

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 HOUSE BILL 2564

 By: Caldwell (Chad)

7 AS INTRODUCED

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),
 which relates to recounts; requiring recounts of
 certain issues and questions; and providing an
 effective date.

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

14 SECTION 1. 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.

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 (.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 2. This act shall become effective November 1, 2021.

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13 COMMITTEE REPORT BY: COMMITTEE ON ELECTIONS AND ETHICS, dated
14 02/11/2021 - DO PASS.
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