

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3372

By: Jett

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5
6 AS INTRODUCED

7 An Act relating to counties and county officers;
8 ordering a legislative referendum pursuant to the
9 Oklahoma Constitution; amending 19 O.S. 2001, Section
10 131, as last amended by Section 9, Chapter 1, O.S.L.
11 2005 (19 O.S. Supp. 2009, Section 131), which relates
12 to county officers; making elections for county
13 officers nonpartisan; amending 19 O.S. 2001, Section
14 215.1, which relates to district attorneys; making
15 elections for district attorneys nonpartisan;
16 amending 19 O.S. 2001, Section 510, as last amended
17 by Section 5, Chapter 53, O.S.L. 2004 (19 O.S. Supp.
18 2009, Section 510), which relates to county sheriffs;
19 making elections for county sheriffs nonpartisan;
20 amending 26 O.S. 2001, Sections 5-105, as amended by
21 Section 7, Chapter 53, O.S.L. 2004, 8-101, 12-111, as
22 amended by Section 12, Chapter 447, O.S.L. 2002, 12-
23 113, as last amended by Section 5, Chapter 369,
24 O.S.L. 2004 and 12-114 (26 O.S. Supp. 2009, Sections
5-105, 12-111 and 12-113), which relate to candidates
for nomination of office, certification and contest
of nominees, and vacancies in certain county office;
stating certain parameters for filing for office;
removing references to county Runoff Primary
Elections and Runoff Primary Elections for district
attorneys; stating conditions for winning election;
amending 51 O.S. 2001, Section 10, which relates to
vacancies in state and county offices; removing
references to runoff primary elections; providing for
codification; providing an effective date; providing
ballot title; and directing filing.

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

2 SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma
3 Constitution, there is hereby ordered the following legislative
4 referendum which shall be filed with the Secretary of State and
5 addressed to the Governor of the state, who shall submit the same to
6 the people for their approval or rejection at the General Election,
7 to be held on November 2, 2010.

8 SECTION 2. AMENDATORY 19 O.S. 2001, Section 131, as last
9 amended by Section 9, Chapter 1, O.S.L. 2005 (19 O.S. Supp. 2009,
10 Section 131), is amended to read as follows:

11 Section 131. A. At the general election to be held in November
12 1974, there shall be elected in each county of the state, a court
13 clerk, a county sheriff, and a county clerk who shall hold office
14 for a term of two (2) years, the terms of the court clerk, county
15 sheriff and county clerk beginning on the first Monday in January
16 following their election, and until their successors are elected and
17 qualified. At the general election to be held in November 1976, and
18 each four (4) years thereafter, there shall be elected in each
19 county of the state, a court clerk, a county sheriff, and a county
20 clerk who shall hold office for a term of four (4) years; the terms
21 of the court clerk, the county sheriff and the county clerk,
22 beginning on the first business day in January following their
23 election, and until their successors are elected and qualified.

24

1 B. At the general election to be held in November 1974, and
2 each four (4) years thereafter, there shall be elected in each
3 county of the state, a county assessor and a county treasurer, who
4 shall hold office for a term of four (4) years. The term of the
5 county assessor shall begin on the first business day in January
6 following the election, and shall terminate when a successor is
7 elected and qualified. The term of the county treasurer shall begin
8 on the first Monday in July following the election and shall
9 terminate when the successor is duly elected and qualified.

10 C. At the general election to be held in November 1990, and
11 each four (4) years thereafter, there shall be elected in each
12 county of the state two county commissioners, one from the first
13 county commissioner district and one from the third county
14 commissioner district, who shall hold office for a term of four (4)
15 years. At the general election to be held in November 1990, there
16 shall be elected in each county of the state one county commissioner
17 from the second county commissioner district who shall hold office
18 for a term of six (6) years. At the general election to be held in
19 November 1996, and each four (4) years thereafter, there shall be
20 elected in each county of the state, one county commissioner from
21 the second county commissioner district, who shall hold office for a
22 term of four (4) years. The terms of the county commissioners shall
23 begin on the first business day in January following their election,
24 and shall terminate when their successors are elected and qualified.

