

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2422

By: Enns

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6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to elections; amending 26 O.S. 2011,  
9 Section 13A-103, which relates to school election  
10 dates; changing election dates for members of the  
11 board of education; changing election dates for  
12 question of school levy; amending 26 O.S. 2011,  
13 Section 13A-105, which relates to the declarations of  
14 candidacy by certain candidates; modifying dates of  
15 filing; amending 70 O.S. 2011, Section 5-107A, which  
16 relates to membership of boards of education of  
17 school districts; modifying certain terms of board of  
18 education; providing for the term of office of board  
19 members elected after certain date; providing for  
20 completion of the term of office for certain board  
21 members; amending 26 O.S. 2011, Section 12-106, which  
22 relates to vacancies in the Legislature; modifying  
23 dates relating to special election after vacancy  
24 occurs in House of Representatives or State Senate;  
amending 26 O.S. 2011, Section 12-111, which relates  
to vacancies in county offices; modifying dates  
relating to special election after vacancy occurs in  
county office; amending 11 O.S. 2011, Section 16-103,  
which relates to general municipal elections;  
changing dates for general municipal elections;  
amending 11 O.S. 2011, Section 16-107, which relates  
to primary municipal elections; changing date for  
primary elections; amending 11 O.S. 2011, Section 16-  
109, which relates to the eligibility of becoming a  
candidate for partisan primary election; modifying  
dates of filing; amending 11 O.S. 2011, Section 16-  
110, which relates to nonpartisan candidates for  
municipal elections; changing dates for filing;  
providing an effective date; and declaring an  
emergency.

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

2 SECTION 1. AMENDATORY 26 O.S. 2011, Section 13A-103, is  
3 amended to read as follows:

4 Section 13A-103. A. The general election of members of the  
5 board of education of every school district and technology center  
6 school district shall be conducted on the second Tuesday in ~~February~~  
7 ~~of each year, except in any year when a Presidential Preferential~~  
8 ~~Primary is held in February, then the election shall be held on the~~  
9 ~~same day as the Presidential Preferential Primary~~ November in odd-  
10 numbered years.

11 ~~If no candidate receives more than fifty percent (50%) of the~~  
12 ~~votes cast in the election provided for in this subsection, an~~  
13 ~~election between the two candidates with the highest number of votes~~  
14 three or more candidates file declarations of candidacy for an  
15 office for the general election, then a primary election shall be  
16 conducted on the first second Tuesday in April of that year August  
17 preceding the general election. The two candidates receiving the  
18 most votes in the primary election shall be placed on the ballot for  
19 the general election.

20 B. Elections on the question of making a levy or levies for  
21 schools under Section 9, Section 9B or Section 10 of Article X of  
22 the Oklahoma Constitution shall be held on the second Tuesday ~~in~~  
23 ~~February of each year, except in any year when a Presidential~~  
24 ~~Preferential Primary is held in February, then the election shall be~~

1 ~~held on the same day as the Presidential Preferential Primary of~~  
2 November in odd-numbered years.

3 C. The board of education of every school district or  
4 technology center school district may call a special election for  
5 the purpose of voting on any matter or question authorized by law.

6 SECTION 2. AMENDATORY 26 O.S. 2011, Section 13A-105, is  
7 amended to read as follows:

8 Section 13A-105. Candidates for member of the board of  
9 education of every school district or technology center school  
10 district shall file declarations of candidacy in the same place and  
11 with the same officials as candidates for county office. The  
12 declaration of candidacy to be signed by the candidate shall have an  
13 attachment to be signed by the candidate listing the requirements of  
14 a candidate for election or reelection to a school board as set  
15 forth in Sections 13A-106 and 5-105a of this title and Sections 5-  
16 110, 5-110.1, and 5-113 of Title 70 of the Oklahoma Statutes, and  
17 the candidate shall swear or affirm that he or she is eligible to  
18 run for the office or serve in the office if elected. Candidates  
19 shall file on the first Monday in ~~December~~ June through the  
20 following Wednesday. For school districts and technology center  
21 school districts located in more than one county, filing may be  
22 either in the county wherein supervision of the district is located  
23 or in the county where the candidate resides.

