

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1238

By: Sherrer

4  
5  
6 AS INTRODUCED

7 An Act relating to counties and county officers;  
8 amending 19 O.S. 2001, Section 131, as last amended  
9 by Section 9, Chapter 1, O.S.L. 2005 (19 O.S. Supp.  
10 2010, Section 131), which relates to county officers;  
11 making elections for county officers nonpartisan;  
12 amending 19 O.S. 2001, Section 215.1, which relates  
13 to district attorneys; making elections for district  
14 attorneys nonpartisan; amending 19 O.S. 2001, Section  
15 510, as last amended by Section 5, Chapter 53, O.S.L.  
16 2004 (19 O.S. Supp. 2010, Section 510), which relates  
17 to county sheriffs; making elections for county  
18 sheriffs nonpartisan; amending 26 O.S. 2001, Sections  
19 5-105, as amended by Section 7, Chapter 53, O.S.L.  
20 2004, 8-101, 12-111, as amended by Section 12,  
21 Chapter 447, O.S.L. 2002, 12-113, as last amended by  
22 Section 5, Chapter 369, O.S.L. 2004 and 12-114 (26  
23 O.S. Supp. 2010, Sections 5-105, 12-111 and 12-113),  
24 which relate to candidates for nomination of office,  
certification and contest of nominees, and vacancies  
in certain county office; stating certain parameters  
for filing for office; removing references to county  
Runoff Primary Elections and Runoff Primary Elections  
for district attorneys; stating conditions for  
winning election; amending 51 O.S. 2001, Section 10,  
which relates to vacancies in state and county  
offices; providing for codification; and providing an  
effective date.

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

1           SECTION 1.           AMENDATORY           19 O.S. 2001, Section 131, as last  
2 amended by Section 9, Chapter 1, O.S.L. 2005 (19 O.S. Supp. 2010,  
3 Section 131), is amended to read as follows:

4           Section 131. A. At the general election to be held in November  
5 1974, there shall be elected in each county of the state, a court  
6 clerk, a county sheriff, and a county clerk who shall hold office  
7 for a term of two (2) years, the terms of the court clerk, county  
8 sheriff and county clerk beginning on the first Monday in January  
9 following their election, and until their successors are elected and  
10 qualified. At the general election to be held in November 1976, and  
11 each four (4) years thereafter, there shall be elected in each  
12 county of the state, a court clerk, a county sheriff, and a county  
13 clerk who shall hold office for a term of four (4) years; the terms  
14 of the court clerk, the county sheriff and the county clerk,  
15 beginning on the first business day in January following their  
16 election, and until their successors are elected and qualified.

17           B. At the general election to be held in November 1974, and  
18 each four (4) years thereafter, there shall be elected in each  
19 county of the state, a county assessor and a county treasurer, who  
20 shall hold office for a term of four (4) years. The term of the  
21 county assessor shall begin on the first business day in January  
22 following the election, and shall terminate when a successor is  
23 elected and qualified. The term of the county treasurer shall begin  
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1 on the first Monday in July following the election and shall  
2 terminate when the successor is duly elected and qualified.

3 C. At the general election to be held in November 1990, and  
4 each four (4) years thereafter, there shall be elected in each  
5 county of the state two county commissioners, one from the first  
6 county commissioner district and one from the third county  
7 commissioner district, who shall hold office for a term of four (4)  
8 years. At the general election to be held in November 1990, there  
9 shall be elected in each county of the state one county commissioner  
10 from the second county commissioner district who shall hold office  
11 for a term of six (6) years. At the general election to be held in  
12 November 1996, and each four (4) years thereafter, there shall be  
13 elected in each county of the state, one county commissioner from  
14 the second county commissioner district, who shall hold office for a  
15 term of four (4) years. The terms of the county commissioners shall  
16 begin on the first business day in January following their election,  
17 and shall terminate when their successors are elected and qualified.

18 D. A county officer shall be eligible to become a candidate for  
19 another county office or state office. In order to file as a  
20 candidate for county commissioner in a county commissioner's  
21 district, the candidate must have been a qualified registered  
22 elector in that district for at least six (6) months immediately  
23 preceding the first day of the filing period prescribed by law.  
24 Except, however, to file as a candidate for a county commissioner in

1 any county commissioner's district in 2004, the candidate must have  
2 been a qualified registered elector in that district no later than  
3 December 21, 2003.