1 D. A county officer shall be eligible to become a candidate for
2 another county office or state office. In order to file as a
3 candidate for county commissioner in a county commissioner's
4 district, the candidate must have been a qualified registered
5 elector in that district for at least six (6) months immediately
6 preceding the first day of the filing period prescribed by law.
7 Except, however, to file as a candidate for a county commissioner in
8 any county commissioner's district in 2004, the candidate must have
9 been a qualified registered elector in that district no later than
10 December 21, 2003.

11 E. County officers shall be elected at nonpartisan elections.

12 SECTION 3. AMENDATORY 19 O.S. 2001, Section 215.1, is
13 amended to read as follows:

14 Section 215.1 There is hereby created the office of district
15 attorney in the State of Oklahoma, which office shall be filled and
16 in the same manner as now prevails for district judge. Filing for
17 said office shall be accomplished by filing with the State Election
18 Board. District attorneys shall be elected at nonpartisan
19 elections. There shall be one district attorney for each of the
20 district court judicial districts as they are composed and exist on
21 March 1, 1965, with the following exceptions. Provided, however,
22 that that part of Judicial District No. (14) which is Pawnee County
23 shall be consolidated with Osage County to form District Attorney's
24 District No. (10) and Judicial District No. (25) shall be

1 consolidated with Judicial District No. (19) for the purposes of
2 this act; and, provided further, that District Court Judicial
3 District No. (5) be divided into two district attorney districts,
4 one composed of Caddo, Grady, Stephens and Jefferson Counties to be
5 denominated District Attorney's District No. (6) and the other
6 composed of Comanche and Cotton Counties, to be denominated District
7 Attorney's District No. (5); and, that District Court Judicial
8 District No. (4) shall be composed of Canadian, Kingfisher, Blaine,
9 Garfield and Grant Counties to be denominated District Attorney's
10 District No. (4) and the other composed of Alfalfa, Major, Dewey,
11 Woodward and Woods Counties, to be denominated District Attorney's
12 District No. (26); that District Court Judicial District No. (15) be
13 divided into two district attorneys' districts, one composed of
14 Muskogee County to be denominated District Attorney's District No.
15 (15) and the other composed of Wagoner, Cherokee, Sequoyah and Adair
16 Counties to be denominated District Attorney's District No. (27);
17 that Creek and Okfuskee Counties shall be denominated as District
18 Attorney's District No. (24); Okmulgee and McIntosh Counties shall
19 be denominated as District Attorney's District No. (25); and
20 Pittsburg and Haskell Counties shall be denominated as District
21 Attorney's District No. (18); and Latimer and LeFlore Counties shall
22 be denominated as District Attorney's District No. (16); and
23 District Attorney's District No. (7) shall consist of Oklahoma
24 County; and, effective January 6, 2003, Kiowa, Jackson, Tillman,

1 Harmon and Greer Counties shall be denominated as District
2 Attorney's District No. (3); and, effective January 6, 2003,
3 Washita, Ellis, Roger Mills, Custer and Beckham Counties shall be
4 denominated as District Attorney's District No. (2). The State
5 Election Board shall conduct the elections in 2002 for District No.
6 (2) and District No. (3) in accordance with the provisions of this
7 section.

8 SECTION 4. AMENDATORY 19 O.S. 2001, Section 510, as last
9 amended by Section 5, Chapter 53, O.S.L. 2004 (19 O.S. Supp. 2009,
10 Section 510), is amended to read as follows:

11 Section 510. Any person, otherwise qualified, who has been a
12 resident of the State of Oklahoma for two (2) years, has been a
13 registered voter ~~of the party whose nomination he or she seeks, or a~~
14 ~~registered Independent,~~ within the county from which such person
15 seeks election for the six (6) months next preceding the first day
16 of the filing period, except in 2004, when such person must have
17 been a qualified registered elector no later than December 21, 2003,
18 is at least twenty-five (25) years of age next preceding the date of
19 filing for office, possesses at least a high school education, shall
20 be eligible to hold the office of county sheriff or to file
21 therefor. Provided, however, in counties with populations of five
22 hundred thousand (500,000) or more, the person seeking election
23 shall also be a current certified peace officer in good standing.
24 Within twelve (12) months of taking office, all newly elected or

