

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2564

By: Caldwell (Chad) of the
House

and

Quinn of the Senate

COMMITTEE SUBSTITUTE

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

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

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

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

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

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

10 4. a. If the candidate or individual requests that the
11 ballots be recounted manually, the petition must be
12 accompanied by a cashier's check or certified check in
13 the amount of Six Hundred Dollars (\$600.00) ~~for the~~
14 ~~first three thousand (3,000) ballots and Six Hundred~~
15 ~~Dollars (\$600.00)~~ for each ~~additional six thousand~~
16 ~~(6,000)~~ three thousand (3,000) ballots or fraction
17 thereof, to be recounted for each county affected.

18 b. If the candidate or individual requests that the
19 ballots be recounted by electronic device, the
20 petition must be accompanied by a cashier's check or
21 certified check in the amount of Six Hundred Dollars
22 (\$600.00) for the first three thousand (3,000) ballots
23 or fraction thereof and Three Hundred Dollars
24 (\$300.00) for each additional five thousand (5,000)

1 ballots or fraction thereof, to be recounted for each
2 affected county.

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

7 6. In elections involving candidates, an additional deposit
8 equal to the total of the deposits required by paragraphs 2, 4 and 5
9 of this subsection shall be required if the margin between the
10 first-place candidate and second-place candidate is ten percent
11 (10%) or greater. Provided, in a Primary Election involving three
12 or more candidates where a Runoff Primary may be required, and where
13 the margin between the second-place candidate and third-place
14 candidate is less than one percent (1%), or where the ~~first-place~~
15 first-place candidate is one percent (1%) above or below a majority,
16 then no additional deposit shall be required.

17 7. For an election involving candidates, the petition shall be
18 filed with the secretary of the election board with whom the
19 candidate filed the candidate's declaration of candidacy, unless
20 otherwise provided for by law. The petition may only be filed by a
21 candidate whose name was printed on the ballot for that office in
22 that election.

23 8. When such petition is properly filed, it shall be the duty
24 of the secretary of the appropriate election board to order the

1 recount to begin not less than three (3) nor more than ten (10) days
2 from the date of filing of the petition.

3 9. a. In elections involving candidates, it shall be the
4 duty of such contestant to cause to be served upon the
5 opposing candidate or candidates, and directly
6 affected by the contest, a true copy of the petition
7 and a true copy of the order.

8 b. Service shall be made in person where possible, within
9 twenty-four (24) hours after the filing of the
10 original petition of contest. Service shall be made
11 by the sheriff of the county as to all offices, except
12 that of sheriff, in which case the same shall be
13 served by the county clerk and the certificate of
14 returns of such sheriff or county clerk, showing the
15 inability to make such service within the above-
16 mentioned time, shall be deemed sufficient proof of
17 the absence of such candidate, or candidates, or the
18 inability to serve such notice upon the candidate, and
19 to justify the constructive service hereafter
20 provided.

21 c. Where personal service is impossible, within the time,
22 it is hereby made the duty of the contestant to serve
23 true copies upon the secretary of the appropriate
24 election board. Provided that for the purpose of such

1 constructive service, the secretaries of the county
2 election boards are hereby made and constituted the
3 service agents for all contests of elections filed in
4 accordance herewith. By filing declaration of
5 candidacy for election, a candidate shall thereby be
6 conclusively presumed to have accepted the terms and
7 provisions hereof and specifically the aforesaid
8 constructive service. When constructive service
9 becomes necessary, constructive service shall be made
10 at the date, time and place of the hearing.

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

14 1. The margin of votes between those for and those against the
15 issue is one hundred fifty (150) or less when fifteen thousand
16 (15,000) or more total votes are counted for and against the issue
17 or question; or

18 2. The margin of votes between those for and those against the
19 issue is one percent (1%) or less of the total number of votes cast
20 on the issue when fourteen thousand nine hundred ninety-nine
21 (14,999) or fewer total votes are cast for and against the issue or
22 question.

23 Provided, furthermore, that a recount is authorized only after an
24 individual, who is a registered voter and who participated in the

1 election, presents to the appropriate county election board a
2 petition signed by one hundred fifty (150) registered voters who
3 participated in the election when fifteen thousand (15,000) or more
4 total votes are counted for and against the question, or if fourteen
5 thousand nine hundred ninety-nine (14,999) or fewer votes are cast
6 for and against the issue, by a number of registered voters who
7 participated in the election equal to one percent (1%) or more of
8 the total votes cast for and against the issue.

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

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

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

21 Provided, furthermore, that a recount is authorized only after an
22 individual, who is a registered voter and who participated in the
23 election, presents to the appropriate county election board a
24 petition signed by one hundred fifty (150) registered voters who

1 participated in the election when fifteen thousand (15,000) or more
2 total votes are counted for and against the question, or if fourteen
3 thousand nine hundred ninety-nine (14,999) or fewer votes are cast
4 for and against the issue, by a number of registered voters who
5 participated in the election equal to one percent (1%) or more of
6 the total votes cast for and against the issue.

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

14 E. Recounts of issue or question elections shall not be
15 permitted of any statewide election, except as follows:

16 1. The Governor or the Attorney General may request a recount
17 of any state question. The request shall be in the form of a
18 petition prescribed by the Secretary of the State Election Board.
19 The petition shall be filed with the Secretary of the State Election
20 Board no later than the deadline provided in Section 8-109 of this
21 title, and the petition shall be accompanied by a cashier's check or
22 certified check in the amount required by subsection A of this
23 section.
24

1 2. Subject to available funding, the Secretary of the State
2 Election Board shall order an automatic recount of a State Question
3 if:

- 4 a. the margin of votes required for approval is one half
5 of one percent (1/2 of 1%) or less of the total number
6 of votes cast for and against a state question
7 involving a statutory issue or question, and
8 b. the margin of votes required for approval is one
9 percent (1%) or less of the total number of votes cast
10 for and against a state question involving a
11 constitutional issue or question.

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

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

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

1 5. The Secretary of the State Election Board may prescribe such
2 rules and procedures as may be necessary to implement the provisions
3 of this subsection.

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

8 1. The revolving fund shall be a continuing fund not subject to
9 fiscal year limitations, provided that at no point shall the balance
10 in the fund exceed Five Hundred Thousand Dollars (\$500,000.00) and
11 shall be under the administrative direction of the Secretary of the
12 State Election Board. Fees collected each fiscal year in excess of
13 Five Hundred Thousand Dollars (\$500,000.00) balance limitation shall
14 be placed to the credit of the State Election Board Revolving Fund.

15 2. Expenditures from the fund shall be limited to:

- 16 a. the costs of the State Election Board directly related
17 to conducting a recount of a state question pursuant
18 to paragraph 2 of subsection E of this section, and
19 b. reimbursements to county election boards for costs
20 directly related to conducting a recount of a state
21 question pursuant to paragraph 2 of subsection E of
22 this section.

23 3. Warrants for expenditures from said fund shall be drawn by
24 the State Treasurer, based on claims signed by employees authorized

1 by the Secretary of the State Election Board and approved for
2 payment by the Director of the Office of Management and Enterprise
3 Services.

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

7 SECTION 2. This act shall become effective November 1, 2021.

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