

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 872

By: Coffee

COMMITTEE SUBSTITUTE

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, 4-119, as amended by Section 7, Chapter 485, O.S.L. 2003, 5-110, as last amended by Section 8, Chapter 53, O.S.L. 2004, 5-115, as last amended by Section 4, Chapter 307, O.S.L. 2004, 5-119, 8-103, 12-101, as amended by Section 1, Chapter 380, O.S.L. 2002, 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, Section 1, Chapter 369, O.S.L. 2004, 12-111, as amended by Section 12, Chapter 447, O.S.L. 2002 and 12-113, as last amended by Section 5, Chapter 369, O.S.L. 2004 (26 O.S. Supp. 2008, Sections 1-102, 1-108, 3-101, 4-119, 5-110, 5-115, 12-101, 12-103, 12-108, 12-110.1, 12-111 and 12-113), which relate to various election dates and procedures; changing date of primary election; modifying time period during which recognized political party may be formed and petition circulated; modifying dates of special elections; modifying time period when voter may change political affiliation; modifying time periods during which declarations of candidacy, withdrawals and petitions to contest candidacy must be filed; modifying date upon which certificates of election issued to unopposed candidates; modifying time periods during which vacancy in office requires calling of special election; 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. 2008,
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~~ second Tuesday in June of each even-numbered year,
7 at which time each political party recognized by the laws of
8 Oklahoma shall nominate its candidates for the offices to be filled
9 at the next succeeding General Election, unless otherwise provided
10 by law. No candidate's name shall be printed upon the General
11 Election ballot unless such candidate shall have been nominated as
12 herein provided, unless otherwise provided by law; provided further
13 that this provision shall not exclude the right of a nonpartisan
14 candidate to have his or her name printed upon the General Election
15 ballots. No county, municipality or school district shall schedule
16 an election on any date during the twenty (20) days immediately
17 preceding the date of 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 2008, 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 1~~
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 1 and November 15
4 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 1~~
15 March 1 of an even-numbered year. Such petitions shall not be
16 circulated between ~~May 1~~ March 1 and November 15 of any
17 even-numbered year-; and

18 3. Within thirty (30) days after receipt of such petitions, the
19 State Election Board shall determine the sufficiency of such
20 petitions. If such Board determines there are a sufficient number
21 of valid signatures of registered voters, the party becomes
22 recognized under the laws of the State of Oklahoma with all rights
23 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 2008, 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~~ second Tuesday
15 in June, the fourth Tuesday in August, and the first Tuesday after
16 the first Monday in November of any even-numbered year; except in
17 any year when a Presidential Preferential Primary Election is held
18 in February, the date for the special elections shall be the same
19 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.

1 SECTION 4. AMENDATORY 26 O.S. 2001, Section 4-119, as
2 amended by Section 7, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008,
3 Section 4-119), is amended to read as follows:

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

16 SECTION 5. AMENDATORY 26 O.S. 2001, Section 5-110, as
17 last amended by Section 8, Chapter 53, O.S.L. 2004 (26 O.S. Supp.
18 2008, Section 5-110), is amended to read as follows:

19 Section 5-110. Declarations of Candidacy provided herein must
20 be filed with the secretary of the appropriate election board no
21 earlier than 8:00 a.m. on the ~~first Monday in June~~ last Thursday in
22 March of any even-numbered year and no later than 5:00 p.m. on the
23 next succeeding ~~Wednesday~~ Saturday. Such Declarations of Candidacy
24 may be transmitted by United States mail, but in no event shall the

1 secretary of any election board accept such Declarations after the
2 time prescribed by law.

3 SECTION 6. AMENDATORY 26 O.S. 2001, Section 5-115, as
4 last amended by Section 4, Chapter 307, O.S.L. 2004 (26 O.S. Supp.
5 2008, Section 5-115), is amended to read as follows:

6 Section 5-115. Any candidate may withdraw as a candidate only
7 upon the filing of a written notice of withdrawal as a candidate
8 with the secretary of the election board which accepted such
9 candidate's declaration of candidacy. Such notice shall be signed
10 by the candidate or a lawfully appointed personal representative or
11 a lawfully appointed special administrator of any deceased
12 candidate, whose signature shall be notarized by a notary public,
13 and shall be filed on or before 5:00 p.m. on the ~~Friday~~ Tuesday
14 following the close of the filing period prescribed by law.

