

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1615

By: Banz of the House

and

Sykes of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to elections; amending 26 O.S. 2001,
12 Sections 1-102, as amended by Section 2, Chapter 162,
13 O.S.L. 2003, 1-108, as last amended by Section 6,
14 Chapter 53, O.S.L. 2004, 3-101, as last amended by
15 Section 1, Chapter 224, O.S.L. 2005, 4-119, as
16 amended by Section 7, Chapter 485, O.S.L. 2003, 5-
17 110, as last amended by Section 8, Chapter 53, O.S.L.
18 2004, 12-103, as last amended by Section 3, Chapter
19 369, O.S.L. 2004, 12-106, 12-108, as last amended by
20 Section 4, Chapter 369, O.S.L. 2004, 12-113, as last
21 amended by Section 5, Chapter 369, O.S.L. 2004, 12-
22 116, as amended by Section 6, Chapter 369, O.S.L.
23 2004, 13-102, as amended by Section 19, Chapter 545,
24 O.S.L. 2004, 14-115.5, as amended by Section 22,
 Chapter 545, O.S.L. 2004, 14-118, as last amended by
 Section 1, Chapter 149, O.S.L. 2010, 20-101, as
 amended by Section 1, Chapter 174, O.S.L. 2003 and
 20-102, as amended by Section 24, Chapter 485, O.S.L.
 2003 (26 O.S. Supp. 2010, Sections 1-102, 1-108, 3-
 101, 4-119, 5-110, 12-103, 12-108, 12-113, 12-116,
 13-102, 14-115.5, 14-118, 20-101 and 20-102), which
 relate to the election code; modifying date of
 primary election; modifying dates for formation of
 political parties; modifying dates for special
 election; modifying date for filing period; modifying
 dates for special election for certain vacancies;

1 modifying notice of election; modifying dates for
2 certain chair to submit certain names; modifying
3 transmission of certain ballots; modifying date of
4 Presidential Preferential Primary; and providing an
5 effective date.

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

7 SECTION 1. AMENDATORY 26 O.S. 2001, Section 1-102, as
8 amended by Section 2, Chapter 162, O.S.L. 2003 (26 O.S. Supp. 2010,
9 Section 1-102), is amended to read as follows:

10 Section 1-102. A Primary Election shall be held on the last
11 Tuesday in ~~July~~ June of each even-numbered year, at which time each
12 political party recognized by the laws of Oklahoma shall nominate
13 its candidates for the offices to be filled at the next succeeding
14 General Election, unless otherwise provided by law. No candidate's
15 name shall be printed upon the General Election ballot unless such
16 candidate shall have been nominated as herein provided, unless
17 otherwise provided by law; provided further that this provision
18 shall not exclude the right of a nonpartisan candidate to have his
19 or her name printed upon the General Election ballots. No county,
20 municipality or school district shall schedule an election on any
21 date during the twenty (20) days immediately preceding the date of
22 any such primary election.

1 SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-108, as
2 last amended by Section 6, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
3 2010, Section 1-108), is amended to read as follows:

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

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

12 2. After such notice is filed, petitions seeking recognition of
13 a political party, in a form to be prescribed by the Secretary of
14 the State Election Board, shall be filed with such Secretary,
15 bearing the signatures of registered voters equal to at least five
16 percent (5%) of the total votes cast in the last General Election
17 either for Governor or for electors for President and Vice
18 President. Each page of such petitions must contain the names of
19 registered voters from a single county. Petitions may be circulated
20 a maximum of one (1) year after notice is filed, provided that
21 petitions shall be filed with such Secretary no later than ~~May~~ March
22 1 of an even-numbered year. Such petitions shall not be circulated
23 between ~~May~~ March 1 and November 15 of any even-numbered year.

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

7 SECTION 3. AMENDATORY 26 O.S. 2001, Section 3-101, as
8 last amended by Section 1, Chapter 224, O.S.L. 2005 (26 O.S. Supp.
9 2010, Section 3-101), is amended to read as follows:

10 Section 3-101. A. No election required to be conducted by any
11 county election board shall be scheduled for a day other than
12 Tuesday.

