

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 12, 2011

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 91

By: Brinkley and Shortey of the Senate and Tibbs et al of the House

Title: Identity and citizenship; requiring proof of citizenship for certain candidates. Codification.
Effective date.

Together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recedes from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

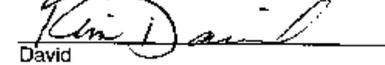
SENATE CONFEREES:



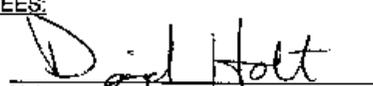
 Brinkley



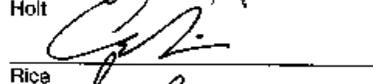
 Johnson (Rob)



 David



 Holt



 Rica



 Burrage

HOUSE CONFEREES:

Conference Committee on Government Modernization and Rules

ADOPTED & PASSED

MAY 18 2011

Senate Action _____ Date _____ House Action _____ Date _____

epc

HOUSE CONFEREES

Banz Gary W. Banz

Brumbaugh David Brumbaugh

Cockroft _____

Dorman _____

Faught George Faught

Hamilton _____

Hilliard _____

Moore J. H. Moore

Murphey Joan W. Murphey

Quinn Marty Quinn

Stiles _____

Walker Ernest D. Walker

Watson Joseph Watson

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 91

6 By: Brinkley and Shortey of the
7 Senate

8 and

9 Tibbs, Bennett, Ritze,
10 Derby and Faught of the
11 House

12 CONFERENCE COMMITTEE SUBSTITUTE

13 An Act relating to the Candidate Eligibility Act of
14 2011; providing short title; modifying information
15 included on Declaration of Candidacy forms; requiring
16 candidate to submit certain record with Declaration;
17 requiring substantial conformity between documents;
18 requiring the Secretary of the State Election Board
19 to make determination of qualifications to hold
20 certain offices and specifying requirements related
21 thereto; requiring publication and distribution of
22 information; allowing alternative procedure for
23 certain municipalities; prohibiting certain statutory
24 construction; amending 26 O.S. 2001, Sections 5-117,
5-120 and 5-126, which relate to Declarations of
Candidacy; specifying circumstances under which
election board secretary not to accept Declaration;
modifying allegations which may be made in contest of
candidacy petition; providing procedure if
Declaration of Candidacy not accepted; specifying
certain evidence which may be required to be produced
in petition hearing; amending 26 O.S. 2001, Section
6-101, which relates to ballots; modifying name of
candidate to be printed on ballot; prohibiting
printing of name in violation of certain provisions;
amending 26 O.S. 2001, Section 16-103, as last
amended by Section 5, Chapter 176, O.S.L. 2010 (26
O.S. Supp. 2010, Section 16-103), which relates to

1 penalty for false swearing; providing penalty for
2 falsely swearing or affirming Declaration of
3 Candidacy; providing for codification; providing for
4 noncodification; and providing an effective date.

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

6 SECTION 1. NEW LAW A new section of law not to be
7 codified in the Oklahoma Statutes reads as follows:

8 This act shall be known and may be cited as the "Candidate
9 Eligibility Act of 2011".

10 SECTION 2. AMENDATORY 26 O.S. 2001, Section 5-111, is
11 amended to read as follows:

12 Section 5-111. A. Forms to be used for filing Declarations of
13 Candidacy shall be prescribed by the Secretary of the State Election
14 Board and shall contain the following information:

15 1. The name of the candidate as shown on his or her voter
16 registration record; ~~the~~

17 2. The name of the candidate to be shown on the ballot;

18 3. The candidate's place of residence and ~~his~~ mailing address;

19 4. The name of the office sought; ~~the~~

20 5. The candidate's date of birth;

21 6. The party affiliation ~~of candidate~~ if seeking a political
22 party nomination;

23 7. The precinct and county wherein the candidate is a
24 registered voter; ~~an~~

1 8. An oath wherein the candidate swears or affirms that:

2 a. he or she is qualified to become a candidate for the
3 office ~~which he is seeking, and that~~ sought,

4 b. if elected, ~~he~~ the candidate will be qualified to hold
5 ~~said~~ the office, and

6 c. he or she is in possession of proof of identity and
7 proof of qualification to hold the office; and any

8 9. Any additional information which the Secretary deems
9 necessary.

10 B. A Declaration of Candidacy form must be signed by the
11 candidate, and the signature must be properly notarized by a notary
12 public or other person authorized by law to administer oaths.

13 C. Along with the Declaration of Candidacy, the candidate shall
14 submit a certified copy of the candidate's official voter
15 registration record obtained from the county election board in the
16 county where the candidate is registered to vote or from the State
17 Election Board. The name, address of residence, date of birth,
18 precinct number, political party affiliation, if applicable, and
19 district, if applicable, indicated on the official voter
20 registration record must substantially conform to the information
21 provided on the Declaration of Candidacy.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5-111.2 of Title 26, unless
24 there is created a duplication in numbering, reads as follows:

1 A. The Secretary of the State Election Board, in consultation
2 with the Attorney General, shall determine the qualifications to
3 hold each elective office as such requirements are set forth in the
4 Constitution or laws of the United States and the Constitution or
5 laws of this state. The Secretary shall cause the qualifications
6 for each office to be published on the State Election Board website
7 and shall distribute such information along with candidate filing
8 materials.