15 SECTION 7. AMENDATORY 26 O.S. 2001, Section 5-119, is
16 amended to read as follows:

17 Section 5-119. ~~Said~~ A petition to contest a person's candidacy
18 must be filed no later than 5:00 p.m. on the ~~second day~~ Tuesday
19 following the close of the filing period.

20 SECTION 8. AMENDATORY 26 O.S. 2001, Section 8-103, is
21 amended to read as follows:

22 Section 8-103. The county election board shall certify a list
23 of successful candidates for county offices and shall provide
24 Certificates of Election to the same following the General Election,

1 except that Certificates of Election may be issued to unopposed
2 candidates after 5 5:00 p.m. on the ~~second day~~ Tuesday following the
3 close of the filing period. The State Election Board shall certify
4 a list of successful candidates for offices for which the Board
5 accepts filings of Declarations of Candidacy and shall provide
6 Certificates of Election to the same following the General Election,
7 except that Certificates of Election may be issued to unopposed
8 candidates after 5 5:00 p.m. on the ~~second day~~ Tuesday following the
9 close of the filing period.

10 SECTION 9. AMENDATORY 26 O.S. 2001, Section 12-101, as
11 amended by Section 1, Chapter 380, O.S.L. 2002 (26 O.S. Supp. 2008,
12 Section 12-101), is amended to read as follows:

13 Section 12-101. A. Except as otherwise provided by law,
14 whenever a vacancy shall occur in the office of a member of the
15 United States Senate or United States House of Representatives from
16 Oklahoma, such vacancy shall be filled at a Special Election to be
17 called by the Governor within thirty (30) days after such vacancy
18 occurs.

19 B. No special election shall be called if the vacancy occurs
20 after ~~March 1~~ January 1 of any even-numbered year if the term of the
21 office expires the following year. In such case, the candidate
22 elected to the office at the regular General Election shall be
23 appointed by the Governor to fill the remainder of the unexpired
24 term.

1 SECTION 10. 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 2008, 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 contain the following facts:

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

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

11 3. The date of the Special Runoff Primary Election, not less
12 than twenty (20) days after the date of the Special Primary
13 Election; and

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

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

22 SECTION 11. AMENDATORY 26 O.S. 2001, Section 12-106, is
23 amended to read as follows:

1 Section 12-106. A. Whenever a vacancy shall occur in the
2 office of a member of the State Senate or the State House of
3 Representatives, the vacancy shall be filled at a Special Election
4 to be called by the Governor within thirty (30) days after the
5 vacancy occurs; provided, no special election shall be called if the
6 vacancy occurs after ~~March 1~~ January 1 of any even-numbered year if
7 the term of the office expires the same year.

8 B. If in an even-numbered year an incumbent State Senator with
9 two (2) or more years remaining in the term for which elected shall
10 file with the Oklahoma Secretary of State before ~~June 1~~ March 1 a
11 resignation in writing which states that the resignation will not
12 become effective immediately, but rather will become effective on
13 some date certain that is after the General Election but before the
14 convening of the next session of the Legislature, the vacancy shall
15 be filled by a special election which shall be held in that even-
16 numbered year on the same dates as the regular Primary Election,
17 Runoff Primary Election and General Election. The filing period for
18 the special election shall be the regular filing period prescribed
19 in Section 5-110 of this title. The person elected in the General
20 Election of the special election shall take office on the date the
21 resignation of the incumbent becomes effective and shall serve the
22 remainder of the unexpired term.

1 SECTION 12. AMENDATORY 26 O.S. 2001, Section 12-108, as
2 last amended by Section 4, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
3 2008, Section 12-108), is amended to read as follows:

4 Section 12-108. Such proclamation shall contain the following
5 facts:

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

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

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

13 Should such a vacancy occur between ~~March 1 and June 1~~ January 1
14 and March 1 of an even-numbered year, when a special election is
15 required, the proclamation must contain dates that are the same as
16 are required by law for the regular filing period, Primary Election,
17 Runoff Primary Election and General Election.

