

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2564 By: Caldwell (Chad) of the
3 House
4 and
5 Quinn of the Senate
6
7

8 An Act relating to elections; amending 26 O.S. 2011,
9 Section 8-111, as amended by Section 1, Chapter 275,
10 O.S.L. 2013 (26 O.S. Supp. 2020, Section 8-111),
11 which relates to recounts; requiring recounts of
12 certain issues and questions; and providing an
effective date.

13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
14 entire bill and insert

15 "An Act relating to elections; amending 26 O.S. 2011,
16 Section 8-111, as amended by Section 1, Chapter 275,
17 O.S.L. 2013 (26 O.S. Supp. 2020, Section 8-111),
18 which relates to recounts; providing for recounts by
19 electronic voting devices; providing for fees;
20 providing exception for recounts of certain issues
21 and questions; creating the State Question Recount
Revolving Fund; establishing requirements for
administration of and expenditures from Fund; and
providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
23
24

1 SECTION 1. AMENDATORY 26 O.S. 2011, Section 8-111, as
2 amended by Section 1, Chapter 275, O.S.L. 2013 (26 O.S. Supp. 2020,
3 Section 8-111), is amended to read as follows:

4 Section 8-111. A. 1. In the event a candidate or individual
5 authorized to request a recount requests a recount of the ballots
6 cast in an election, it must set forth in the petition the precincts
7 and absentee ballots which are to be recounted.

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

11 3. The candidate or individual may indicate in the petition
12 requesting the recount that the candidate or individual desires to
13 have the ballots recounted manually or by electronic voting devices.
14 Failure by the candidate or individual to state such preference for
15 a manual recount in the petition shall result in a recount by
16 electronic voting devices.

17 4. a. If the candidate or individual requests that the
18 ballots be recounted manually, the petition must be
19 accompanied by a cashier's check or certified check in
20 the amount of Six Hundred Dollars (\$600.00) ~~for the~~
21 ~~first three thousand (3,000) ballots and Six Hundred~~
22 ~~Dollars (\$600.00) for each additional six thousand~~
23 ~~(6,000)~~ three thousand (3,000) ballots or fraction
24 thereof, to be recounted for each county affected.

1 b. If the candidate or individual requests that the
2 ballots be recounted by electronic device, the
3 petition must be accompanied by a cashier's check or
4 certified check in the amount of Six Hundred Dollars
5 (\$600.00) for the first three thousand (3,000) ballots
6 or fraction thereof and Three Hundred Dollars
7 (\$300.00) for each additional five thousand (5,000)
8 ballots or fraction thereof, to be recounted for each
9 affected county.

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

14 6. In elections involving candidates, an additional deposit
15 equal to the total of the deposits required by paragraphs 2, 4 and 5
16 of this subsection shall be required if the margin between the
17 first-place candidate and second-place candidate is ten percent
18 (10%) or greater. Provided, in a Primary Election involving three
19 or more candidates where a Runoff Primary may be required, and where
20 the margin between the second-place candidate and third-place
21 candidate is less than one percent (1%), or where the ~~first-place~~
22 first-place candidate is one percent (1%) above or below a majority,
23 then no 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 the
9 recount to begin not less than three (3) nor more than ten (10) days
10 from the date of filing of 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 the contest, a true copy of the petition
15 and a true copy of the order.

16 b. Service shall be made in person where possible, within
17 twenty-four (24) hours after the filing of 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 the time,
6 it is hereby made the duty of the contestant to serve
7 true copies upon the secretary of the appropriate
8 election board. Provided that for the purpose of such
9 constructive service, the secretaries of the county
10 election boards are hereby made and constituted the
11 service agents for all contests of elections filed in
12 accordance herewith. By filing declaration of
13 candidacy for election, a candidate shall thereby be
14 conclusively presumed to have accepted the terms and
15 provisions hereof and specifically the aforesaid
16 constructive service. When constructive service
17 becomes necessary, constructive service shall be made
18 at the date, time and place of the hearing.

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

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

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

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

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

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

1. The margin of votes between those for the issue and the number required for approval is one hundred fifty (150) or less when fifteen thousand (15,000) or more total votes are counted for and 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, except as follows:

1 1. The Governor or the Attorney General may request a recount
2 of any state question. The request shall be in the form of a
3 petition prescribed by the Secretary of the State Election Board.
4 The petition shall be filed with the Secretary of the State Election
5 Board no later than the deadline provided in Section 8-109 of this
6 title, and the petition shall be accompanied by a cashier's check or
7 certified check in the amount required by subsection A of this
8 section.

9 2. Subject to available funding, the Secretary of the State
10 Election Board shall order an automatic recount of a state question
11 if:

- 12 a. the margin of votes required for approval is one half
13 of one percent (1/2 of 1%) or less of the total number
14 of votes cast for and against a state question
15 involving a statutory issue or question, and
16 b. the margin of votes required for approval is one
17 percent (1%) or less of the total number of votes cast
18 for and against a state question involving a
19 constitutional issue or question.

20 For the purposes of this paragraph, "available funding" shall mean a
21 balance of Two Hundred Fifty Thousand Dollars (\$250,000.00) or more
22 in the State Question Recount Revolving Fund as of the date of the
23 election.

1 3. Unless otherwise provided in this subsection, the general
2 laws governing recounts shall be applicable to such recounts.

