

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2206

By: Kiesel

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5
6 AS INTRODUCED

7 An Act relating to elections; ordering a legislative
8 referendum pursuant to the Oklahoma Constitution;
9 amending 26 O.S. 2001, Sections 1-108, as last
10 amended by Section 6, Chapter 53, O.S.L. 2004, 1-109,
11 4-103, 4-110.1, 7-119, 7-127, 10-101 and 14-115.4, as
12 last amended by Section 8, Chapter 307, O.S.L. 2004
13 (26 O.S. Supp. 2008, Sections 1-108 and 14-115.4),
14 which relate to the Election Code; modifying
15 requirements for recognition and termination of
16 recognition of political parties; providing for
17 registration on election day; eliminating straight-
18 party voting; modifying requirement for petitions
19 seeking ballot access for uncommitted candidates for
20 Presidential Electors; authorizing fee in lieu of
21 petition; modifying days for in-person absentee
22 voting; providing an effective date; providing a
23 ballot title; and directing filing.
24

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

SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma
Constitution, there is hereby ordered the following legislative
referendum which shall be filed with the Secretary of State and
addressed to the Governor of the state, who shall submit the same to

1 the people for their approval or rejection at the General Election,
2 to be held on November 2, 2010.

3 SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-108, as
4 last amended by Section 6, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
5 2008, Section 1-108), is amended to read as follows:

6 Section 1-108. A group of persons may form a recognized
7 political party at any time except during the period between June 1
8 and November 15 of any even-numbered year if the following procedure
9 is observed:

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

14 2. After such notice is filed, petitions seeking recognition of
15 a political party, in a form to be prescribed by the Secretary of
16 the State Election Board, shall be filed with such Secretary,
17 bearing the signatures of five thousand registered voters ~~equal to~~
18 ~~at least five percent (5%) of the total votes cast in the last~~
19 ~~General Election either for Governor or for electors for President~~
20 ~~and Vice President~~. Each page of such petitions must contain the
21 names of registered voters from a single county. Petitions may be
22 circulated a maximum of one (1) year after notice is filed, provided
23 that petitions shall be filed with such Secretary no later than May
24

1 1 of an even-numbered year. Such petitions shall not be circulated
2 between May 1 and November 15 of any even-numbered year; and

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

9 SECTION 3. AMENDATORY 26 O.S. 2001, Section 1-109, is
10 amended to read as follows:

11 Section 1-109. A. Any recognized political party whose nominee
12 for Governor or nominees for electors for President and Vice
13 President fail to receive at least ~~ten percent (10%)~~ one percent
14 (1%) of the total votes cast for said offices in any General
15 Election shall cease to be a recognized political party. Said party
16 may regain recognition only by following the procedure prescribed
17 for formation of new political parties. The State Election Board
18 shall proclaim the fact of a party's failure to receive a sufficient
19 number of votes and shall order that said party cease to be
20 recognized.

21 B. Any recognized political party that ceases to be recognized
22 under provisions of this section shall be designated as a political
23 organization. Such political organization designation shall
24 terminate four (4) years from the date that the political party

1 ceases to be recognized or when the political organization regains
2 recognition as a political party, whichever is earlier.

3 SECTION 4. AMENDATORY 26 O.S. 2001, Section 4-103, is
4 amended to read as follows:

5 Section 4-103. A. Any person who will become a qualified
6 elector during the sixty (60) days before the next ensuing election
7 at which ~~he~~ the person could vote shall be entitled to become a
8 registered voter of the precinct of ~~his or her~~ the person's
9 residence ~~not more than sixty (60) and not less than twenty-four~~
10 ~~(24) days prior to said election.~~

11 B. Any person who will become a qualified elector during the
12 sixty (60) days before the next general election at which the person
13 could vote shall be entitled to vote in the primary election.

14 C. An individual who is eligible to vote may register on
15 election day by appearing in person at the polling place for the
16 precinct in which the individual maintains residence, by completing
17 a registration application, and by making an oath in the form
18 prescribed by the State Election Board and providing proof of
19 residence. An individual may prove residence for purposes of
20 registering by providing either of the following forms of
21 identification:

22 1. A document containing a photograph of the voter, issued by
23 the state, the federal government, a county, a municipality, or a
24 federally recognized Indian tribe; or

1 2. A copy of a current utility bill, bank statement, government
2 check, or paycheck.

3 D. False swearing or affirming under oath shall be punishable
4 as a felony, and the penalty shall be distinctly set forth on the
5 face of the statement.

