

1 STATE OF OKLAHOMA

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

3 SENATE BILL 5

By: Justice

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5
6 AS INTRODUCED

7 An Act relating to elections; requiring elections for
8 county offices to be conducted on nonpartisan basis;
9 providing procedures; amending 26 O.S. 2001, Sections
10 1-105, as amended by Section 1, Chapter 221, O.S.L.
11 2009, 5-105, as amended by Section 7, Chapter 53,
12 O.S.L. 2004, 5-111, 6-109, 8-101, 12-111, as amended
13 by Section 12, Chapter 447, O.S.L. 2002 and 12-114
14 (26 O.S. Supp. 2010, Sections 1-105, 5-105 and 12-
15 111), which relate to election procedures; amending
16 19 O.S. 2001, Section 510, as last amended by Section
17 5, Chapter 53, O.S.L. 2004 (19 O.S. Supp. 2010,
18 Section 510), which relates to qualifications for the
19 office of county sheriff; amending 51 O.S. 2001,
20 Section 10, which relates to vacancies in state
21 offices; deleting obsolete language; providing
22 procedures in event of death of candidate for county
23 office; deleting requirement for registration as
24 member of political party for certain period as
qualification to become candidate for certain office;
modifying information required on declarations of
candidacy for certain office; modifying procedure for
order of names on ballot; deleting references to
runoff primary election for county officers;
providing for codification; and providing an
effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5-103.1 of Title 26, unless
24 there is created a duplication in numbering, reads as follows:

1 A. Beginning with the 2012 election cycle, elections for county
2 offices shall be conducted on a nonpartisan basis. Candidates for
3 county offices shall file a declaration of candidacy with the
4 secretary of the county election board as provided in Section 5-103
5 of Title 26 of the Oklahoma Statutes but shall not declare a party
6 affiliation.

7 B. If more than two candidates qualify to have their names
8 appear on the ballot for a county office as provided by law, the
9 names of all such candidates shall appear on the Primary Election
10 ballot. If no single candidate receives more than fifty percent
11 (50%) of the votes cast at the Primary Election, the names of the
12 two candidates receiving the highest number of votes at the Primary
13 Election shall appear on the General Election ballot.

14 SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-105, as
15 amended by Section 1, Chapter 221, O.S.L. 2009 (26 O.S. Supp. 2010,
16 Section 1-105), is amended to read as follows:

17 Section 1-105. A. In the event of the death of a political
18 party's nominee for office prior to the date of the General
19 Election, a substitute candidate will be permitted to have his or
20 her name placed on the General Election ballot as follows:

21 1. ~~If the nominee was a candidate for county office, the~~
22 ~~political party's central committee of said county shall notify the~~
23 ~~secretary of the county election board of the name of an alternative~~
24 ~~candidate to be placed on the General Election ballot. Such notice~~

1 ~~shall be submitted in writing, within fifteen (15) days after said~~
2 ~~death has occurred, but not later than fifty five (55) days prior to~~
3 ~~the General Election, and shall be signed by at least two duly~~
4 ~~authorized members of the political party's county central~~
5 ~~committee;~~

6 2. If the nominee was a candidate who filed a Declaration of
7 Candidacy with the State Election Board, the state central committee
8 of the party affected shall notify the Secretary of the State
9 Election Board of the name of an alternative candidate to be placed
10 on the General Election ballot. Such notice shall be submitted in
11 writing, within fifteen (15) days after ~~said~~ the death has occurred,
12 but not later than sixty (60) days prior to the General Election for
13 statewide and federal offices and not later than fifty-five (55)
14 days prior to the General Election for other offices, and shall be
15 signed by at least two duly authorized members of the political
16 party's state central committee; and

17 3. 2. If ~~said~~ the death should occur five (5) days or more
18 following the Runoff Primary Election date, a special General
19 Election shall be called by the Governor and shall be conducted
20 according to the laws governing such elections, Section 12-101 et
21 seq. of this title, except that there shall be no filing period or
22 special Primary Election and the candidates in the special General
23 Election shall be the substitute candidate named by the central
24 committee and the nominee of other political parties elected in the

1 Primary or Runoff Primary, and any previously filed independent
2 candidates.

3 B. In the event of the death of a candidate who was unopposed
4 for election, a Special Election shall be called by the Governor.
5 ~~Said~~ The Special Election shall be conducted according to the laws
6 governing such elections, Section 12-101 et seq. of this title.