13 B. Except as otherwise provided by law, no special election
14 shall be held by any county, school district, technology center
15 school district, municipality or other entity authorized to call
16 elections except on the second Tuesday of January, February, May,
17 June, July, August, September, October, November and December and
18 the first Tuesday in March and April in odd-numbered years and the
19 second Tuesday of January, February, ~~May~~, and December, the first
20 Tuesday in March and April, the last Tuesday in ~~July~~ June, the
21 fourth Tuesday in August, and the first Tuesday after the first
22 Monday in November of any even-numbered year, ~~except in any year~~
23 ~~when a Presidential Preferential Primary Election is held in~~

1 ~~February, the date for the special elections shall be the same date~~
2 ~~as the Presidential Preferential Primary Election.~~

3 C. In the event that a regular or special election date occurs
4 on an official state holiday, the election shall be scheduled for
5 the next following Tuesday.

6 SECTION 4. AMENDATORY 26 O.S. 2001, Section 4-119, as
7 amended by Section 7, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2010,
8 Section 4-119), is amended to read as follows:

9 Section 4-119. Any registered voter may make application under
10 oath to change political affiliation by executing a form prescribed
11 by the Secretary of the State Election Board at any time. The
12 county election board secretary in the applicant's county of
13 residence shall process and approve any such application for
14 political affiliation change upon receipt, except as provided in
15 Section 4-110.1 of ~~Title 26 of the Oklahoma Statutes~~ this title and
16 except during the period from ~~June~~ April 1 through August 31,
17 inclusive, in any even-numbered year. The secretary shall process
18 and approve such applications for change of political affiliation
19 received or postmarked from ~~June~~ April 1 through August 31 in any
20 even-numbered year after August 31.

21 SECTION 5. AMENDATORY 26 O.S. 2001, Section 5-110, as
22 last amended by Section 8, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
23 2010, Section 5-110), is amended to read as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 Section 5-110. Declarations of Candidacy provided herein must
2 be filed with the secretary of the appropriate election board no
3 earlier than 8:00 a.m. on the first Monday in ~~June~~ April of any
4 even-numbered year and no later than 5:00 p.m. on the next
5 succeeding Wednesday. Such Declarations of Candidacy may be
6 transmitted by United States mail, but in no event shall the
7 secretary of any election board accept such Declarations after the
8 time prescribed by law.

9 SECTION 6. AMENDATORY 26 O.S. 2001, Section 12-103, as
10 last amended by Section 3, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
11 2010, Section 12-103), is amended to read as follows:

12 Section 12-103. The proclamation required by Section 12-102 of
13 this title shall prescribe filing and election dates that permit
14 full compliance with the requirements of the federal Military and
15 Overseas Voters Empowerment Act of 2009 and shall contain the
16 following facts:

17 1. A filing period of three (3) days, on a Monday, Tuesday and
18 Wednesday not less than ten (10) days from the date of such
19 proclamation;

20 2. The date of the Special Primary Election, not less than
21 twenty (20) days after the close of the filing period;

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1 3. The date of the Special Runoff Primary Election, not less
2 than twenty (20) days after the date of the Special Primary
3 Election; and

4 4. The date of the Special General Election, not less than
5 twenty (20) days after the date of the Special Runoff Primary
6 Election.

7 Should such a vacancy occur ~~between~~ on or after March 1 ~~and June~~
8 ~~±~~ of an even-numbered year, when a special election is required, the
9 proclamation must contain dates that are the same as are required by
10 law for the regular filing period, Primary Election, Runoff Primary
11 Election and General Election, if practicable.

12 SECTION 7. AMENDATORY 26 O.S. 2001, Section 12-106, is
13 amended to read as follows:

14 Section 12-106. A. Whenever a vacancy shall occur in the
15 office of a member of the State Senate or the State House of
16 Representatives, the vacancy shall be filled at a Special Election
17 to be called by the Governor within thirty (30) days after the
18 vacancy occurs; provided, no special election shall be called if the
19 vacancy occurs after March 1 of any even-numbered year if the term
20 of the office expires the same year.