6 SECTION 5. AMENDATORY 26 O.S. 2001, Section 4-110.1, is
7 amended to read as follows:

8 Section 4-110.1 A. Voter registration applications may be
9 submitted at any time. ~~However, completed applications received by~~
10 ~~the State Election Board, any county election board, any agency~~
11 ~~designated to accept voter registration applications or any motor~~
12 ~~license agent as part of a driver's license or identification card~~
13 ~~application twenty four (24) days prior to an election; any mail~~
14 ~~application postmarked twenty four (24) days or less prior to an~~
15 ~~election or any mail application received without a postmark~~
16 ~~nineteen (19) days or less prior to an election shall not be~~
17 ~~approved for that election if the applicant's residence is located~~
18 ~~within the geographical boundaries of the entity for which the~~
19 ~~election is being conducted.~~

20 B. ~~No more than seven (7) days after any election, each county~~
21 ~~election board secretary for the county of the applicant's residence~~
22 ~~shall mail a notice of disposition as required in Section 8 of this~~
23 ~~act to all persons whose voter registration applications were~~
24 ~~received twenty four (24) days or less prior to the election.~~

1 ~~C. Registration for voting purposes occurs when a completed~~
2 ~~voter registration application is approved by the county election~~
3 ~~board secretary for the county or the applicant's residence and on~~
4 ~~the date that the information is entered into the Oklahoma Election~~
5 ~~Management System for the county of the applicant's residence.~~

6 D. Registration for candidate filing or party affiliation
7 purposes occurs at the earliest time the completed voter
8 registration application is received at the State Election Board,
9 any county election board, any agency designated to accept voter
10 registration applications or any Motor License Agent as part of a
11 driver's license or identification card application provided that
12 the application subsequently is approved by the secretary of the
13 county election board for the county of the applicant's residence;
14 or, in the case of mail applications, registration for candidate
15 filing or party affiliation purposes shall occur at the time when
16 the completed voter registration application is postmarked provided
17 that the application subsequently is approved by the secretary of
18 the county election board for the county of the applicant's
19 residence; or in the case of a mail application received without a
20 postmark, registration for candidate filing or party affiliation
21 purposes shall occur at the earliest time when the completed
22 application is received by the State Election Board or any county
23 election board provided that the application is subsequently

1 approved by the secretary of the county election board for the
2 county of the applicant's residence.

3 SECTION 6. AMENDATORY 26 O.S. 2001, Section 7-119, is
4 amended to read as follows:

5 Section 7-119. The voter shall vote by marking the ballot as
6 prescribed by the Secretary of the State Election Board ~~for the~~
7 ~~party of his choice~~ or for the candidates ~~of his choice~~ which the
8 voter chooses or for the answer ~~he~~ the voter desires to select on
9 each question.

10 SECTION 7. AMENDATORY 26 O.S. 2001, Section 7-127, is
11 amended to read as follows:

12 Section 7-127. The following rules shall govern the counting
13 and recounting of votes:

14 1. If the name of any person is written on a ballot, said name
15 shall not be counted;

16 2. Any mark prescribed by the Secretary of the State Election
17 Board made by voters indicating the voter's choice of ~~party,~~
18 candidate or issue on a ballot shall be valid. Such marking shall
19 be hereinafter referred to as "valid markings". Such valid markings
20 located otherwise on the ballot shall not be counted;

21 3. Marks used to designate the intention of the voter, other
22 than those herein defined as valid markings, shall not be counted;

23 4. Failure to properly mark a ballot as to one or more
24 candidates or questions shall not of itself invalidate the entire

1 ballot if the same has been properly marked as to other candidates
2 or questions; and

3 5. ~~A valid marking marked for a political party shall be
4 counted as a vote for each of said political party's candidates on
5 that ballot, except that a valid marking marked for a candidate's
6 name shall take precedence, for that office, over a valid marking
7 for a political party. Provided, further, that if valid markings
8 are marked for more than one political party on a ballot, said
9 ballot shall not be counted for any party offices thereon; and~~

10 ~~6.~~ Any ballot or part of a ballot on which it is impossible to
11 determine the voter's choice of candidate shall be void as to the
12 candidate or candidates thereby affected.

13 SECTION 8. AMENDATORY 26 O.S. 2001, Section 10-101, is
14 amended to read as follows:

15 Section 10-101. The nominees for Presidential Electors of any
16 recognized political party shall be selected at a statewide
17 convention of said party in a manner to be determined by said party.
18 The nominees for Presidential Electors shall be certified by said
19 party's chairman to the Secretary of the State Election Board no
20 fewer than ninety (90) days nor more than one hundred eighty (180)
21 days from the date of the General Election at which candidates for
22 Presidential Electors shall appear on the ballot. Failure of a
23 political party to properly certify the names of its nominees for
24 Presidential Electors within the time specified shall bar such party

1 from placing any candidates for Presidential Electors on the ballot
2 at said election. Candidates for Presidential Electors seeking to
3 appear on the ballot as uncommitted shall be entitled to have their
4 names placed upon the ballot at a General Election by observing the
5 following procedure:

