

1 **SENATE FLOOR VERSION**

2 March 31, 2011

3 As Amended

4 ENGROSSED HOUSE

5 BILL NO. 1615

By: Banz of the House

and

Sykes of the Senate

6
7
8 [elections - amending various sections in Title 26 -
9 election code - Presidential Preferential Primary -
effective date]

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12 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

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

16 Section 1-102. A Primary Election shall be held on the last
17 Tuesday in ~~July~~ June of each even-numbered year, at which time each
18 political party recognized by the laws of Oklahoma shall nominate
19 its candidates for the offices to be filled at the next succeeding
20 General Election, unless otherwise provided by law. No candidate's
21 name shall be printed upon the General Election ballot unless such
22 candidate shall have been nominated as herein provided, unless
23 otherwise provided by law; provided further that this provision
24 shall not exclude the right of a nonpartisan candidate to have his

1 or her name printed upon the General Election ballots. No county,
2 municipality or school district shall schedule an election on any
3 date during the twenty (20) days immediately preceding the date of
4 any such primary election.

5 SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-108, as
6 last amended by Section 6, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
7 2010, Section 1-108), is amended to read as follows:

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

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

16 2. After such notice is filed, petitions seeking recognition of
17 a political party, in a form to be prescribed by the Secretary of
18 the State Election Board, shall be filed with such Secretary,
19 bearing the signatures of registered voters equal to at least five
20 percent (5%) of the total votes cast in the last General Election
21 either for Governor or for electors for President and Vice
22 President. Each page of such petitions must contain the names of
23 registered voters from a single county. Petitions may be circulated
24 a maximum of one (1) year after notice is filed, provided that

1 petitions shall be filed with such Secretary no later than ~~May~~ March
2 1 of an even-numbered year. Such petitions shall not be circulated
3 between ~~May~~ March 1 and November 15 of any even-numbered year.

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

10 SECTION 3. AMENDATORY 26 O.S. 2001, Section 3-101, as
11 last amended by Section 1, Chapter 224, O.S.L. 2005 (26 O.S. Supp.
12 2010, Section 3-101), is amended to read as follows:

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

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

1 Monday in November of any even-numbered year, ~~except in any year~~
2 ~~when a Presidential Preferential Primary Election is held in~~
3 ~~February, the date for the special elections shall be the same date~~
4 ~~as the Presidential Preferential Primary Election.~~

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

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

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

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1 SECTION 5. AMENDATORY 26 O.S. 2001, Section 5-110, as
2 last amended by Section 8, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
3 2010, Section 5-110), is amended to read as follows:

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

12 SECTION 6. AMENDATORY 26 O.S. 2001, Section 12-103, as
13 last amended by Section 3, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
14 2010, Section 12-103), is amended to read as follows:

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

- 20 1. A filing period of three (3) days, on a Monday, Tuesday and
21 Wednesday not less than ten (10) days from the date of such
22 proclamation;
- 23 2. The date of the Special Primary Election, not less than
24 twenty (20) days after the close of the filing period;

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
24 resignation in writing which states that the resignation will not

1 become effective immediately, but rather will become effective on
2 some date certain that is after the General Election but before the
3 convening of the next session of the Legislature, the vacancy shall
4 be filled by a special election which shall be held in that even-
5 numbered year on the same dates as the regular Primary Election,
6 Runoff Primary Election and General Election. The filing period for
7 the special election shall be the regular filing period prescribed
8 in Section 5-110 of this title. The person elected in the General
9 Election of the special election shall take office on the date the
10 resignation of the incumbent becomes effective and shall serve the
11 remainder of the unexpired term.

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

15 Section 12-108. Such proclamation shall contain the following
16 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; and

22 3. The date of the Special General Election, not less than
23 twenty (20) days after the date of the Special Primary Election.
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1 Should such a vacancy occur ~~between~~ on or after March 1 ~~and June~~
2 ± of an even-numbered year, when a special election is required, the
3 proclamation must contain dates that are the same as are required by
4 law for the regular filing period, Primary Election, Runoff Primary
5 Election and General Election, if practicable.

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

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

- 11 1. A filing period of three (3) days, on a Monday, Tuesday and
12 Wednesday, not less than ten (10) days from the date of such
13 proclamation;
- 14 2. The date of the Special Primary Election, not less than
15 twenty (20) days after the close of the filing period; and
- 16 3. The date of the Special General Election, not less than
17 twenty (20) days after the date of the Special Primary Election.

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

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

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

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

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

- 10 1. The dates of the election or elections;
- 11 2. The offices to be filled or the questions to be voted upon
12 at such election or elections;
- 13 3. Qualifications for such offices;
- 14 4. Designation of which offices shall be filled by voting by
15 ward and which offices shall be filled by voting at large;
- 16 5. Indication of whether the election will be partisan or
17 nonpartisan;
- 18 6. For charter cities where the charter is silent, indication
19 of any portion of state law which will apply; and
- 20 7. Any other information necessary for conducting said election
21 or elections.