21 B. If in an even-numbered year an incumbent State Senator with
22 two (2) or more years remaining in the term for which elected shall
23 file with the Oklahoma Secretary of State before ~~June~~ April 1 a

1 resignation in writing which states that the resignation will not
2 become effective immediately, but rather will become effective on
3 some date certain that is after the General Election but before the
4 convening of the next session of the Legislature, the vacancy shall
5 be filled by a special election which shall be held in that even-
6 numbered year on the same dates as the regular Primary Election,
7 Runoff Primary Election and General Election. The filing period for
8 the special election shall be the regular filing period prescribed
9 in Section 5-110 of this title. The person elected in the General
10 Election of the special election shall take office on the date the
11 resignation of the incumbent becomes effective and shall serve the
12 remainder of the unexpired term.

13 SECTION 8. AMENDATORY 26 O.S. 2001, Section 12-108, as
14 last amended by Section 4, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
15 2010, Section 12-108), is amended to read as follows:

16 Section 12-108. Such proclamation shall contain the following
17 facts:

18 1. A filing period of three (3) days, on a Monday, Tuesday and
19 Wednesday not less than ten (10) days from the date of such
20 proclamation;

21 2. The date of the Special Primary Election, not less than
22 twenty (20) days after the close of the filing period; and
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1 3. The date of the Special General Election, not less than
2 twenty (20) days after the date of the Special Primary Election.

3 Should such a vacancy occur ~~between~~ on or after March 1 ~~and June~~
4 ~~±~~ of an even-numbered year, when a special election is required, the
5 proclamation must contain dates that are the same as are required by
6 law for the regular filing period, Primary Election, Runoff Primary
7 Election and General Election, if practicable.

8 SECTION 9. AMENDATORY 26 O.S. 2001, Section 12-113, as
9 last amended by Section 5, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
10 2010, Section 12-113), is amended to read as follows:

11 Section 12-113. Such proclamation shall contain the following
12 facts:

13 1. A filing period of three (3) days, on a Monday, Tuesday and
14 Wednesday, not less than ten (10) days from the date of such
15 proclamation;

16 2. The date of the Special Primary Election, not less than
17 twenty (20) days after the close of the filing period; and

18 3. The date of the Special General Election, not less than
19 twenty (20) days after the date of the Special Primary Election.

20 Should such a vacancy occur ~~between~~ on or after March 1 ~~and June~~
21 ~~±~~ of an even-numbered year, when a special election is required, the
22 proclamation must contain dates that are the same as are required by
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1 law for the regular filing period, Primary Election, Runoff Primary
2 Election and General Election, if practicable.

3 SECTION 10. AMENDATORY 26 O.S. 2001, Section 12-116, as
4 amended by Section 6, Chapter 369, O.S.L. 2004 (26 O.S. Supp. 2010,
5 Section 12-116), is amended to read as follows:

6 Section 12-116. In the event the Governor or the Legislature
7 shall call for a special statewide election on any measure to be
8 submitted to a vote of the people, said election shall be held not
9 fewer than ~~sixty (60)~~ seventy (70) days from the date said election
10 is called. Such special statewide election may be on the same date
11 as a primary or general election or may be on some other date set by
12 the Governor or the Legislature. In the event the board of county
13 commissioners or the governing body of a municipality or school
14 district or technology center school district or any other
15 governmental subdivision calls for a special election on any
16 question, said election shall be held not fewer than sixty (60) days
17 from the date said election is called; provided, that a special
18 election called by a school or technology center school district to
19 be held on the date of the annual school runoff election shall not
20 be held fewer than forty-five (45) days from the date said special
21 election is called. A special election to fill a vacancy for member
22 of the board of education of a school district or to fill a vacancy

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~~Strike thru~~ language denotes deletion from present Statutes.

1 for municipal office shall be scheduled not fewer than sixty (60)
2 days from the date said election is called.

3 SECTION 11. AMENDATORY 26 O.S. 2001, Section 13-102, as
4 amended by Section 19, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2010,
5 Section 13-102), is amended to read as follows:

6 Section 13-102. A. Not fewer than fifteen (15) days before the
7 filing period for any regular municipal election, or in the event of
8 a special election, not fewer than sixty (60) days before such
9 election, the governing board of any municipality shall submit a
10 resolution to the secretary of the county election board conducting
11 such election. Such resolution shall contain the following facts:

12 1. The dates of the election or elections;

13 2. The offices to be filled or the questions to be voted upon
14 at such election or elections;

15 3. Qualifications for such offices;

16 4. Designation of which offices shall be filled by voting by
17 ward and which offices shall be filled by voting at large;

18 5. Indication of whether the election will be partisan or
19 nonpartisan;

20 6. For charter cities where the charter is silent, indication
21 of any portion of state law which will apply; and

22 7. Any other information necessary for conducting said election
23 or elections.