4 E. County officers shall be elected at nonpartisan elections.

5 SECTION 2. AMENDATORY 19 O.S. 2001, Section 215.1, is  
6 amended to read as follows:

7 Section 215.1 There is hereby created the office of district  
8 attorney in the State of Oklahoma, which office shall be filled and  
9 in the same manner as now prevails for district judge. Filing for  
10 said office shall be accomplished by filing with the State Election  
11 Board. District attorneys shall be elected at nonpartisan  
12 elections. There shall be one district attorney for each of the  
13 district court judicial districts as they are composed and exist on  
14 March 1, 1965, with the following exceptions. Provided, however,  
15 that that part of Judicial District No. (14) which is Pawnee County  
16 shall be consolidated with Osage County to form District Attorney's  
17 District No. (10) and Judicial District No. (25) shall be  
18 consolidated with Judicial District No. (19) for the purposes of  
19 this act; and, provided further, that District Court Judicial  
20 District No. (5) be divided into two district attorney districts,  
21 one composed of Caddo, Grady, Stephens and Jefferson Counties to be  
22 denominated District Attorney's District No. (6) and the other  
23 composed of Comanche and Cotton Counties, to be denominated District  
24 Attorney's District No. (5); and, that District Court Judicial

1 District No. (4) shall be composed of Canadian, Kingfisher, Blaine,  
2 Garfield and Grant Counties to be denominated District Attorney's  
3 District No. (4) and the other composed of Alfalfa, Major, Dewey,  
4 Woodward and Woods Counties, to be denominated District Attorney's  
5 District No. (26); that District Court Judicial District No. (15) be  
6 divided into two district attorneys' districts, one composed of  
7 Muskogee County to be denominated District Attorney's District No.  
8 (15) and the other composed of Wagoner, Cherokee, Sequoyah and Adair  
9 Counties to be denominated District Attorney's District No. (27);  
10 that Creek and Okfuskee Counties shall be denominated as District  
11 Attorney's District No. (24); Okmulgee and McIntosh Counties shall  
12 be denominated as District Attorney's District No. (25); and  
13 Pittsburg and Haskell Counties shall be denominated as District  
14 Attorney's District No. (18); and Latimer and LeFlore Counties shall  
15 be denominated as District Attorney's District No. (16); and  
16 District Attorney's District No. (7) shall consist of Oklahoma  
17 County; and, effective January 6, 2003, Kiowa, Jackson, Tillman,  
18 Harmon and Greer Counties shall be denominated as District  
19 Attorney's District No. (3); and, effective January 6, 2003,  
20 Washita, Ellis, Roger Mills, Custer and Beckham Counties shall be  
21 denominated as District Attorney's District No. (2). The State  
22 Election Board shall conduct the elections in 2002 for District No.  
23 (2) and District No. (3) in accordance with the provisions of this  
24 section.

1 SECTION 3. AMENDATORY 19 O.S. 2001, Section 510, as last  
2 amended by Section 5, Chapter 53, O.S.L. 2004 (19 O.S. Supp. 2010,  
3 Section 510), is amended to read as follows:

4 Section 510. Any person, otherwise qualified, who has been a  
5 resident of the State of Oklahoma for two (2) years, has been a  
6 registered voter ~~of the party whose nomination he or she seeks, or a~~  
7 ~~registered Independent,~~ within the county from which such person  
8 seeks election for the six (6) months next preceding the first day  
9 of the filing period, except in 2004, when such person must have  
10 been a qualified registered elector no later than December 21, 2003,  
11 is at least twenty-five (25) years of age next preceding the date of  
12 filing for office, and possesses at least a high school education,  
13 shall be eligible to hold the office of county sheriff or to file  
14 therefor. Provided, however, in counties with populations of five  
15 hundred thousand (500,000) or more, the person seeking election  
16 shall also be a current certified peace officer in good standing.  
17 Within twelve (12) months of taking office, all newly elected or  
18 appointed sheriffs shall complete a sheriff's administrative school  
19 which has been developed by the Oklahoma ~~Sheriff's~~ Sheriffs'  
20 Association and which has been approved by the Council on Law  
21 Enforcement Education and Training (CLEET). Failure to complete the  
22 sheriff's administrative school within the specified period shall  
23 preclude the new sheriff from obtaining CLEET certification. New  
24 sheriffs with prior CLEET certification, who fail to attend the

1 sheriff's administrative school, shall have their CLEET  
2 certification revoked. Provided, however, the provisions of this  
3 section relating to qualifications shall not apply to any person  
4 serving as a county sheriff or to any person previously serving as  
5 county sheriff prior to the adoption of this statute.