1 appointed sheriffs shall complete a sheriff's administrative school
2 which has been developed by the Oklahoma ~~Sheriff's~~ Sheriffs'
3 Association and which has been approved by the Council on Law
4 Enforcement Education and Training (CLEET). Failure to complete the
5 sheriff's administrative school within the specified period shall
6 preclude the new sheriff from obtaining CLEET certification. New
7 sheriffs with prior CLEET certification, who fail to attend the
8 sheriff's administrative school, shall have their CLEET
9 certification revoked. Provided, however, the provisions of this
10 section relating to qualifications shall not apply to any person
11 serving as a county sheriff or to any person previously serving as
12 county sheriff prior to the adoption of this statute.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 5-103.1 of Title 26, unless
15 there is created a duplication in numbering, reads as follows:

16 Elections for county officers and district attorneys shall be
17 nonpartisan and all candidates for county offices and for district
18 attorney shall file as nonpartisan candidates.

19 SECTION 6. AMENDATORY 26 O.S. 2001, Section 5-105, as
20 amended by Section 7, Chapter 53, O.S.L. 2004 (26 O.S. Supp. 2009,
21 Section 5-105), is amended to read as follows:

22 Section 5-105. A. To file as a candidate for nomination by a
23 political party to any state ~~or county~~ office other than district
24 attorney, a person must have been a registered voter of that party

1 for the six-month period immediately preceding the first day of the
2 filing period prescribed by law and, under oath, so state. Except,
3 however, to file as a candidate for nomination by a political party
4 to any state ~~or county~~ office in 2004, a person must have been a
5 registered voter of that party no later than December 21, 2003.
6 Provided, this requirement shall not apply to a candidate for the
7 nomination of a political party which attains recognition less than
8 six (6) months preceding the first day of the filing period required
9 by law. However, the candidate shall be required to have registered
10 with the newly recognized party within fifteen (15) days after such
11 party recognition.

12 B. To file as an independent candidate for any state ~~or county~~
13 office other than district attorney, a person must have been
14 registered to vote as an independent for the six-month period
15 immediately preceding the first day of the filing period prescribed
16 by law and, under oath, so state. Except, however, to file as an
17 independent candidate for any state ~~or county~~ office in 2004, a
18 person must have been registered to vote as an independent no later
19 than December 21, 2003.

20 C. To file as a candidate for any county office, a person must
21 have been a registered voter of the county for the six-month period
22 immediately preceding the first day of the filing period prescribed
23 by law and, under oath, so state.
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1 D. To file as a candidate for district attorney, a person must
2 have been a registered voter for the six-month period immediately
3 preceding the first day of the filing period prescribed by law and,
4 under oath, so state.

5 SECTION 7. AMENDATORY 26 O.S. 2001, Section 8-101, is
6 amended to read as follows:

7 Section 8-101. The county election board shall certify a list
8 of nominees ~~of each political party~~ for county offices following the
9 Primary ~~and Runoff Primary Elections~~ Election. ~~The~~ Except for
10 filings for district attorney offices, the State Election Board
11 shall certify a list of nominees of each political party for the
12 offices for which the Board accepts filings of declarations of
13 candidacy following the Primary and Runoff Primary Elections. The
14 State Election Board shall certify a list of nominees for district
15 attorney offices following the Primary Election.

16 SECTION 8. AMENDATORY 26 O.S. 2001, Section 12-111, as
17 amended by Section 12, Chapter 447, O.S.L. 2002 (26 O.S. Supp. 2009,
18 Section 12-111), is amended to read as follows:

19 Section 12-111. A. Whenever a vacancy shall occur in the
20 office of a county commissioner, the vacancy shall be filled at a
21 special election to be called by the Governor within thirty (30)
22 days after the vacancy occurs. Provided, no special election shall
23 be called if the vacancy occurs after March 1 of any even-numbered
24 year if the term of the office expires the following year. In such

1 case, the candidate elected to the office at the Primary Election,
2 ~~runoff Primary Election,~~ or the regular General Election shall be
3 appointed by the Governor as soon as practical after the applicable
4 election to fill the unexpired term.

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

17 SECTION 9. AMENDATORY 26 O.S. 2001, Section 12-113, as
18 last amended by Section 5, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
19 2009, Section 12-113), is amended to read as follows:

20 Section 12-113. ~~Such~~ The proclamation provided for in Section
21 12-112 of this title shall contain the following facts:

22 1. A filing period of three (3) days, on a Monday, Tuesday and
23 Wednesday, not less than ten (10) days from the date of such
24 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 of an
6 even-numbered year, when a special election is required, the
7 proclamation must contain dates that are the same as are required by
8 law for the regular filing period, Primary Election, ~~Runoff Primary~~
9 ~~Election~~ and General Election.