7 C. 1. In the event of the death of a candidate for county
8 office whose name would otherwise be on the Primary Election ballot
9 and the death occurs before ballot printing has begun for the
10 election, the name of the deceased candidate shall not be printed on
11 the ballot. If ballot printing has begun, votes for the deceased
12 candidate shall not be certified by the county election board. If
13 the death of a candidate leaves only two surviving candidates, their
14 names shall not appear on the Primary Election ballot, or if ballot
15 printing has begun, votes shall not be certified by the county
16 election board in the race, and the two names shall appear on the
17 ballot for the General Election.

18 2. In the event of the death of a candidate for county office
19 whose name would otherwise be on the General Election ballot and the
20 death occurs before ballot printing has begun for the election, the
21 name of neither candidate shall be printed on the ballot and the
22 Governor shall call a special election to fill the office. In the
23 call for the election, the Governor shall prescribe a filing period,
24 to be held as nearly as practicable as the regular filing period,

1 followed in no less than forty-five (45) days by a Special Primary
2 Election which shall be followed in no less than forty-five (45)
3 days by a Special General Election. The Primary and General
4 Elections shall be held in the same manner as regular Primary and
5 General Elections. If the death of the candidate occurs after
6 ballot printing has begun for the election, votes shall not be
7 certified by the county election board in the race and the Governor
8 shall call a special election as specified in this paragraph.

9 SECTION 3. AMENDATORY 26 O.S. 2001, Section 5-105, as
10 amended by Section 7, Chapter 53, O.S.L. 2004 (26 O.S. Supp. 2010,
11 Section 5-105), is amended to read as follows:

12 Section 5-105. A. To file as a candidate for nomination by a
13 political party to any state ~~or county~~ office, a person must have
14 been a registered voter of that party for the six-month period
15 immediately preceding the first day of the filing period prescribed
16 by law and, under oath, so state. ~~Except, however, to file as a~~
17 ~~candidate for nomination by a political party to any state or county~~
18 ~~office in 2004, a person must have been a registered voter of that~~
19 ~~party no later than December 21, 2003.~~ Provided, this requirement
20 shall not apply to a candidate for the nomination of a political
21 party which attains recognition less than six (6) months preceding
22 the first day of the filing period required by law. However, the
23 candidate shall be required to have registered with the newly
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1 recognized party within fifteen (15) days after such party
2 recognition.

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

10 SECTION 4. AMENDATORY 26 O.S. 2001, Section 5-111, is
11 amended to read as follows:

12 Section 5-111. Forms to be used for filing Declarations of
13 Candidacy shall be prescribed by the Secretary of the State Election
14 Board and shall contain the following information: name of the
15 candidate; the candidate's place of residence and ~~his~~ mailing
16 address; name of the office sought; the candidate's date of birth;
17 party affiliation of candidate seeking political party nomination
18 for state offices; precinct and county wherein the candidate is a
19 registered voter; an oath wherein the candidate swears or affirms
20 that he or she is qualified to become a candidate for the office
21 ~~which he is seeking~~ sought, and that, if elected, he or she will be
22 qualified to hold ~~said~~ the office; and any additional information
23 which the Secretary deems necessary. A Declaration of Candidacy
24 form must be signed by the candidate, and the signature must be

1 properly notarized by a notary public or other person authorized by
2 law to administer oaths.

3 SECTION 5. AMENDATORY 26 O.S. 2001, Section 6-109, is
4 amended to read as follows:

5 Section 6-109. On all Primary and Runoff Primary Election
6 ballots, except absentee ballots, the names of the candidates for
7 each office shall be rotated in such a manner that all candidates'
8 names appear in each position on ~~said~~ the ballots an equal number of
9 times. Provided, however, the names of candidates for judicial,
10 county, school, city and town offices shall be placed on the ballot
11 according to lot.

