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JTS Box Number: IFES\_25

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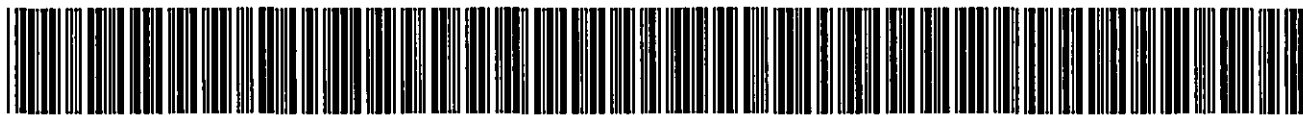
Document Title: OKLAHOMA STATUTES ANNOTATED - TITLE 26.  
ELECTIONS TITLE 27. EMINENT DOMAIN - 2000

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# OKLAHOMA STATUTES ANNOTATED

**Title 26. Elections**  
**Title 27. Eminent Domain**

## **2000 Cumulative Annual Pocket Part**

*For Use In 1999–2000*

Replacing 1999 pocket part supplementing 1997 main volume

**Includes laws through the  
1999 First Regular and Chapter 6  
of the First Extraordinary Sessions  
of the 47th Legislature**

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# PREFACE

The 1999 Cumulative Annual Pocket Parts for use in 1998-1999 contain laws of a general and permanent nature through the 1998 Second Regular and First Extraordinary Sessions of the 46th Legislature.

The following table shows the general effective date for measures enacted subsequent to 1951:

<b>Year</b>	<b>Legislature</b>	<b>Adjournment Date</b>	<b>Effective Date</b>
1953	24th	June 6, 1953	September 5, 1953
1955	25th	May 27, 1955	August 26, 1955
1957	26th	May 29, 1957	August 28, 1957
1959	27th	July 3, 1959	October 2, 1959
1961	28th	July 28, 1961	October 27, 1961
1963	29th	June 14, 1963	September 13, 1963
1965	30th	July 22, 1965	October 21, 1965
1967	31st (1st Reg.)	May 11, 1967	August 10, 1967
1968	31st (2nd Reg.)	May 3, 1968	August 2, 1968
1969	32nd (1st Reg.)	April 29, 1969	July 29, 1969
1970	32nd (2nd Reg.)	April 15, 1970	July 15, 1970
1971	33rd (1st Reg.)	June 11, 1971	September 10, 1971
1972	33rd (2nd Reg.)	March 31, 1972	June 30, 1972
1973	34th (1st Reg.)	May 17, 1973	August 16, 1973
1974	34th (2nd Reg.)	May 17, 1974	August 16, 1974
1975	35th (1st Reg.)	June 6, 1975	September 5, 1975
1976	35th (2nd Reg.)	June 9, 1976	September 8, 1976
1976	35th (1st Ex.Sess.)	July 23, 1976	Emergency act only
1977	36th (1st Reg.)	June 8, 1977	September 7, 1977
1977	36th (1st Ex.Sess.)	June 17, 1977	September 16, 1977
1978	36th (2nd Reg.)	April 28, 1978	July 28, 1978
1979	37th (1st Reg.)	July 2, 1979	October 1, 1979
1980	37th (2nd Reg.)	June 16, 1980	September 15, 1980
1980	37th (1st Ex.Sess.)	July 11, 1980	Emergency acts only
1981	38th (1st Reg.)	July 20, 1981	October 19, 1981
1981	38th (1st Ex.Sess.)	Sept. 4, 1981	Emergency acts only
1982	38th (2nd Reg.)	July 12, 1982	October 11, 1982
1983	39th (1st Reg.)	June 23, 1983	September 22, 1983
1983	39th (1st Ex.Sess.)	Sept. 23, 1983	Emergency act only
1984	39th (2nd Reg.)	May 31, 1984	August 30, 1984
1985	40th (1st Reg.)	July 19, 1985	October 17, 1985
1986	40th (2nd Reg.)	June 12, 1986	September 11, 1986
1987	41st (1st Reg.)	July 17, 1987	October 16, 1987
1987	41st (1st Ex.Sess.)	July 7, 1987	No legislation
1987	41st (2nd Ex.Sess.)	July 14, 1987	No legislation
1988	41st (2nd Reg.)	July 13, 1988	October 12, 1988
1988	41st (3rd Ex.Sess.)	Sept. 2, 1988	Emergency acts only
1989	42nd (1st Reg.)	May 26, 1989	August 25, 1989

