

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 233

By: Griffin

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5  
6 AS INTRODUCED

7 An Act relating to election recounts; amending 26  
8 O.S. 2011, Sections 8-111, 8-117 and 8-118, which  
9 relate to recount procedures; requiring additional  
10 deposit in certain elections; specifying with and by  
whom petition must be filed; prohibiting refund of  
deposit if recount does not change election outcome;  
and providing an effective date.

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

14 SECTION 1. AMENDATORY 26 O.S. 2011, Section 8-111, is  
15 amended to read as follows:

16 Section 8-111. A. 1. In the event a candidate or individual  
17 authorized to request a recount requests a recount of the ballots  
18 cast in an election, it must set forth in the petition the precincts  
19 and absentee ballots which are to be recounted. ~~said~~

20 2. The petition must be accompanied by either a cashier's check  
21 or certified check in the amount of Six Hundred Dollars (\$600.00)  
22 for each county affected by the petition.

23 3. The candidate or individual may indicate in the petition  
24 requesting the recount that ~~said~~ the candidate or individual desires

1 to have the ballots recounted manually. Failure by the candidate or  
2 individual to state such preference for a manual recount in the  
3 petition shall result in a recount by electronic voting devices.

4 4. If the candidate or individual requests that the ballots be  
5 recounted manually, the petition must be accompanied by a cashier's  
6 check or certified check in the amount of Six Hundred Dollars  
7 (\$600.00) for the first three thousand (3,000) ballots and Six  
8 Hundred Dollars (\$600.00) for each additional six thousand (6,000)  
9 ballots or fraction thereof, to be recounted for each county  
10 affected.

11 5. If the petition for a manual recount is filed with the State  
12 Election Board, the petition must be accompanied by a cashier's  
13 check in the amount of Three Hundred Dollars (\$300.00) in addition  
14 to the amount required ~~above~~ in paragraph 4 of this subsection.

15 6. In elections involving candidates, an additional deposit  
16 equal to the total of the deposits required by paragraphs 2, 3, 4  
17 and 5 of this subsection shall be required if the margin between the  
18 first place candidate and second place candidate is ten percent  
19 (10%) or greater. Provided, in a Primary Election involving three  
20 or more candidates where a Runoff Primary may be required, and where  
21 the margin between the second place candidate and third place  
22 candidate is less than one percent (1%), or where the first place  
23 candidate is one percent (1%) above or below a majority, then no  
24 additional deposit shall be required.

1        7. For an election involving candidates, the petition shall be  
2 filed with the secretary of the election board with whom the  
3 candidate filed the candidate's declaration of candidacy, unless  
4 otherwise provided for by law. The petition may only be filed by a  
5 candidate whose name was printed on the ballot for that office in  
6 that election.

7        8. When such petition is properly filed, it shall be the duty  
8 of the secretary of the appropriate election board to order ~~said~~ the  
9 recount to begin not less than three (3) nor more than ten (10) days  
10 from the date of filing of ~~said~~ the petition.

11        9. a. In elections involving candidates, it shall be the  
12 duty of such contestant to cause to be served upon the  
13 opposing candidate or candidates, and directly  
14 affected by ~~said~~ the contest, a true copy of ~~said~~ the  
15 petition and a true copy of ~~said~~ the order.

16        b. Service shall be made in person where possible, within  
17 twenty-four (24) hours after the filing of ~~said~~ the  
18 original petition of contest. Service shall be made  
19 by the sheriff of the county as to all offices, except  
20 that of sheriff, in which case the same shall be  
21 served by the county clerk and the certificate of  
22 returns of such sheriff or county clerk, showing the  
23 inability to make such service within the above-  
24 mentioned time, shall be deemed sufficient proof of

1 the absence of such candidate, or candidates, or the  
2 inability to serve such notice upon the candidate, and  
3 to justify the constructive service hereafter  
4 provided.

5 c. Where personal service is impossible, within ~~said~~ the  
6 time, it is hereby made the duty of ~~said~~ the  
7 contestant to serve ~~said~~ true copies upon the  
8 secretary of the appropriate election board. Provided  
9 that for the purpose of such constructive service, the  
10 secretaries of the county election boards are hereby  
11 made and constituted the service agents for all  
12 contests of elections filed in accordance herewith.  
13 By filing declaration of candidacy for election, a  
14 candidate shall thereby be conclusively presumed to  
15 have accepted the terms and provisions hereof and  
16 specifically the aforesaid constructive service. When  
17 constructive service becomes necessary, ~~said~~  
18 constructive service shall be made at the date, time  
19 and place of ~~said~~ the hearing.

