever a vacancy shall occur in the
16 office of a county commissioner, the vacancy shall be filled at a
17 special election to be called by the Governor within thirty (30)
18 days after the vacancy occurs. Provided, no special election shall
19 be called if the vacancy occurs after ~~March 1~~ January 1 of any even-
20 numbered year if the term of the office expires the following year.
21 In such case, the candidate elected to the office at the Primary
22 Election, runoff Primary Election, or the regular General Election

1 shall be appointed by the Governor as soon as practical after the
2 applicable election to fill the unexpired term.

3 B. Whenever a vacancy shall occur in any elective county office
4 of any county in this state having a population of more than the
5 population figure specified in subsection B of Section 10 of Title
6 51 of the Oklahoma Statutes, the vacancy shall be filled at a
7 special election to be called by the Governor within thirty (30)
8 days after the vacancy occurs. Provided, no special election shall
9 be called if the vacancy occurs after ~~March 1~~ January 1 of any even-
10 numbered year if the term of the office expires the following year.
11 In such case, the candidate elected to the office at the Primary
12 Election, runoff Primary Election, or the regular General Election
13 shall be appointed by the Governor as soon as practical after the
14 applicable election to fill the remainder of the unexpired term.

15 SECTION 15. AMENDATORY 26 O.S. 2001, Section 12-113, as
16 last amended by Section 5, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
17 2008, Section 12-113), is amended to read as follows:

18 Section 12-113. Such proclamation shall contain the following
19 facts:

20 1. A filing period of three (3) days, on a Monday, Tuesday and
21 Wednesday, not less than ten (10) days from the date of such
22 proclamation;

1 2. The date of the Special Primary Election, not less than
2 twenty (20) days after the close of the filing period; and

3 3. The date of the Special General Election, not less than
4 twenty (20) days after the date of the Special Primary Election.

5 Should such a vacancy occur between ~~March 1 and June 1~~ January 1
6 and March 1 of an even-numbered year, when a special election is
7 required, the proclamation must contain dates that are the same as
8 are required by law for the regular filing period, Primary Election,
9 Runoff Primary Election and General Election.

10 SECTION 16. This act shall become effective November 1, 2009.

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