

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1615

By: Banz

AS INTRODUCED

An Act relating to elections; amending 26 O.S. 2001, Sections 1-102, as amended by Section 2, Chapter 162, O.S.L. 2003, 1-108, as last amended by Section 6, Chapter 53, O.S.L. 2004, 3-101, as last amended by Section 1, Chapter 224, O.S.L. 2005, 12-103, as last amended by Section 3, Chapter 369, O.S.L. 2004, 12-106, 12-108, as last amended by Section 4, Chapter 369, O.S.L. 2004, 12-113, as last amended by Section 5, Chapter 369, O.S.L. 2004, 12-116, as amended by Section 6, Chapter 369, 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, 12-103, 12-108, 12-113, 12-116, 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; modifying dates for certain chair to submit certain names; modifying transmission of certain ballots; modifying date of Presidential Preferential Primary; and providing an effective date.

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

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

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

18 SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-108, as
19 last amended by Section 6, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
20 2010, Section 1-108), is amended to read as follows:

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

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

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

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

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

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

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

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

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1 SECTION 4. AMENDATORY 26 O.S. 2001, Section 12-103, as
2 last amended by Section 3, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
3 2010, Section 12-103), is amended to read as follows:

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

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

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

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

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

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

3 SECTION 5. AMENDATORY 26 O.S. 2001, 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 even-numbered year if the term
11 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 ~~June~~ April 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 6. AMENDATORY 26 O.S. 2001, Section 12-108, as
4 last amended by Section 4, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
5 2010, Section 12-108), is amended to read as follows:

6 Section 12-108. Such proclamation shall contain the following
7 facts:

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

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

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

15 Should such a vacancy occur between March 1 and ~~June 1~~ of the
16 first day of the candidate filing period described in Section 5-110
17 of this title in an even-numbered year, when a special election is
18 required, the proclamation must contain dates that are the same as
19 are required by law for the regular filing period, Primary Election,
20 Runoff Primary Election and General Election.

21 SECTION 7. AMENDATORY 26 O.S. 2001, Section 12-113, as
22 last amended by Section 5, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
23 2010, Section 12-113), is amended to read as follows:

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

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

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

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

10 Should such a vacancy occur between March 1 and ~~June 1~~ of the
11 first day of the candidate filing period described in Section 5-110
12 of this title in an even-numbered year, when a special election is
13 required, the proclamation must contain dates that are the same as
14 are required by law for the regular filing period, Primary Election,
15 Runoff Primary Election and General Election.

16 SECTION 8. AMENDATORY 26 O.S. 2001, Section 12-116, as
17 amended by Section 6, Chapter 369, O.S.L. 2004 (26 O.S. Supp. 2010,
18 Section 12-116), is amended to read as follows:

19 Section 12-116. In the event the Governor or the Legislature
20 shall call for a special statewide election on any measure to be
21 submitted to a vote of the people, said election shall be held not
22 fewer than ~~sixty (60)~~ seventy (70) days from the date said election
23 is called. Such special statewide election may be on the same date
24 as a primary or general election or may be on some other date set by

1 the Governor or the Legislature. In the event the board of county
2 commissioners or the governing body of a municipality or school
3 district or technology center school district or any other
4 governmental subdivision calls for a special election on any
5 question, said election shall be held not fewer than sixty (60) days
6 from the date said election is called; provided, that a special
7 election called by a school or technology center school district to
8 be held on the date of the annual school runoff election shall not
9 be held fewer than forty-five (45) days from the date said special
10 election is called. A special election to fill a vacancy for member
11 of the board of education of a school district or to fill a vacancy
12 for municipal office shall be scheduled not fewer than sixty (60)
13 days from the date said election is called.

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

17 Section 14-115.5 To carry out the provisions of Sections 14-115
18 and 14-115.4 of this title, the secretary of the county election
19 board shall designate one or more absentee voting boards, to be
20 composed of two (2) members each, with each member to be of a
21 different political affiliation. No later than ~~July~~ June 1 in each
22 even-numbered year, the chair of the county central committees of
23 the two political parties having the highest number of registered
24 voters in the county shall each submit a list of ten names to the

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

20 SECTION 10. AMENDATORY 26 O.S. 2001, Section 14-118, as
21 last amended by Section 1, Chapter 149, O.S.L. 2010 (26 O.S. Supp.
22 2010, Section 14-118), is amended to read as follows:

23 Section 14-118. A. When an application for an absentee ballot
24 pursuant to Section 14-117 of this title is received by the

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

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

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

5 2. Provides an electronic mail address; and

6 3. Requests that balloting materials be sent by electronic
7 mail.

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

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

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

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

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

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

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

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

22 C. No county, municipality, school district or other entity
23 authorized by law to call elections shall schedule an election on
24 any date during the twenty (20) days immediately preceding the date

1 of any such Primary Election. However, this subsection shall not
2 apply to home rule municipalities.

3 SECTION 12. 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
24 eligible to vote for a candidate, whichever is less, as reflected by

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

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

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

19 SECTION 13. This act shall become effective November 1, 2011.

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