9 B. For elective offices in municipalities governed by home rule
10 charters for which the county election board conducts candidate
11 filing and elections, the governing body of the municipality shall
12 determine the qualifications to hold such office as set forth in the
13 charter and in the laws of this state. The governing body shall
14 provide such information to the secretary of the county election
15 board who shall cause such information to be distributed along with
16 candidate filing materials.

17 C. The qualifications determined pursuant to the provisions of
18 this section shall be those qualifications which apply to all
19 persons seeking to hold an elective office. The provisions of this
20 section shall not be construed to preclude a contest of candidacy
21 for any qualification set forth in the Constitution or laws of the
22 United States, the Constitution or laws of this state or a municipal
23 home rule charter, which may not apply to all persons seeking to
24 hold an elective office.

1 SECTION 4. AMENDATORY 26 O.S. 2001, Section 5-117, is
2 amended to read as follows:

3 Section 5-117. The secretary of any election board shall accept
4 any Declaration of Candidacy which the secretary is authorized to
5 accept, except ~~such~~ if the Declaration which on its face, or if the
6 information shown on the candidate's official voter registration
7 record submitted with the Declaration, shows that the candidate
8 does not meet the qualifications to become a candidate for the
9 office set forth as contained in the Oklahoma Constitution, statutes
10 or resolution calling the election. Such acceptance shall entitle
11 the candidate to have the candidate's name appear on the appropriate
12 ballots unless the candidate withdraws candidacy according to law,
13 or unless a contest to said candidacy is sustained in the manner
14 hereinafter described.

15 SECTION 5. AMENDATORY 26 O.S. 2001, Section 5-120, is
16 amended to read as follows:

17 Section 5-120. ~~Said A.~~ A petition contesting the candidacy of
18 a candidate must allege that the contestee is not the person named
19 in the Declaration of Candidacy or was not qualified by law to
20 become a candidate for the office for which ~~he filed a the~~
21 Declaration of Candidacy was filed and must contain the reasons
22 therefor. Reasons not appearing on the face of the petition shall
23 be considered waived and shall not be grounds for a contest.

24

1 B. A person whose Declaration of Candidacy is not accepted by
2 the secretary of the election board as provided in Section 5-117 of
3 this title may appeal the secretary's decision by filing a petition
4 for appeal with the appropriate election board. The petition for
5 appeal shall be heard in accordance with the provisions of law
6 relating to contest of candidacy petitions. The appellant shall
7 have the same obligations as a contest of candidacy petitioner as
8 set forth in Sections 5-118, 5-119, 5-121, and 5-130 of this title.
9 The appellant shall be entitled to include evidence supporting his
10 or her proof of identity or proof of qualification when submitting
11 the petition for appeal. Evidence not included with the petition
12 for appeal shall be considered to be waived.

13 SECTION 6. AMENDATORY 26 O.S. 2001, Section 5-126, is
14 amended to read as follows:

15 Section 5-126. ~~The~~ A petition contesting the candidacy of a
16 candidate may be heard without formal pleadings being filed in
17 answer or reply thereto. The election board with ~~whom~~ which the
18 petition is filed shall have the authority to issue subpoenas and
19 compel the attendance of witnesses and the production of evidence,
20 including, but not limited to, proof of identity and proof of
21 qualification to hold the office. ~~Such~~ The election board shall
22 have the authority to receive the testimony of witnesses under oath,
23 ~~said oath to be~~ administered by the secretary of the board. At the
24 conclusion of the hearing, the board shall render its decision and

1 the vote of the individual members in writing. The decision of such
2 board shall in all cases be final.

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

5 Section 6-101. The name of any candidate for any office shall
6 be printed on the official ballot as ~~said~~ the candidate ~~signed his~~
7 indicated it should be shown on the ballot on the Declaration of
8 Candidacy; provided, however, that no candidate shall have any
9 prefix, suffix or title placed before or after his or her name, nor
10 shall a name be printed on a ballot if the name is prohibited under
11 Section 5-107, 5-108 or 5-109 of this title.

12 SECTION 8. AMENDATORY 26 O.S. 2001, Section 16-103, as
13 last amended by Section 5, Chapter 176, O.S.L. 2010 (26 O.S. Supp.
14 2010, Section 16-103), is amended to read as follows:

15 Section 16-103. A. Any person who knowingly swears or affirms
16 a false affidavit in order to become eligible to vote, to obtain and
17 vote a provisional ballot, to obtain and vote an absentee ballot, or
18 to cause the cancellation of a qualified elector's voter
19 registration, shall be deemed guilty of a felony.

20 B. Any person who swears or affirms a Declaration of Candidacy
21 knowing the information contained therein is false shall be deemed
22 guilty of a felony.

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1 SECTION 9. This act shall become effective November 1, 2011.

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