6 SECTION 4. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 5-103.1 of Title 26, unless  
8 there is created a duplication in numbering, reads as follows:

9 Elections for county officers and district attorneys shall be  
10 nonpartisan and all candidates for county offices and for district  
11 attorney shall file as nonpartisan candidates.

12 SECTION 5. AMENDATORY 26 O.S. 2001, Section 5-105, as  
13 amended by Section 7, Chapter 53, O.S.L. 2004 (26 O.S. Supp. 2010,  
14 Section 5-105), is amended to read as follows:

15 Section 5-105. A. To file as a candidate for nomination by a  
16 political party to any state ~~or county~~ office other than district  
17 attorney, a person must have been a registered voter of that party  
18 for the six-month period immediately preceding the first day of the  
19 filing period prescribed by law and, under oath, so state. Except,  
20 however, to file as a candidate for nomination by a political party  
21 to any state ~~or county~~ office in 2004, a person must have been a  
22 registered voter of that party no later than December 21, 2003.  
23 Provided, this requirement shall not apply to a candidate for the  
24 nomination of a political party which attains recognition less than

1 six (6) months preceding the first day of the filing period required  
2 by law. However, the candidate shall be required to have registered  
3 with the newly recognized party within fifteen (15) days after such  
4 party recognition.

5 B. To file as an independent candidate for any state ~~or county~~  
6 office other than district attorney, a person must have been  
7 registered to vote as an independent for the six-month period  
8 immediately preceding the first day of the filing period prescribed  
9 by law and, under oath, so state. Except, however, to file as an  
10 independent candidate for any state ~~or county~~ office in 2004, a  
11 person must have been registered to vote as an independent no later  
12 than December 21, 2003.

13 C. To file as a candidate for any county office, a person must  
14 have been a registered voter of the county for the six-month period  
15 immediately preceding the first day of the filing period prescribed  
16 by law and, under oath, so state.

17 D. To file as a candidate for district attorney, a person must  
18 have been a registered voter for the six-month period immediately  
19 preceding the first day of the filing period prescribed by law and,  
20 under oath, so state.

21 SECTION 6. AMENDATORY 26 O.S. 2001, Section 8-101, is  
22 amended to read as follows:

23 Section 8-101. The county election board shall certify a list  
24 of nominees ~~of each political party~~ for county offices following the

1 ~~Primary and Runoff Primary Elections~~ Election. ~~The~~ Except for  
2 filings for district attorney offices, the State Election Board  
3 shall certify a list of nominees of each political party for the  
4 offices for which the Board accepts filings of declarations of  
5 candidacy following the Primary and Runoff Primary Elections. The  
6 State Election Board shall certify a list of nominees for district  
7 attorney offices following the Primary Election.

8 SECTION 7. AMENDATORY 26 O.S. 2001, Section 12-111, as  
9 amended by Section 12, Chapter 447, O.S.L. 2002 (26 O.S. Supp. 2010,  
10 Section 12-111), is amended to read as follows:

11 Section 12-111. A. Whenever a vacancy shall occur in the  
12 office of a county commissioner, the vacancy shall be filled at a  
13 special election to be called by the Governor within thirty (30)  
14 days after the vacancy occurs. Provided, no special election shall  
15 be called if the vacancy occurs after March 1 of any even-numbered  
16 year if the term of the office expires the following year. In such  
17 case, the candidate elected to the office at the Primary Election,  
18 ~~runoff Primary Election,~~ or the regular General Election shall be  
19 appointed by the Governor as soon as practical after the applicable  
20 election to fill the unexpired term.