## PREFACE

Year	Legislature	Adjournment Date	Effective Date
1989	42nd (1st Ex.Sess.)	May 2, 1990	Emergency acts only
1990	42nd (2nd Reg.)	May 25, 1990	August 24, 1990
1991	43rd (1st Ex.Sess.)	Jan. 18, 1991	Emergency acts only
1991	43rd (1st Reg.)	May 31, 1991	August 30, 1991
1992	43rd (2nd Reg.)	May 29, 1992	August 28, 1992
1993	44th (1st Reg.)	May 28, 1993	August 27, 1993
1994	44th (2nd Reg.)	May 27, 1994	August 26, 1994
1994	44th (1st Ex.Sess.)	May 27, 1994	No legislation
1995	45th (1st Reg.)	May 26, 1995	August 25, 1995
1995	45th (1st Ex.Sess.)	Expired Nov. 19, 1996	No legislation
1996	45th (2nd Reg.)	May 31, 1996	August 30, 1996
1997	46th (1st Reg.)	May 30, 1997	August 29, 1997
1998	46th (2nd Reg.)	May 29, 1998	August 28, 1998
1998	46th (1st Ex.Sess.)	June 19, 1998	Emergency acts only
1999	47th (1st Reg.)	May 28, 1999	August 27, 1999
1999	47th (1st Ex.Sess.)	In recess	Emergency acts only

The laws are classified to Oklahoma Statutes Annotated. The classification is identical with the classification and arrangement in Oklahoma Statutes 1991 and its 1998 Supplement.

Under the same classification will be found the annotations from the decisions of State and Federal Courts construing the laws.

The annotations close with cases published as of July 17, 1999, reported in:

Pacific Reporter, Second Series, and Oklahoma Decisions -----	978 P.2d 1170
Supreme Court Reporter -----	119 S.Ct. 2418
United States Reports -----	521 U.S. (part)
Lawyers' Edition, Second Series -----	145 L.Ed.2d (part)
Federal Reporter, Third Series -----	176 F.3d 1382
Federal Supplement, Second Series --	44 F.Supp.2d 1336
Federal Rules Decisions -----	185 F.R.D. 394
Bankruptcy Reporter -----	234 B.R. 856
Federal Claims Reporter -----	43 Fed.Cl. 528
Oklahoma Opinions of the Attorney General -----	Op.Atty.Gen. No. 99-9 (March 31, 1999)

### Other Standard Reports

For subsequent judicial constructions, pending the publication of the next supplementary service, see Table of Statutes Construed in the later permanent volumes and weekly Advance Sheets of the Reporters listed above.

Library References to Key Number Digests and to Corpus Juris Secundum are included as a convenient aid to research.

Later laws and annotations will be cumulated in subsequent pamphlets and annual pocket parts. For advance copies of laws enacted at subsequent sessions of the Legislature, see Oklahoma Session Law Service and OK-LEGIS.

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OK-INSUR Oklahoma INSURLAW

OK-LEGIS Legislative Service

OK-ORDERS Court Orders

OK-PUR Oklahoma Public Utility Reporter

**COORDINATED RESEARCH IN OKLAHOMA FROM WEST**

OK-REGTRK Regulation Tracking

OK-RULES Court Rules

OK-ST Unannotated Statutes

OK-ST-ANN Annotated Statutes

OK-ST-IDX General Statute Index

OKCLR Oklahoma City Law Review

OKLR Oklahoma Law Review

OKTX-ADG Taxation Administrative Guidance

OKTX-ADMIN Taxation Decisions

TLSLJ Tulsa Law Journal

WLD-OK West's Oklahoma Legal Directory—Private Practice

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# ABBREVIATIONS

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A.L.R.	-----	American Law Reports
A.L.R.2d	-----	American Law Reports, Second Series
A.L.R.3d	-----	American Law Reports, Third Series
A.L.R.4th	-----	American Law Reports, Fourth Series
A.L.R.5th	-----	American Law Reports, Fifth Series
A.L.R.Fed.	-----	American Law Reports, Federal
App.	-----	Appendix
Art.	-----	Article
B.R.	-----	Bankruptcy Reporter
c.	-----	Chapter of Act
Ch.	-----	Chapter
Comp.Laws	-----	Compiled Laws
Comp.St.	-----	Compiled Statutes
Const.	-----	Constitution
C.J.S.	-----	Corpus Juris Secundum
Eff.	-----	Effective
Emerg.	-----	Emergency
F.2d	-----	Federal Reporter, Second Series
F.3d	-----	Federal Reporter, Third Series
F.R.D.	-----	Federal Rules Decision
F.Supp.	-----	Federal Supplement
F.Supp.2d	-----	Federal Supplement, Second Series
H.R.	-----	House Resolution
H.C.R.	-----	House Concurrent Resolution
H.J.R.	-----	House Joint Resolution
⇒ (Key Number)	-----	State Digest and other units of the American Digest System
L.Ed.	-----	Supreme Court Reports, Lawyers' Edition
L.Ed.2d	-----	Supreme Court Reports, Lawyers' Ed., Second Series
Okl.	-----	Oklahoma Supreme Court Reports
Okl.App.	-----	Court of Appeals
Okl.Cr.	-----	Court of Criminal Appeals
Okl.St. Ann.	-----	Oklahoma Statutes Annotated
Okla.B.J.	-----	Oklahoma Bar Journal
Okla.B.J.Supp.Q.	-----	Oklahoma Bar Journal Supplement Quarterly
Okla.City U.L.Rev.	-----	Oklahoma City University Law Review
Okla.L.Rev.	-----	Oklahoma Law Review
O.S.Supp.	-----	Oklahoma Statutes Supplement
Op.Atty.Gen.	-----	Opinion of the Attorney General
P.	-----	Pacific Reporter
P.2d	-----	Pacific Reporter, Second Series
p.	-----	Page
par.	-----	Paragraph
PEB	-----	Permanent Editorial Board for the Uniform Commercial Code
R.L.	-----	Revised Laws
Sec.	-----	Section of Act
S.R.	-----	Senate Resolution
S.C.R.	-----	Senate Concurrent Resolution
S.J.R.	-----	Senate Joint Resolution
St.	-----	Statutes
Subs.	-----	Subsection
Subd.	-----	Subdivision