18 SECTION 13. AMENDATORY Section 1, Chapter 369, O.S.L.
19 2004 (26 O.S. Supp. 2008, Section 12-110.1), is amended to read as
20 follows:

21 Section 12-110.1 A. Elections to fill the seat of a member of
22 the Oklahoma State Senate or the Oklahoma House of Representatives
23 who is not eligible to complete the term of office to which such
24 member was elected due to the provisions of Section 17A of Article V

1 of the Oklahoma Constitution shall be held as provided in this
2 section.

3 B. Whenever a member's eligibility to serve shall expire after
4 ~~March 1~~ January 1 in an even-numbered year, the vacancy shall be
5 filled by a special election to be called by the Governor which
6 shall be held in that even-numbered year on the same dates as the
7 regular Primary Election, Runoff Primary Election and General
8 Election. The filing period for the special election shall be the
9 regular filing period prescribed in Section 5-110 of ~~Title 26 of the~~
10 ~~Oklahoma Statutes~~ this title. The person elected in the special
11 election shall take office on the later of the date other members of
12 the Legislature elected at such election take office or the
13 expiration of the incumbent's eligibility to serve and shall serve
14 the remainder of the unexpired term.

15 C. Whenever a member's eligibility to serve shall expire in an
16 odd-numbered year or prior to ~~March 1~~ January 1 in an even-numbered
17 year, the position shall be filled by a special election to be
18 called by the Governor. The Governor shall issue a proclamation
19 calling such an election no less than sixty (60) days prior to the
20 expiration of the member's eligibility to serve. The person elected
21 shall take office upon the expiration of the incumbent's eligibility
22 to serve.

23 D. The Governor shall issue a proclamation, a copy of which
24 must be filed with the Secretary of the State Election Board, for

1 any election to be held pursuant to this section. Such proclamation
2 shall be issued prior to the date the member's eligibility to serve
3 expires and must be issued at least ten (10) days prior to the
4 filing period. For an election held pursuant to subsection C of
5 this section, the proclamation shall contain the following facts:

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

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

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

13 E. For purposes of this section:

14 1. A full term of service in the Oklahoma House of
15 Representatives shall be counted as two (2) years of service;

16 2. A full term of service in the Oklahoma State Senate shall be
17 counted as four (4) years of service;

18 3. A period of service of less than a full term which is not
19 exempt from the constitutional limitations on length of legislative
20 service shall be calculated from the date the legislator assumes the
21 office for such term until the date the legislator vacates such
22 office; and

23 4. A period of service with respect to a term during which a
24 member reaches the constitutionally limited length of service shall

1 be calculated from the date the legislator assumes the office for
2 such term until the date the legislator completes a total of twelve
3 (12) years of service not exempt from the constitutional
4 limitations.

5 SECTION 14. AMENDATORY 26 O.S. 2001, Section 12-111, as
6 amended by Section 12, Chapter 447, O.S.L. 2002 (26 O.S. Supp. 2008,
7 Section 12-111), is amended to read as follows:

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

18 B. Whenever a vacancy shall occur in any elective county office
19 of any county in this state having a population of more than the
20 population figure specified in subsection B of Section 10 of Title
21 51 of the Oklahoma Statutes, the vacancy shall be filled at a
22 special election to be called by the Governor within thirty (30)
23 days after the vacancy occurs. Provided, no special election shall
24 be called if the vacancy occurs after ~~March 1~~ January 1 of any even-

1 numbered year if the term of the office expires the following year.
2 In such case, the candidate elected to the office at the Primary
3 Election, runoff Primary Election, or the regular General Election
4 shall be appointed by the Governor as soon as practical after the
5 applicable election to fill the remainder of the unexpired term.

6 SECTION 15. 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 2008, 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 ~~March 1 and June 1~~ January 1
19 and March 1 of an even-numbered year, when a special election is
20 required, the proclamation must contain dates that are the same as
21 are required by law for the regular filing period, Primary Election,
22 Runoff Primary Election and General Election.

23

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SECTION 16. This act shall become effective November 1, 2009.

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