

1 STATE OF OKLAHOMA

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

3 SENATE BILL 458

By: Branan

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5
6 AS INTRODUCED

7 An Act relating to elections; amending 26 O.S. 2001,
8 Sections 14-116, 14-117 and 14-118, as amended by
9 Sections 14, 15 and 16, Chapter 485, O.S.L. 2003, 14-
10 119 and 14-120 and 14-120.1, as amended by Sections
11 18 and 19, Chapter 485, O.S.L. 2003 (26 O.S. Supp.
12 2008, Sections 14-116, 14-117, 14-118, 14-120 and 14-
13 120.1), which relate to absentee ballots; allowing
14 certain electors to make electronic application for
15 absentee ballots; providing for ballots to be in
16 electronic form and transmitted electronically under
17 certain circumstances; specifying certain duties of
18 secretary of county election board; providing that
19 certain information be confidential; applying certain
20 provisions of law to electronically-transmitted
21 ballots; modifying materials to accompany ballots;
22 specifying procedures for return of electronically-
23 transmitted ballots; providing procedures if multiple
24 ballots returned; providing for electronic
transmission and return of special write-in absentee
ballots; and providing an 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

1 amended, and the spouse or dependent of the elector may make written
2 or electronic application to the secretary of the county election
3 board in the county of the residence of the elector for absentee
4 ballots and shall be entitled, without being registered to vote, to
5 receive absentee ballots for all elections in which the elector is
6 eligible to participate that occur both during the remainder of the
7 calendar year in which the application is received and during the
8 subsequent calendar year without requiring further application.
9 Voter registration in the county shall not be required for a
10 qualified elector covered by the federal Uniformed and Overseas
11 Citizens Absentee Voting Act of 1986, as amended, although the
12 elector must be eligible to be registered to vote as provided by
13 Section 4-101 of this title.

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

17 Section 14-117. Electors identified by Section 14-116 of this
18 title may apply for absentee ballots as provided for in the federal
19 Uniformed and Overseas Citizens Absentee Voting Act of 1986, as
20 amended, or by letter setting forth substantially the same facts.
21 Said application shall be transmitted by United States mail ~~or~~, by
22 facsimile device as defined in Section 1862 of Title 21 of the
23 Oklahoma Statutes or in an electronic form as provided in Section
24

1 14-118 of this title, to the secretary of the county election board
2 of the elector's residence.

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

6 Section 14-118. A. When an application for an absentee ballot
7 pursuant to Section 14-117 of this title is received by the
8 secretary of a county election board, it shall be the duty of the
9 secretary to transmit, by United States mail ~~or~~, by facsimile device
10 as defined in Section 1862 of Title 21 of the Oklahoma Statutes, or
11 as provided in subsection B of this section, the ballots which ~~said~~
12 the elector has requested and is entitled to receive.

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

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

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

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

23 4. Requests that balloting materials be sent by electronic
24 mail.

1 If the secretary of the county election board transmits a ballot
2 to a voter at an electronic mail address as provided in this
3 subsection, the secretary shall amend the voter's federal postcard
4 application for future elections with the voter's current address.

5 C. An electronic mail address provided under this section is
6 confidential and does not constitute public information for purposes
7 of the Open Records Act. The secretary of the county election board
8 shall ensure that an electronic mail address provided under this
9 section is excluded from disclosure.

10 D. All other provisions of this title that would normally apply
11 to a ballot voted under this title apply to a ballot provided
12 pursuant to the provisions of subsection B of this section.

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

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

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

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

23 3. A return envelope addressed to the secretary of the county
24 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 electronic means or by
5 United States mail or a private mail service, as prescribed by the
6 Secretary of the State 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 subsection A of Section 14-118 of this title, the
12 voter shall be required to mark the voter's ballots in ink or other
13 manner as prescribed by the Secretary of the State Election Board,
14 seal the ballots in the plain opaque envelope, fill out completely
15 and sign the affidavit, seal the plain opaque envelope inside the
16 envelope bearing the affidavit, and return both envelopes, sealed
17 inside the return envelope, by United States mail or by a private
18 mail service, provided such service has delivery documentation.

19 B. Ballots transmitted pursuant to the provisions of subsection
20 B of Section 14-118 of this title must be returned with the
21 signature sheet by a method prescribed by the Secretary of the State
22 Election Board, by electronic means or by United States mail or a
23 private mail service.

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1 C. If a voter returns both a voted ballot mailed to the voter
2 under subsection A of Section 14-118 of this title and a voted
3 ballot provided electronically to the voter under subsection B of
4 Section 14-118 of this title, only the first ballot returned may be
5 counted.

6 D. A ballot returned which was provided electronically shall be
7 processed in the same manner as any other ballot voted by mail as
8 provided by this title.

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

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

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1 B. Application shall be by using Standard Form 76, Post Card
2 Application for Absentee Ballot, as provided for in the federal
3 Uniformed and Overseas Citizens Absentee Voting Act of 1986, as
4 amended, or by letter or in electronic form setting forth
5 substantially the same facts.

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

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

22 E. A voter who requests a special write-in absentee ballot
23 pursuant to the provisions of this section may also request regular
24 absentee ballots pursuant to the provisions of Section 14-116 of

1 this title. If the regular absentee ballots are properly returned,
2 the special write-in absentee ballot shall be deemed void and shall
3 be rejected without the opaque envelope being opened.

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

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

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