22 B. In the event that a municipality governed by charter
23 schedules a regular or special election for a municipal office on
24 the same date as an election involving state or federal offices, the

1 filing period for such municipal office shall be scheduled on a
2 Monday, Tuesday, and Wednesday not less than fifteen (15) days nor
3 more than twenty (20) days following the date of the resolution or
4 order.

5 SECTION 12. AMENDATORY 26 O.S. 2001, Section 14-115.5,
6 as amended by Section 22, Chapter 545, O.S.L. 2004 (26 O.S. Supp.
7 2010, Section 14-115.5), is amended to read as follows:

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

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

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

14 Section 14-118. A. When an application for an absentee ballot
15 pursuant to Section 14-117 of this title is received by the
16 secretary of a county election board, it shall be the duty of the
17 secretary to transmit by United States mail, by facsimile device as
18 defined in Section 1862 of Title 21 of the Oklahoma Statutes, or as
19 provided in subsection B of this section the ballots which the
20 elector has requested and is entitled to receive. When an
21 application for absentee ballots is received at least forty-five
22 (45) days before an election involving state or federal offices,
23 absentee ballots shall be transmitted by mail, by electronic mail,
24 or by other means of electronic communication, as provided in this

1 section, or by facsimile device as provided in Section 14-118.1 of
2 this title, not less than forty-five (45) days preceding the
3 election. When an application for absentee ballots for an election
4 involving state or federal offices is received less than forty-five
5 (45) days preceding the election, absentee ballots shall be
6 transmitted by mail, by electronic mail, or by other means of
7 electronic communication as provided in this section or by facsimile
8 device as provided in Section 14-118.1 of this title within forty-
9 eight (48) hours of receipt of the application.

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

- 17 1. Is a Federal Post Card Application registrant and is
18 eligible to receive an absentee ballot as provided by law;
- 19 2. Provides an electronic mail address; and
- 20 3. Requests that balloting materials be sent by electronic
21 mail.

22 If the secretary of the county election board transmits a ballot
23 to a voter ~~at an~~ by electronic mail address or by other means of
24 electronic communication as provided in this subsection, the

1 secretary shall amend the voter's federal postcard application for
2 future elections to include the voter's electronic mail address.

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

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

16 E. All other provisions of this title that would normally apply
17 to a ballot voted under this title apply to a ballot provided
18 pursuant to the provisions of subsection B of this section.

19 F. The Secretary of the State Election Board may suspend the
20 provisions of subsection B of this section if the Secretary
21 determines that electronic transmission of balloting materials is
22 not in the best interest of the people of this state due to a
23 potential problem with the security of the balloting materials.

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

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

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

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

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

20 Section 20-102. A. Candidates for the nomination for President
21 of the United States shall file with the Secretary of the State
22 Election Board. Such candidates shall be members of political
23 parties recognized under the laws of the State of Oklahoma and shall
24 have filed a statement of candidacy with the Federal Election

1 Commission and shall have raised and expended not less than Five
2 Thousand Dollars (\$5,000.00) for said office. The candidates shall
3 be required to swear an oath or affirm that they meet the
4 aforementioned qualifications, and their signatures shall be
5 witnessed by a notary public. Such filing beginning at 8:00 a.m. on
6 the first Monday in December and ending at 5:00 p.m. on the next
7 succeeding Wednesday, or at a time prescribed by the State Election
8 Board for a Presidential Preferential Primary to be held on a date
9 other than the first Tuesday in ~~February~~ March. A statement of
10 candidacy must be accompanied by a petition supporting a candidate's
11 filing signed by one percent (1%) of the registered voters in each
12 congressional district eligible to vote for a candidate or one
13 thousand (1,000) registered voters in each congressional district
14 eligible to vote for a candidate, whichever is less, as reflected by
15 the latest January 15 registration report; or by a cashier's check
16 or certified check in the amount of Two Thousand Five Hundred
17 Dollars (\$2,500.00). ~~Such check shall be forfeited unless a~~
18 ~~candidate receives more than fifteen percent (15%) of the votes~~
19 ~~cast.~~ The State Election Board shall cause the names of all
20 candidates who have filed within the proper time to be printed on
21 the official ballots. The ballots shall be prepared as provided for
22 by law. Voters shall be restricted to one vote for the candidate of
23 his or her choice of the political party in which the voter is
24 registered.

1 B. Each page of a petition supporting a candidate's filing
2 shall identify the county and the congressional district, and shall
3 contain the names of registered voters in only one congressional
4 district and in only one county.

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 3-30-11 - DO PASS, As
11 Amended.

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