21 B. Whenever a vacancy shall occur in any elective county office  
22 of any county in this state having a population of more than the  
23 population figure specified in subsection B of Section 10 of Title  
24 51 of the Oklahoma Statutes, the vacancy shall be filled at a

1 special election to be called by the Governor within thirty (30)  
2 days after the vacancy occurs. Provided, no special election shall  
3 be called if the vacancy occurs after March 1 of any even-numbered  
4 year if the term of the office expires the following year. In such  
5 case, the candidate elected to the office at the Primary Election,  
6 ~~runoff Primary Election,~~ or the regular General Election shall be  
7 appointed by the Governor as soon as practical after the applicable  
8 election to fill the unexpired term.

9 SECTION 8. AMENDATORY 26 O.S. 2001, Section 12-113, as  
10 last amended by Section 5, Chapter 369, O.S.L. 2004 (26 O.S. Supp.  
11 2010, Section 12-113), is amended to read as follows:

12 Section 12-113. ~~Such~~ The proclamation provided for in Section  
13 12-112 of this title shall contain the following facts:

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

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

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

21 Should such a vacancy occur between March 1 and June 1 of an  
22 even-numbered year, when a special election is required, the  
23 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.

3 SECTION 9. AMENDATORY 26 O.S. 2001, Section 12-114, is  
4 amended to read as follows:

5 Section 12-114. ~~Said~~ The elections provided for in Section 12-  
6 112 of this title shall be conducted under the laws applicable to  
7 regular Primary and General Elections, except that the candidate  
8 receiving the highest number of votes in ~~said~~ such Primary Election  
9 shall be deemed ~~the nominee of his political party,~~ elected to the  
10 office if the candidate receives a majority of all the votes cast.  
11 If no candidate receives a majority of the votes cast, the two  
12 candidates receiving the highest number of votes shall be deemed  
13 nominees for the office; provided, that the dates of the elections  
14 do not coincide with the dates for the regular Primary, ~~Runoff~~  
15 ~~Primary~~ and General Elections. If ~~the~~ a nominee ~~of a political~~  
16 ~~party~~ is unopposed in the Special Election, ~~he~~ the nominee shall be  
17 issued a certificate of election after the expiration of the contest  
18 period following the Primary ~~or Runoff Primary~~ Election, if no  
19 contest is filed, and shall immediately assume the duties of ~~said~~  
20 the office.

21 SECTION 10. AMENDATORY 51 O.S. 2001, Section 10, is  
22 amended to read as follows:

23 Section 10. A. All vacancies in state offices, except in  
24 offices of the members of the Legislature, members of the House of

1 Representatives from Oklahoma in the Congress of the United States  
2 of America and members of the Senate of the United States of  
3 America, shall be filled by appointment by the Governor. When a  
4 vacancy occurs in the office of district judge, associate district  
5 judge, or judge of any intermediate appellate court, the Governor  
6 shall, in filling such vacancy, utilize the services of the Judicial  
7 Nominating Commission in the manner as provided for in the filling  
8 of judicial offices under Section 47 of Article 7B VII-B of the  
9 Oklahoma Constitution.

10 B. All vacancies in county offices except the board of county  
11 commissioners or except for any elective county office of any county  
12 in the State of Oklahoma having a population of more than six  
13 hundred thousand (600,000), according to the latest Federal  
14 Decennial Census shall be filled by appointment by the board of  
15 county commissioners. If such an appointment is made prior to the  
16 prescribed filing period for county officers in accordance with the  
17 provisions of Section 131 of Title 19 of the Oklahoma Statutes, the  
18 county commissioners shall, at the time said appointment is made,  
19 proclaim a special election to fill the balance of the unexpired  
20 term, providing the balance of the term does not expire in the year  
21 following the next succeeding general election. In making the  
22 proclamation, the county commissioners shall establish the dates for  
23 the filing period, primary election, ~~runoff primary election~~ and  
24 general election to be the same as the next succeeding filing

1 period, primary election, ~~runoff primary election~~ and general  
2 election for county officers. The appointee shall be eligible to  
3 become a candidate at ~~said~~ the special election, providing ~~said~~ the  
4 appointee is otherwise qualified. The office to be filled shall be  
5 printed on the same ballot as other county offices.

6 SECTION 11. This act shall become effective November 1, 2011.

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