

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2564

By: Caldwell (Chad)

AS INTRODUCED

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; requiring recounts of certain issues and questions; 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.

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

3. The candidate or individual may indicate in the petition requesting the recount that the candidate or individual desires to

1 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 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, 4 and 5
17 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 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
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(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~~ required of any statewide election when:

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

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

7 3. Requested by the Governor, Attorney General, or Oklahoma
8 State Election Board Secretary.

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

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11 58-1-5900 LRB 01/07/21
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