

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 962

By: Haste

AS INTRODUCED

An Act relating to elections; amending 26 O.S. 2021, Sections 8-111 and 8-120, which relate to petition for recount and petition relating irregularities; increasing certain amounts required for certain recounts; stating requirements for certain petition; requiring reimbursement of certain costs; modifying provisions related to certain petition; establishing provisions for certain refund; updating statutory language; making language gender neutral; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2021, 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 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 or by electronic voting devices.
4 Failure by the candidate or individual to state such preference for
5 a manual recount in the petition shall result in a recount by
6 electronic voting devices.

7 4. a. If the candidate or individual requests that the
8 ballots be recounted manually, the petition must be
9 accompanied by a cashier's check or certified check in
10 the amount of ~~Six Hundred Dollars (\$600.00)~~ One
11 Thousand Dollars (\$1,000.00) for each three thousand
12 (3,000) ballots or fraction thereof, to be recounted
13 for each county affected.

14 b. If the candidate or individual requests that the
15 ballots be recounted by electronic device, the
16 petition must be accompanied by a cashier's check or
17 certified check in the amount of ~~Six Hundred Dollars~~
18 ~~(\$600.00)~~ Eight Hundred Dollars (\$800.00) for the
19 first three thousand (3,000) ballots or fraction
20 thereof and ~~Three Hundred Dollars (\$300.00)~~ Five
21 Hundred Dollars (\$500.00) for each additional five
22 thousand (5,000) ballots or fraction thereof, to be
23 recounted for each affected county.

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

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

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

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

- 1 9. a. In elections involving candidates, it shall be the
2 duty of such contestant to cause to be served upon the
3 opposing candidate or candidates, and directly
4 affected by the contest, a true copy of the petition
5 and a true copy of the order.
- 6 b. Service shall be made in person where possible, within
7 twenty-four (24) hours after the filing of the
8 original petition of contest. Service shall be made
9 by the sheriff of the county as to all offices, except
10 that of sheriff, in which case the same shall be
11 served by the county clerk and the certificate of
12 returns of such sheriff or county clerk, showing the
13 inability to make such service within the above-
14 mentioned time, shall be deemed sufficient proof of
15 the absence of such candidate, or candidates, or the
16 inability to serve such notice upon the candidate, and
17 to justify the constructive service hereafter
18 provided.
- 19 c. Where personal service is impossible, within the time,
20 it is hereby made the duty of the contestant to serve
21 true copies upon the secretary of the appropriate
22 election board. Provided that for the purpose of such
23 constructive service, the secretaries of the county
24 election boards are hereby made and constituted the

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

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

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

16 2. The margin of votes between those for and those against the
17 issue is one percent (1%) or less of the total number of votes cast
18 on the issue when fourteen thousand nine hundred ninety-nine
19 (14,999) or fewer total votes are cast for and against the issue or
20 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 C. For elections on issues or questions when no candidate is
8 involved and more than a majority is required for approval, recounts
9 shall be authorized only when:

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

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

19 Provided, furthermore, that a recount is authorized only after an
20 individual, who is a registered voter and who participated in the
21 election, presents to the appropriate county election board a
22 petition signed by one hundred fifty (150) registered voters who
23 participated in the election when fifteen thousand (15,000) or more
24 total votes are counted for and against the question, or if fourteen

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

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

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

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

22 2. Subject to available funding, the Secretary of the State
23 Election Board shall order an automatic recount of a state question
24 if:

- a. the margin of votes required for approval is one-half of one percent ($1/2$ of 1%) or less of the total number of votes cast for and against a state question involving a statutory issue or question, and
- b. the margin of votes required for approval is one percent (1%) or less of the total number of votes cast for and against a state question involving a constitutional issue or question.

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

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

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

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

F. There is hereby created in the State Treasury a revolving fund for the State Election Board to be designated the "State

1 Question Recount Revolving Fund". The fund shall consist of monies
2 appropriated by the Legislature.

3 1. The revolving fund shall be a continuing fund, not subject
4 to fiscal year limitations, provided that at no point shall the
5 balance in the fund exceed Five Hundred Thousand Dollars
6 (\$500,000.00) and shall be under the administrative direction of the
7 Secretary of the State Election Board. Fees collected each fiscal
8 year in excess of the Five Hundred Thousand Dollars (\$500,000.00)
9 balance limitation shall be placed to the credit of the State
10 Election Board Revolving Fund.

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

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

19 3. Warrants for expenditures from said fund shall be drawn by
20 the State Treasurer, based on claims signed by employees authorized
21 by the Secretary of the State Election Board and approved for
22 payment by the Director of the Office of Management and Enterprise
23 Services.

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

4 SECTION 2. AMENDATORY 26 O.S. 2021, Section 8-120, is
5 amended to read as follows:

6 Section 8-120. A. When a petition alleging irregularities
7 other than fraud is filed, ~~said~~ such petition must allege a
8 sufficient number of irregularities and of such nature as to:

9 1. Prove that the contestant is lawfully entitled to be
10 certified the party's nominee or to be issued a certificate of
11 election, or to have his or her name appear on the Runoff Primary
12 Election ballot; or

13 2. Prove that it is impossible to determine with mathematical
14 certainty which candidate is entitled to be certified as the party's
15 nominee or to be issued a certificate of election, or to have his or
16 her name appear on the Runoff Primary Election ballot.

17 B. 1. The petition shall set forth specific allegations of
18 actual irregularities in certain precincts or in the casting of
19 absentee ballots. The petition shall not contain speculation as to
20 mere possibilities that irregularities may have occurred or claims
21 of mere statutory informalities. Additional irregularities may be
22 presented at the hearing if not known to the contestant at the time
23 the petition is filed.

1 2. If such allegations are not made or are not supported by the
2 evidence provided, the petition shall be deemed frivolous by the
3 presiding judge and shall be dismissed. Upon such a dismissal, the
4 presiding judge shall require the petitioner to reimburse the court
5 for all reasonable costs associated with the hearing and to pay
6 reasonable attorney fees to the attorneys of the contestee, the
7 county election board, and the State Election Board.

8 ~~Said C.~~ The petition must be accompanied by either a cashier's
9 check or certified check in the amount of Two Hundred Fifty Dollars
10 (\$250.00) for each county affected by the petition. ~~Said petition~~
11 ~~must set forth specific allegations of irregularities in certain~~
12 ~~precincts or in the casting of absentee ballots.~~ The deposit shall
13 be refunded to the petitioner only if the petition is successful and
14 a new election is ordered by the judge.

15 D. If ~~said~~ the petition is filed in the manner herein provided,
16 the district judge of the county or such other judge as may be
17 assigned by the Supreme Court shall hear and determine ~~said~~ the
18 issue in the same manner as provided for a petition alleging fraud.

19 E. On the day of the hearing, the contestee may file an answer
20 to the petition or may file a cross petition setting forth in
21 detail, as required of petitioner herein, such claim of
22 irregularities. A cross petition must be accompanied by either a
23 cashier's check or certified check in the amount of Two Hundred
24 Fifty Dollars (\$250.00) for each county affected by the cross

petition. Deposits shall be used to defray actual costs as provided
for recounts.

SECTION 3. This act shall become effective November 1, 2025.

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