1 SECTION 3. AMENDATORY 70 O.S. 2011, Section 5-107A, is  
2 amended to read as follows:

3 Section 5-107A. The following provisions and the provisions of  
4 Section 13A-101 et seq. of Title 26 of the Oklahoma Statutes shall  
5 govern the election of members of the board of education for a  
6 school district:

7 A. For purposes of this section, temporary positions added to a  
8 board of education pursuant to Section 7-101 or 7-105 of this title  
9 and the chair of the board of education elected pursuant to Section  
10 ~~±~~ 5-107B of this ~~act~~ title shall not be considered in determining  
11 the size of the board. The number and term of each board of  
12 education shall be as follows:

| 13 | District                          | Members | Term (Years)          |
|----|-----------------------------------|---------|-----------------------|
| 14 | Elementary                        | 3       | <del>3</del> <u>4</u> |
| 15 | Independent                       |         |                       |
| 16 | 1. Districts having a five-member |         |                       |
| 17 | board                             | 5       | <del>5</del> <u>4</u> |
| 18 | 2. Districts having a seven-      |         |                       |
| 19 | member board unless an            |         |                       |
| 20 | election is conducted             |         |                       |
| 21 | pursuant to subsection C of       |         |                       |
| 22 | this section                      | 7       | 4                     |

23 B. In all school districts, the members of the board of  
24 education shall be elected as follows:

1        1.    a.    Between August 1 and December 31 of the year following  
2                    the submission by the United States Department of  
3                    Commerce to the President of the United States of the  
4                    official Federal Decennial Census, the board of  
5                    education shall reapportion the territory of the  
6                    school district into board districts. Beginning with  
7                    the reapportionment following the 1990 Federal  
8                    Decennial Census, all boundaries of board districts  
9                    shall follow clearly visible, definable and observable  
10                   physical boundaries which are based upon criteria  
11                   established and recognized by the Bureau of the Census  
12                   of the United States Department of Commerce for  
13                   purposes of defining census blocks for its decennial  
14                   census and shall follow, as much as is possible,  
15                   precinct boundaries. Board districts shall be  
16                   compact, contiguous and shall be as equal in  
17                   population as practical with not more than a ten  
18                   percent (10%) variance between the most populous and  
19                   least populous board districts.

20        b.    School districts having fewer than one thousand eight  
21                   hundred (1,800) students in average daily membership  
22                   during the preceding school year may choose not to  
23                   establish board districts and may nominate and elect  
24                   all board members at large.

1 c. Elementary school districts shall have board members  
2 elected at large.

3 d. ~~A~~ If a city is located in an independent school  
4 district having four or more wards and an outlying  
5 area with such outlying area comprising no more than  
6 twenty percent (20%) of the population of such  
7 independent school district, then such independent  
8 school district may adopt such wards and outlying area  
9 in lieu of the board districts provided for in  
10 subparagraph a of this paragraph, and at least one  
11 member of the board of education of such independent  
12 school district shall be a member of each ward; and

13 2. One member of the board of education shall be elected by the  
14 electors of the school district to represent each such board  
15 district. Provided, however, that in any school district where the  
16 electors of each board district, rather than the electors of the  
17 entire school district, elect board members to represent that board  
18 district, that district shall elect board members in that manner.

19 If during the term of office to which a person was elected, that  
20 member ceases to be a resident of the board district for which the  
21 person was elected, the office shall become vacant and such vacancy  
22 shall be filled as provided in Section 13A-110 of Title 26 of the  
23 Oklahoma Statutes; and

1           3. In a school district having more than ten thousand (10,000)  
2 children in average daily membership, the following provision and  
3 the provisions of Section 13A-101 et seq. of Title 26 of the  
4 Oklahoma Statutes shall control as to election of the members of the  
5 school district's board of education:

6           a. There shall be held an election in which the electors  
7           of each board district in which a term is expiring or  
8           in which a vacancy exists shall select ~~two~~ candidates  
9           from among the candidates for board member to  
10          represent the board district, and

11          b. ~~If, in the election, one candidate has a majority of~~  
12          ~~all votes cast, then a run-off election is not~~  
13          ~~required.~~ If no candidate receives a majority of all  
14          votes cast, then the two candidates receiving the  
15          greatest number of votes shall become the candidates  
16          for the board district in the general election, ~~and~~