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

14 Section 8-101. The county election board shall certify a list
15 of nominees ~~of each political party~~ for county offices following the
16 Primary ~~and Runoff Primary Elections~~ Election. The State Election
17 Board shall certify a list of nominees of each political party for
18 the offices for which the Board accepts filings of Declarations of
19 Candidacy following the Primary and Runoff Primary Elections.

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

23 Section 12-111. A. Whenever a vacancy shall occur in the
24 office of a county commissioner, 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 B. Whenever a vacancy shall occur in any elective county office
10 of any county in this state having a population of more than the
11 population figure specified in subsection B of Section 10 of Title
12 51 of the Oklahoma Statutes, 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 SECTION 8. AMENDATORY 26 O.S. 2001, Section 12-114, is
22 amended to read as follows:

23 Section 12-114. ~~Said elections~~ Elections to fill vacancies in
24 county offices shall be conducted under the laws applicable to

1 regular Primary and General Elections, ~~except that the candidate~~
2 ~~receiving the highest number of votes in said Primary Election shall~~
3 ~~be deemed the nominee of his political party,~~ provided that the
4 dates of the elections do not coincide with the dates for the
5 regular Primary, ~~Runoff Primary~~ and General Elections. If ~~the~~
6 ~~nominee of a political party~~ a candidate is unopposed in the Special
7 Election or receives at least fifty percent (50%) of the votes cast
8 at the Special Primary Election, ~~he~~ the candidate shall be issued a
9 certificate of election after the expiration of the contest period
10 following the Primary ~~or Runoff Primary~~ Election, if no contest is
11 filed, and shall immediately assume the duties of ~~said~~ the office.

12 SECTION 9. AMENDATORY 19 O.S. 2001, Section 510, as last
13 amended by Section 5, Chapter 53, O.S.L. 2004 (19 O.S. Supp. 2010,
14 Section 510), is amended to read as follows:

15 Section 510. Any person, otherwise qualified, who has been a
16 resident of the State of Oklahoma for two (2) years, has been a
17 registered voter ~~of the party whose nomination he or she seeks, or a~~
18 ~~registered Independent,~~ within the county from which such person
19 seeks election for the six (6) months next preceding the first day
20 of the filing period, ~~except in 2004, when such person must have~~
21 ~~been a qualified registered elector no later than December 21, 2003,~~
22 is at least twenty-five (25) years of age next preceding the date of
23 filing for office, and possesses at least a high school education,
24 shall be eligible to hold the office of county sheriff or to file

1 therefor. Provided, however, in counties with populations of five
2 hundred thousand (500,000) or more, the person seeking election
3 shall also be a current certified peace officer in good standing.
4 Within twelve (12) months of taking office, all newly elected or
5 appointed sheriffs shall complete a sheriff's administrative school
6 which has been developed by the Oklahoma Sheriff's Association and
7 which has been approved by the Council on Law Enforcement Education
8 and Training (CLEET). Failure to complete the sheriff's
9 administrative school within the specified period shall preclude the
10 new sheriff from obtaining CLEET certification. New sheriffs with
11 prior CLEET certification, who fail to attend the sheriff's
12 administrative school, shall have their CLEET certification revoked.
13 Provided, however, the provisions of this section relating to
14 qualifications shall not apply to any person serving as a county
15 sheriff or to any person previously serving as county sheriff prior
16 to the adoption of this statute.

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

19 Section 10. A. All vacancies in state offices, except in
20 offices of the members of the Legislature, members of the House of
21 Representatives from Oklahoma in the Congress of the United States
22 of America and members of the Senate of the United States of
23 America, shall be filled by appointment by the Governor. When a
24 vacancy occurs in the office of district judge, associate district

1 judge, or judge of any intermediate appellate court, the Governor
2 shall, in filling such vacancy, utilize the services of the Judicial
3 Nominating Commission in the manner as provided for in the filling
4 of judicial offices under Section 4, Article 7B of the Oklahoma
5 Constitution.

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

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1 appointee is otherwise qualified. The office to be filled shall be
2 printed on the same ballot as other county offices.

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

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