10 SECTION 10. AMENDATORY 26 O.S. 2001, Section 12-114, is
11 amended to read as follows:

12 Section 12-114. ~~Said~~ The elections provided for in Section 12-
13 112 of this title shall be conducted under the laws applicable to
14 regular Primary and General Elections, except that the candidate
15 receiving the highest number of votes in ~~said~~ such Primary Election
16 shall be deemed ~~the nominee of his political party,~~ elected to the
17 office if the candidate receives a majority of all the votes cast.
18 If no candidate receives a majority of the votes cast, the two
19 candidates receiving the highest number of votes shall be deemed
20 nominees for the office; provided, that the dates of the elections
21 do not coincide with the dates for the regular Primary, ~~Runoff~~
22 ~~Primary~~ and General Elections. If ~~the~~ a nominee ~~of a political~~
23 ~~party~~ is unopposed in the Special Election, ~~he~~ the nominee shall be
24 issued a certificate of election after the expiration of the contest

1 period following the Primary ~~or Runoff Primary~~ Election, if no
2 contest is filed, and shall immediately assume the duties of ~~said~~
3 the office.

4 SECTION 11. AMENDATORY 51 O.S. 2001, Section 10, is
5 amended to read as follows:

6 Section 10. A. All vacancies in state offices, except in
7 offices of the members of the Legislature, members of the House of
8 Representatives from Oklahoma in the Congress of the United States
9 of America and members of the Senate of the United States of
10 America, shall be filled by appointment by the Governor. When a
11 vacancy occurs in the office of district judge, associate district
12 judge, or judge of any intermediate appellate court, the Governor
13 shall, in filling such vacancy, utilize the services of the Judicial
14 Nominating Commission in the manner as provided for in the filling
15 of judicial offices under Section 4~~7~~ of Article ~~7B~~ VII-B of the
16 Oklahoma Constitution.

17 B. All vacancies in county offices except the board of county
18 commissioners or except for any elective county office of any county
19 in the State of Oklahoma having a population of more than six
20 hundred thousand (600,000), according to the latest Federal
21 Decennial Census shall be filled by appointment by the board of
22 county commissioners. If such an appointment is made prior to the
23 prescribed filing period for county officers in accordance with the
24 provisions of Section 131 of Title 19 of the Oklahoma Statutes, the

1 county commissioners shall, at the time said appointment is made,
2 proclaim a special election to fill the balance of the unexpired
3 term, providing the balance of the term does not expire in the year
4 following the next succeeding ~~general election~~ General Election. In
5 making the proclamation, the county commissioners shall establish
6 the dates for the filing period, primary election, ~~runoff primary~~
7 ~~election~~ and general election to be the same as the next succeeding
8 filing period, primary election, ~~runoff primary election~~ and general
9 election for county officers. The appointee shall be eligible to
10 become a candidate at ~~said~~ the special election, providing ~~said~~ the
11 appointee is otherwise qualified. The office to be filled shall be
12 printed on the same ballot as other county offices.

13 SECTION 12. This act shall become effective December 1, 2011,
14 upon approval by the people.

15 SECTION 13. The Ballot Title for the proposed act shall be in
16 the following form:

17 BALLOT TITLE

18 Legislative Referendum No. _____ State Question No. _____

19 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

20 This measure amends the Oklahoma Constitution. It would make
21 the election for county office not favor any party. It would
22 make the election for district attorney not favor any party.
23 Any person running for county office would not have to pick a
24 political party. To run for county office a person must

1 register to vote in the county six months before filing for
2 office. It makes the person who gets the most votes in the
3 primary election the candidate for office. This would go into
4 effect on December 1, 2011.

5 SHALL THE PROPOSAL BE APPROVED?

6 FOR THE PROPOSAL - YES _____

7 AGAINST THE PROPOSAL - NO _____

8 SECTION 14. The Chief Clerk of the House of Representatives,
9 immediately after the passage of this act, shall prepare and file
10 one copy thereof, including the Ballot Title set forth in SECTION 13
11 hereof, with the Secretary of State and one copy with the Attorney
12 General.

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