3 4. The Secretary of the State Election Board shall determine
4 the dates and times each county election board shall begin a recount
5 pursuant to this subsection. Provided, such a recount shall be
6 concluded no later than forty-five (45) days after the date of the
7 election.

8 5. The Secretary of the State Election Board may prescribe such
9 rules and procedures as may be necessary to implement the provisions
10 of this subsection.

11 F. There is hereby created in the State Treasury a revolving
12 fund for the State Election Board to be designated the "State
13 Question Recount Revolving Fund". The fund shall consist of monies
14 appropriated by the Legislature.

15 1. The revolving fund shall be a continuing fund not subject to
16 fiscal year limitations, provided that at no point shall the balance
17 in the fund exceed Five Hundred Thousand Dollars (\$500,000.00) and
18 shall be under the administrative direction of the Secretary of the
19 State Election Board. Fees collected each fiscal year in excess of
20 Five Hundred Thousand Dollars (\$500,000.00) balance limitation shall
21 be placed to the credit of the State Election Board Revolving Fund.

22 2. Expenditures from the fund shall be limited to:
23
24

- 1 a. the costs of the State Election Board directly related
2 to conducting a recount of a state question pursuant
3 to paragraph 2 of subsection E of this section, and
4 b. reimbursements to county election boards for costs
5 directly related to conducting a recount of a state
6 question pursuant to paragraph 2 of subsection E of
7 this section.

8 3. Warrants for expenditures from said fund shall be drawn by
9 the State Treasurer, based on claims signed by employees authorized
10 by the Secretary of the State Election Board and approved for
11 payment by the Director of the Office of Management and Enterprise
12 Services.

13 4. All interest earned on the balance of funds in the State
14 Question Recount Revolving Fund shall be deposited by the State
15 Treasurer into the Fund on a monthly basis.

16 SECTION 2. This act shall become effective November 1, 2021.”
17
18
19
20
21
22
23
24

1 Passed the Senate the 21st day of April, 2021.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

7
8 _____
9 Presiding Officer of the House
10 of Representatives
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 ENGROSSED HOUSE
2 BILL NO. 2564

By: Caldwell (Chad) of the
House

3 and

4 Quinn of the Senate
5
6
7

8 An Act relating to elections; amending 26 O.S. 2011,
9 Section 8-111, as amended by Section 1, Chapter 275,
10 O.S.L. 2013 (26 O.S. Supp. 2020, Section 8-111),
11 which relates to recounts; requiring recounts of
12 certain issues and questions; and providing an
effective date.

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

14 SECTION 3. AMENDATORY 26 O.S. 2011, Section 8-111, as
15 amended by Section 1, Chapter 275, O.S.L. 2013 (26 O.S. Supp. 2020,
16 Section 8-111), is amended to read as follows:

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

21 2. The petition must be accompanied by either a cashier's check
22 or certified check in the amount of Six Hundred Dollars (\$600.00)
23 for each county affected by the petition.
24

1 3. The candidate or individual may indicate in the petition
2 requesting the recount that the candidate or individual desires to
3 have the ballots recounted manually. Failure by the candidate or
4 individual to state such preference for a manual recount in the
5 petition shall result in a recount by electronic voting devices.

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

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

17 6. In elections involving candidates, an additional deposit
18 equal to the total of the deposits required by paragraphs 2, 4 and 5
19 of this subsection shall be required if the margin between the
20 first-place candidate and second-place candidate is ten percent
21 (10%) or greater. Provided, in a Primary Election involving three
22 or more candidates where a Runoff Primary may be required, and where
23 the margin between the second-place candidate and third-place
24 candidate is less than one percent (1%), or where the first-place

1 candidate is one percent (1%) above or below a majority, then no
2 additional deposit shall be required.

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

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

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

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

1 inability to make such service within the above-
2 mentioned time, shall be deemed sufficient proof of
3 the absence of such candidate, or candidates, or the
4 inability to serve such notice upon the candidate, and
5 to justify the constructive service hereafter
6 provided.

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

21 B. For elections on issues or questions when no candidate is
22 involved and a majority is required for approval, recounts shall be
23 authorized only when:
24

1 1. The margin of votes between those for and those against the
2 issue is one hundred fifty (150) or less when fifteen thousand
3 (15,000) or more total votes are counted for and against the issue
4 or question; or

5 2. The margin of votes between those for and those against the
6 issue is one percent (1%) or less of the total number of votes cast
7 on the issue when fourteen thousand nine hundred ninety-nine
8 (14,999) or fewer total votes are cast for and against the issue or
9 question.

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

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

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

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

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

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

1 E. Recounts of issue or question elections shall ~~not~~ be
2 ~~permitted~~ required of any statewide election when:

3 1. The margin of votes required for approval is one half of one
4 percent (0.5%) or less of the total number of votes cast for and
5 against a statutory issue or question;

6 2. The margin of votes required for approval is one percent
7 (1%) or less of the total number of votes cast for and against a
8 constitutional issue or question; or

9 3. Requested by the Governor, Attorney General, or Oklahoma
10 State Election Board Secretary.

11 SECTION 4. This act shall become effective November 1, 2021.

12 Passed the House of Representatives the 2nd day of March, 2021.

13
14
15 Presiding Officer of the House
16 of Representatives

17 Passed the Senate the ____ day of _____, 2021.

18
19 Presiding Officer of the Senate

20

21

22

23

24