17          c. ~~At the run-off election, all of the electors of the~~  
18          ~~board district shall select one of the two candidates~~  
19          ~~as the member of the board of education representing~~  
20          ~~the board district.~~

21          C. Any seven-member board shall have the option of reducing its  
22 board to a five-member board either after approval of a board  
23 resolution or a vote of the electors of the school district to take  
24 such action pursuant to Section 13A-109 of Title 26 of the Oklahoma

1 Statutes. The election pursuant to a vote of the electors of the  
2 school district shall be called upon the submission of a petition  
3 requesting the election signed by ten percent (10%) of the school  
4 district electors in the school district, the percentage being  
5 applied to the highest number of voters voting in a regular school  
6 district election in the district in the preceding five (5) years as  
7 determined by the secretary of the county election board, who shall  
8 certify the adequacy of the number of signatures on the petition.  
9 If the question is put before the voters of the district, such  
10 election shall be held along with and at the same time and place as  
11 the next school election if all requirements of Section 13A-101 et  
12 seq. of Title 26 of the Oklahoma Statutes for such election are met.

13 After such resolution or election, the board shall reapportion  
14 the district, determining by resolution or by lot which board member  
15 offices shall be abolished at the end of the current board member's  
16 term and which shall become one of the offices of the new board.

17 Election of the resulting board members shall be carried out  
18 according to procedures stated in this section and Section 13A-101  
19 et seq. of Title 26 of the Oklahoma Statutes.

20 ~~School board members currently serving in offices abolished~~  
21 ~~pursuant to this subsection shall continue serving until the end of~~  
22 ~~their current terms as at-large members.~~

23 D. Except for the chair of the board of education elected  
24 pursuant to Section ~~4~~ 5-107B of this ~~act~~ title, offices of members

1 of the board of education shall be designated by consecutive numbers  
2 and shall correspond with board districts when applicable.

3 ~~E. Except for those members elected prior to July 1, 1992, the~~  
4 ~~terms of office of the members of a five-member board of education~~  
5 ~~shall commence on the first regular, special or emergency school~~  
6 ~~board meeting after the date of the annual school election and after~~  
7 ~~the member has been certified as elected:~~

8           Office No. 1           1991

9           Office No. 2           1992

10           Office No. 3           1993

11           Office No. 4           1994

12           Office No. 5           1995

13       ~~The terms of office of the members of a seven-member board of~~  
14 ~~education shall be staggered, with one member being elected in 1991,~~  
15 ~~two members being elected in 1992, two members being elected in 1993~~  
16 ~~and two members being elected in 1994 and shall commence on the~~  
17 ~~first regular, special or emergency school board meeting after the~~  
18 ~~date of the annual school election and after the member has been~~  
19 ~~certified as elected; provided, in districts needing to elect two~~  
20 ~~members in 1991 to maintain a full complement of board members, two~~  
21 ~~members shall be elected in 1991, one for a full term and one for a~~  
22 ~~one-year term, as determined by the local board. If a seven-member~~  
23 ~~board is formed upon consolidation pursuant to Section 7-105 of this~~  
24 ~~title, or upon annexation pursuant to Section 7-101 of this title,~~

1 ~~the formation agreement shall specify initial short terms as~~  
2 ~~necessary to extend until the beginning of the regular terms for~~  
3 ~~seven member boards established herein.~~

4 ~~Upon reduction of a seven member board pursuant to subsection C~~  
5 ~~of this section, the terms of the five member board shall be~~  
6 ~~staggered pursuant to this subsection.~~

7 ~~One member of a three member board of education shall be elected~~  
8 ~~each year, and the terms of office shall commence on the first~~  
9 ~~regular, special or emergency school board meeting after the member~~  
10 ~~has been certified as elected.~~