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1 B. In the event that a municipality governed by charter
2 schedules a regular or special election for a municipal office on
3 the same date as an election involving state or federal offices, the
4 filing period for such municipal office shall be scheduled on a
5 Monday, Tuesday, and Wednesday not less than fifteen (15) days nor
6 more than twenty (20) days following the date of the resolution or
7 order.

8 SECTION 12. AMENDATORY 26 O.S. 2001, Section 14-115.5,
9 as amended by Section 22, Chapter 545, O.S.L. 2004 (26 O.S. Supp.
10 2010, Section 14-115.5), is amended to read as follows:

11 Section 14-115.5 To carry out the provisions of Sections 14-115
12 and 14-115.4 of this title, the secretary of the county election
13 board shall designate one or more absentee voting boards, to be
14 composed of two (2) members each, with each member to be of a
15 different political affiliation. No later than ~~July~~ June 1 in each
16 even-numbered year, the chair of the county central committees of
17 the two political parties having the highest number of registered
18 voters in the county shall each submit a list of ten names to the
19 secretary. Such lists shall contain names of registered voters of
20 the county, who may be members of the county election board, except
21 the secretary, or precinct election boards. The secretary shall be
22 confined to such list in designating membership on the absentee
23 voting board or boards, unless all persons on such lists are

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1 ineligible or unwilling to serve. In the event the chair of the
2 county central committee of a political party fails to submit a list
3 as herein provided, the secretary shall appoint membership to such
4 board or boards from the ranks of registered voters of such party
5 within the county. Provided further, that in the event the list of
6 names of either or both parties is exhausted and additional absentee
7 voting boards are needed, the secretary shall appoint additional
8 members to such boards from the ranks of such party or parties in
9 the county. Members of an absentee voting board shall be reimbursed
10 for their expenses at the same rate as a precinct judge or clerk, as
11 provided in Section 2-129 of this title. One member of each such
12 board serving a nursing home or convalescent hospital shall be
13 allowed mileage reimbursement at the rate prescribed for travel by
14 state employees according to the State Travel Reimbursement Act.

15 SECTION 13. AMENDATORY 26 O.S. 2001, Section 14-118, as
16 last amended by Section 1, Chapter 149, O.S.L. 2010 (26 O.S. Supp.
17 2010, Section 14-118), is amended to read as follows:

18 Section 14-118. A. When an application for an absentee ballot
19 pursuant to Section 14-117 of this title is received by the
20 secretary of a county election board, it shall be the duty of the
21 secretary to transmit by United States mail, by facsimile device as
22 defined in Section 1862 of Title 21 of the Oklahoma Statutes, or as
23 provided in subsection B of this section the ballots which the
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1 elector has requested and is entitled to receive. When an
2 application for absentee ballots is received at least forty-five
3 (45) days before an election involving state or federal offices,
4 absentee ballots shall be transmitted by mail, by electronic mail,
5 or by other means of electronic communication, as provided in this
6 section, or by facsimile device as provided in Section 14-118.1 of
7 this title, not less than forty-five (45) days preceding the
8 election. When an application for absentee ballots for an election
9 involving state or federal offices is received less than forty-five
10 (45) days preceding the election, absentee ballots shall be
11 transmitted by mail, by electronic mail, or by other means of
12 electronic communication as provided in this section or by facsimile
13 device as provided in Section 14-118.1 of this title within forty-
14 eight (48) hours of receipt of the application.

15 B. The secretary of the county election board may transmit
16 balloting materials for any state or federal election, or for any
17 other election as designated by the Secretary of the State Election
18 Board as provided in subsection D of this section, ~~to an~~ by
19 electronic mail address or by other means of electronic
20 communication in a form and manner prescribed by the Secretary of
21 the State Election Board, if the voter:

22 1. Is a Federal Post Card Application registrant and is
23 eligible to receive an absentee ballot as provided by law;

1 2. Provides an electronic mail address; and

2 3. Requests that balloting materials be sent by electronic
3 mail.