6 1. No later than July 15 of a presidential election year,
7 petitions seeking ballot access for said uncommitted candidates for
8 Presidential Electors, in a form to be prescribed by the Secretary
9 of the State Election Board, shall be filed with said Secretary,
10 bearing the signatures of five thousand registered voters ~~equal to~~
11 ~~at least three percent (3%) of the total votes cast in the last~~
12 ~~General Election for President.~~ Each page of said petitions must
13 contain the name of registered voters from a single county. A
14 filing fee of Five Thousand Dollars (\$5,000.00) may be submitted in
15 lieu of a petition. The filing fee shall be in a form prescribed by
16 the Secretary of the State Election Board and shall be filed with
17 the Secretary. The filing fee shall be refunded if the candidates
18 receive more than one percent (1%) of the vote in the General
19 Election. If the candidates do not receive more than one percent
20 (1%) of the vote in the General Election, the filing fee shall be
21 forfeited; and

22 2. Within thirty (30) days after receipt of ~~said~~ petitions
23 seeking ballot access for uncommitted candidates for Presidential
24 Electors, the State Election Board shall determine the sufficiency

1 of said petitions. If said Board determines there are a sufficient
2 number of valid signatures of registered voters, the nominees for
3 Presidential Electors are entitled to appear on the ballot at the
4 next following General Election at which candidates for Presidential
5 Electors shall appear on the ballot.

6 SECTION 9. AMENDATORY 26 O.S. 2001, Section 14-115.4, as
7 last amended by Section 8, Chapter 307, O.S.L. 2004 (26 O.S. Supp.
8 2008, Section 14-115.4), is amended to read as follows:

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

20 B. One or more absentee voting boards shall be on duty from 8
21 a.m. to 6 p.m. at the in-person absentee polling place on Friday and
22 Monday immediately preceding any election and from 8 a.m. to 1 p.m.
23 on Saturday immediately preceding a state or federal election. If
24 the secretary of a county election board receives an application

1 from a registered voter requesting to vote by in-person absentee
2 ballot the secretary shall cause to be implemented the following
3 procedures:

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

7 2. The voter must sign an in-person absentee voter record, and
8 the signature of the voter on such record must be certified by both
9 members of the absentee voting board, except that the secretary of
10 the county election board and one other member of the absentee
11 voting board may certify the signature of another member of the
12 absentee voting board;

13 3. The voter must mark the ballots of the voter in the manner
14 provided by law in the presence of the absentee voting board, but in
15 such a manner as to make it impossible for any person other than the
16 voter to ascertain how said ballots are marked. Insofar as is
17 possible, the voting procedure shall be the same as if the voter
18 were casting a vote in person at a precinct;

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

22 5. When the in-person polling place is closed on each day of
23 in-person absentee voting the in-person absentee voting board shall,
24 without obtaining a printout of results, remove the vote data pack

1 from the voting device and seal ballots counted that day in a
2 transfer case which shall be secured by the sheriff of the county in
3 the same manner as provided in Section 8-110 of this title. The
4 vote data pack shall be sealed in a container prescribed by the
5 Secretary of the State Election Board. The sheriff shall secure the
6 sealed vote data pack container and return it to the in-person
7 absentee voting board no later than 7:45 a.m. on the next day of
8 in-person absentee voting or to the secretary of the county election
9 board at the time of the county election board meeting to count
10 absentee ballots on election day;

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

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

20 C. Two (2) weeks prior to any general election, excluding
21 Sundays, a registered voter may apply for an in-person absentee
22 ballot at a location designated by the secretary of the county
23 election board from 8 a.m. to 6 p.m. on Monday through Saturday.

24 SECTION 10. This act shall become effective December 1, 2010.

1 SECTION 11. The Ballot Title for the proposed act shall be in
2 the following form:

3 BALLOT TITLE

4 Legislative Referendum No. _____ State Question No. _____

5 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

6 This measure would change several sections of the Election Code.
7 It would lower ballot access for third-party and independent
8 candidates. It would lower the number of signatures required to
9 become a recognized political party. It would allow a person
10 who will be eighteen at the time of the general election to vote
11 in the primary election. It would allow a person to register to
12 vote on election day. It would eliminate straight-party voting.
13 It would allow for a two-week early voting period before a
14 general election. This measure would be effective December 1,
15 2010.

16 SHALL THE PROPOSAL BE APPROVED?

17 FOR THE PROPOSAL - YES _____

18 AGAINST THE PROPOSAL - NO _____

19 SECTION 12. The Chief Clerk of the House of Representatives,
20 immediately after the passage of this act, shall prepare and file
21 one copy thereof, including the Ballot Title set forth in SECTION
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24

1 11 hereof, with the Secretary of State and one copy with the
2 Attorney General.

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