11 ~~F.~~ The term of office of each board member elected after July  
12 ~~1, 1992~~ July 1, 2011, shall commence on the first regular, special  
13 or emergency school board meeting after the date of the annual  
14 school election and after the member has been certified as elected.  
15 ~~Board members~~ Any board member elected prior to ~~July 1, 1992~~ July 1,  
16 2012, whose term of office was changed due to a change in election  
17 dates, may remain in office until their successor is elected and  
18 seated pursuant to Sections 13A-101 through 13A-111 of Title 26 of  
19 the Oklahoma Statutes. The remaining term of any member who  
20 completes complete the term for which the member was elected ~~but not~~  
21 ~~wishing to serve until the successor of the member takes office on~~  
22 ~~the first regular, special or emergency school board meeting after~~  
23 ~~the successor has been certified as elected, shall be filled by~~

24

1 ~~appointment by the remaining members of the board of education as an~~  
2 at-large member.

3 SECTION 4. AMENDATORY 26 O.S. 2011, 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 of any~~ in an even-numbered year if the  
11 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 ~~April 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  
24 Election of the special election shall take office on the date the

1 resignation of the incumbent becomes effective and shall serve the  
2 remainder of the unexpired term.

3 SECTION 5. AMENDATORY 26 O.S. 2011, Section 12-111, is  
4 amended to read as follows:

5 Section 12-111. A. Whenever a vacancy shall occur in the  
6 office of a county commissioner, 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 of any~~ in an 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 unexpired term.

15 B. Whenever a vacancy shall occur in any elective county office  
16 of any county in this state having a population of more than the  
17 population figure specified in subsection B of Section 10 of Title  
18 51 of the Oklahoma Statutes, the vacancy shall be filled at a  
19 special election to be called by the Governor within thirty (30)  
20 days after the vacancy occurs. Provided, no special election shall  
21 be called if the vacancy occurs ~~after March 1 of any~~ in an even-  
22 numbered year if the term of the office expires the following year.  
23 In such case, the candidate elected to the office at the Primary  
24 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 SECTION 6. AMENDATORY 11 O.S. 2011, Section 16-103, is  
4 amended to read as follows:

5 Section 16-103. General municipal elections shall be held in  
6 cities and towns on the ~~first~~ second Tuesday in ~~April~~ November in  
7 each odd-numbered year.

8 SECTION 7. AMENDATORY 11 O.S. 2011, Section 16-107, is  
9 amended to read as follows:

10 Section 16-107. A primary election shall be held in cities and  
11 towns on the second Tuesday of ~~February~~ August in each odd-numbered  
12 year, at which time the several political parties shall nominate  
13 candidates for offices which are to be elected at the upcoming  
14 general municipal election.

15 SECTION 8. AMENDATORY 11 O.S. 2011, Section 16-109, is  
16 amended to read as follows:

17 Section 16-109. To be eligible to become a candidate for a  
18 political party nomination in a municipality's partisan primary  
19 election, or an independent candidate in such municipality's general  
20 election, a person must for at least six (6) months prior to filing  
21 a declaration of candidacy be a registered voter at an address  
22 within the municipality or in the ward if an office is from a ward.  
23 To become a candidate, a declaration of candidacy must be filed with  
24 the county election board no earlier than 8:00 a.m. on the first

1 Monday in ~~December~~ June and no later than 5:00 p.m. on the next  
2 succeeding Wednesday.

3 SECTION 9. AMENDATORY 11 O.S. 2011, Section 16-110, is  
4 amended to read as follows:

5 Section 16-110. A candidate may have his or her name printed  
6 upon the nonpartisan general municipal election ballot as candidate  
7 for any office to be filled at the election. To become a candidate,  
8 a declaration of candidacy must be filed with the county election  
9 board no earlier than 8:00 a.m. on the first Monday in ~~February~~ June  
10 and no later than 5:00 p.m. on the next succeeding Wednesday. A  
11 candidate must also be a registered voter at an address within the  
12 municipality, or of the ward where the office is from a ward for at  
13 least six (6) months prior to filing a declaration of candidacy.  
14 Filing as a candidate in a nonpartisan municipal election or voting  
15 for such candidate shall not affect one's party affiliation or  
16 regularity.

17 SECTION 10. This act shall become effective July 1, 2012.

18 SECTION 11. It being immediately necessary for the preservation  
19 of the public peace, health and safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

22  
23 53-2-9895 LRB 02/29/12  
24