4 If the secretary of the county election board transmits a ballot
5 to a voter ~~at an~~ by electronic mail ~~address~~ or by other means of
6 electronic communication as provided in this subsection, the
7 secretary shall amend the voter's federal postcard application for
8 future elections to include the voter's electronic mail address.

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

14 D. The Secretary of the State Election Board shall determine if
15 balloting materials for any election other than a state or federal
16 election may be produced in a form which would allow them to be
17 transmitted ~~to an~~ by electronic mail ~~address~~ or by other means of
18 electronic communication. If so, the Secretary shall so designate
19 them. If such designation is not made, the balloting materials may
20 be transmitted to the voter as provided in subsection A of this
21 section.

1 E. All other provisions of this title that would normally apply
2 to a ballot voted under this title apply to a ballot provided
3 pursuant to the provisions of subsection B of this section.

4 F. The Secretary of the State Election Board may suspend the
5 provisions of subsection B of this section if the Secretary
6 determines that electronic transmission of balloting materials is
7 not in the best interest of the people of this state due to a
8 potential problem with the security of the balloting materials.

9 SECTION 14. AMENDATORY 26 O.S. 2001, Section 20-101, as
10 amended by Section 1, Chapter 174, O.S.L. 2003 (26 O.S. Supp. 2010,
11 Section 20-101), is amended to read as follows:

12 Section 20-101. A. A Presidential Preferential Primary for
13 recognized political parties shall be held on the first Tuesday in
14 ~~February~~ March in each of the years in which the President and Vice
15 President of the United States are to be elected.

16 B. If one or more states having a mutual boundary with this
17 state establish a single date for a regional primary, the State
18 Election Board is authorized to change the date of the Oklahoma
19 primary to the date established for the regional primary.

20 C. No county, municipality, school district or other entity
21 authorized by law to call elections shall schedule an election on
22 any date during the twenty (20) days immediately preceding the date
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1 of any such Primary Election. However, this subsection shall not
2 apply to home rule municipalities.

3 SECTION 15. AMENDATORY 26 O.S. 2001, Section 20-102, as
4 amended by Section 24, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2010,
5 Section 20-102), is amended to read as follows:

6 Section 20-102. A. Candidates for the nomination for President
7 of the United States shall file with the Secretary of the State
8 Election Board. Such candidates shall be members of political
9 parties recognized under the laws of the State of Oklahoma and shall
10 have filed a statement of candidacy with the Federal Election
11 Commission and shall have raised and expended not less than Five
12 Thousand Dollars (\$5,000.00) for said office. The candidates shall
13 be required to swear an oath or affirm that they meet the
14 aforementioned qualifications, and their signatures shall be
15 witnessed by a notary public. Such filing beginning at 8:00 a.m. on
16 the first Monday in December and ending at 5:00 p.m. on the next
17 succeeding Wednesday, or at a time prescribed by the State Election
18 Board for a Presidential Preferential Primary to be held on a date
19 other than the first Tuesday in ~~February~~ March. A statement of
20 candidacy must be accompanied by a petition supporting a candidate's
21 filing signed by one percent (1%) of the registered voters in each
22 congressional district eligible to vote for a candidate or one
23 thousand (1,000) registered voters in each congressional district

1 eligible to vote for a candidate, whichever is less, as reflected by
2 the latest January 15 registration report; or by a cashier's check
3 or certified check in the amount of Two Thousand Five Hundred
4 Dollars (\$2,500.00). ~~Such check shall be forfeited unless a~~
5 ~~candidate receives more than fifteen percent (15%) of the votes~~
6 ~~east.~~ The State Election Board shall cause the names of all
7 candidates who have filed within the proper time to be printed on
8 the official ballots. The ballots shall be prepared as provided for
9 by law. Voters shall be restricted to one vote for the candidate of
10 his or her choice of the political party in which the voter is
11 registered.

12 B. Each page of a petition supporting a candidate's filing
13 shall identify the county and the congressional district, and shall
14 contain the names of registered voters in only one congressional
15 district and in only one county.

16 C. Each page of a petition supporting a candidate's filing
17 shall be verified. Verification shall be made in substantial
18 compliance with the provisions of Section 6 of Title 34 of the
19 Oklahoma Statutes.

20 SECTION 16. This act shall become effective November 1, 2011.

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22 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03-02-2011 - DO PASS,
23 As Amended and Coauthored.

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