20 B. For elections on issues or questions when no candidate is  
21 involved and a majority is required for approval, recounts shall be  
22 authorized only when:

23 1. The margin of votes between those for and those against the  
24 issue is one hundred fifty (150) or less when fifteen thousand

1 (15,000) or more total votes are counted for and against the issue  
2 or question; or

3 2. The margin of votes between those for and those against the  
4 issue is one percent (1%) or less of the total number of votes cast  
5 on the issue when fourteen thousand nine hundred ninety-nine  
6 (14,999) or fewer total votes are cast for and against the issue or  
7 question.

8 Provided, furthermore, that a recount is authorized only after  
9 an individual, who is a registered voter and who participated in the  
10 election, presents to the appropriate county election board a  
11 petition signed by one hundred fifty (150) registered voters who  
12 participated in the election when fifteen thousand (15,000) or more  
13 total votes are counted for and against the question, or if fourteen  
14 thousand nine hundred ninety-nine (14,999) or fewer votes are cast  
15 for and against the issue, by a number of registered voters who  
16 participated in the election equal to one percent (1%) or more of  
17 the total votes cast for and against the issue.

18 C. For elections on issues or questions when no candidate is  
19 involved and more than a majority is required for approval, recounts  
20 shall be authorized only when:

21 1. The margin of votes between those for the issue and the  
22 number required for approval is one hundred fifty (150) or less when  
23 fifteen thousand (15,000) or more total votes are counted for and  
24 against the issue or question; or

1           2. The margin of votes between those for the issue and the  
2 number required for approval is one percent (1%) or less of the  
3 total number of votes cast on the issue when fourteen thousand nine  
4 hundred ninety-nine (14,999) or fewer total votes are cast for and  
5 against the issue or question.

6 Provided, furthermore, that a recount is authorized only after an  
7 individual, who is a registered voter and who participated in the  
8 election, presents to the appropriate county election board a  
9 petition signed by one hundred fifty (150) registered voters who  
10 participated in the election when fifteen thousand (15,000) or more  
11 total votes are counted for and against the question, or if fourteen  
12 thousand nine hundred ninety-nine (14,999) or fewer votes are cast  
13 for and against the issue, by a number of registered voters who  
14 participated in the election equal to one percent (1%) or more of  
15 the total votes cast for and against the issue.

16           D. Within twenty-four (24) hours after a petition required in  
17 subsections B and C of this section is filed, not counting Saturday,  
18 Sunday or legal holidays, the secretary of the county election board  
19 who received the petition shall determine, pursuant to rules  
20 promulgated by the Secretary of the State Election Board, if the  
21 petition contains a sufficient number of valid signatures of  
22 registered voters who participated in the election.

23           E. Recounts of issue or question elections shall not be  
24 permitted of any statewide election.

1 SECTION 2. AMENDATORY 26 O.S. 2011, Section 8-117, is  
2 amended to read as follows:

3 Section 8-117. Deposits accompanying petitions shall be used by  
4 the appropriate election board to defray the actual expenses of ~~said~~  
5 a recount. Expenses shall include mileage and salaries of the  
6 county election board members, which shall be made on a per diem  
7 basis at the same rate as for normal compensation; salaries for  
8 counters deemed necessary by the secretary of ~~said~~ the board to  
9 conduct an expedient and accurate recount; the expense of service of  
10 process; court reporter fees and transcript expense; travel  
11 reimbursement for the court reporter and the presiding judge;  
12 mileage and per diem of witnesses; and for all other actual and  
13 necessary expenses. The balance, if any, shall be returned to ~~said~~  
14 the contestant. In the event ~~said~~ the contestant is successful in  
15 ~~said~~ the recount, ~~said~~ the deposit shall be returned to ~~said~~ the  
16 contestant, and the expense of ~~said~~ the recount shall be borne by  
17 the county or state, as the case may be. Provided, no portion of a  
18 deposit required by paragraph 6 of subsection A of Section 8-111 of  
19 this title shall be refundable unless the contestant is successful  
20 in the recount in changing the outcome of the election.

21 SECTION 3. AMENDATORY 26 O.S. 2011, Section 8-118, is  
22 amended to read as follows:

23 Section 8-118. In the event a candidate contests the  
24 correctness of the announced results of an election by alleging

1 either fraud or any other irregularities, the secretary of the  
2 election board receiving the petition shall set a hearing in the  
3 same manner as provided for recounts. Provisions for service of  
4 notice shall be the same as for recounts. The petition shall be  
5 filed with the secretary of the election board with whom the  
6 candidate filed the candidate's declaration of candidacy, unless  
7 otherwise provided for by law.

8 The district judge conducting the hearing or such other judge as  
9 may be assigned by the Supreme Court shall have the authority to  
10 issue subpoenas and compel the attendance of witnesses and the  
11 production of evidence.

12 SECTION 4. This act shall become effective November 1, 2013.

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