## ABBREVIATIONS

S.Ct. -----	Supreme Court Reporter
Tulsa L.J. -----	Tulsa Law Journal
U.L.A. -----	Uniform Laws Annotated
U.S.C.A. -----	United States Code Annotated
U.S. -----	United States Reports

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# OKLAHOMA STATUTES

## ANNOTATED

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### TITLE 26

### ELECTIONS

Chapter	Section
A1. Election Code .....	1-107

#### CHAPTER A1

#### ELECTION CODE

##### ARTICLE I. STATE AND COUNTY ELECTIONS—POLITICAL PARTIES

###### Section

- 1-109. Party ceases to be recognized.
- 1-110. Changes in party affiliation.

##### ARTICLE II. ORGANIZATION

- 2-118. Compensation of secretaries.
- 2-124. Judge and clerk appointed by county election board—Terms—Parties to submit lists—Vacancies.
- 2-129. Compensation of inspectors, judges, clerks and counters.
- 2-131. Eligibility for membership on county and precinct election boards.
- 2-132. Disqualification of board members.

##### ARTICLE III. GENERAL ADMINISTRATION

- 3-101. Elections to be on Tuesdays—Scheduling of special elections—State holidays.
- 3-105.1. Election personnel—Compensation and benefits—Election expenses.
- 3-105.2. Distribution of vouchers by mail.
- 3-108. County Election Board Special Depository Account.

##### ARTICLE IV. VOTER REGISTRATION

- 4-103. Persons who will become qualified electors—Time for registration.
- 4-112. Registration applications.
- 4-120.2. Inactive voters.
- 4-120.3. Deceased persons—Cancellation of registration.

##### ARTICLE V. FILING

- 5-116. Withdrawals from runoff primary.
- 5-116.1. Withdrawal from general election.
- 5-118. Contests of candidacy.
- 5-121. Deposit required for contest.

##### ARTICLE VI. BALLOTS

- 6-103. Ballots printed by State Election Board.
- 6-104. Ballots printed by county election board.
- 6-106. Manner of printing ballot cards for general election.
- 6-109. Order of names for primary and runoff primary.
- 6-113. Ballots for state questions.

**Section**

6-120. Contracts for ballots—Advertising for bids.

**ARTICLE VII. CONDUCT OF ELECTIONS**

7-115.1. Inactive voter address confirmation form.  
Use of voter identification card—Affidavit required.  
7-116.

**ARTICLE VIII. CERTIFICATIONS AND CONTESTS**

Certificates of election.  
8-103. Petition for recount—Deposit required—Service of notice—Recounts of issue or question elections.  
8-111.  
8-121.1. Hearings on petitions alleging irregularities or fraud involving two or more counties.

**ARTICLE XII. SPECIAL ELECTIONS**

12-106. Vacancies in the Legislature.

**ARTICLE XIII-A. SCHOOL DISTRICT AND VOCATIONAL-TECHNICAL SCHOOL DISTRICT ELECTIONS**

13A-105. Declaration of candidacy.  
13A-110. Vacancies.

**ARTICLE XIV. ABSENTEE VOTING**

14-101. Absentee ballots authorized—Adjustment of filing period.  
14-112.1. Materials to accompany ballot.  
14-113.2. Marking and return of ballot.  
14-115.4. In-person absentee voting.  
14-121. Discharged military personnel or personnel on officially authorized leave—Authorization to vote.  
14-132. Retention of materials.

**ARTICLE XVI. PENALTIES**

16-101. Felony offenses.  
16-123. Voter registration or voting crimes—Notification of district attorney—Investigation and report.

**ARTICLE I. STATE AND COUNTY ELECTIONS—POLITICAL PARTIES**

**§ 1-107. Recognized political parties**

**United States Supreme Court**

Party names, established political parties, affiliation, restrictions on use, see *Norman v. Reed*, U.S.111.1992, 112 S.Ct. 698, 502 U.S. 279, 116 L.Ed.2d 711, on remand 154 Ill.2d 77, 180 Ill. Dec. 685, 607 N.E.2d 1198.

**§ 1-108. Formation of new political parties**

**United States Supreme Court**

Ballot petitions, number of signatures required of new political parties in multidistrict political subdivisions, see *Norman v. Reed*, U.S.111.1992, 112 S.Ct. 698, 502 U.S. 279, 116 L.Ed.2d 711, on remand 154 Ill.2d 77, 180 Ill. Dec. 685, 607 N.E.2d 1198.

**Notes of Decisions**

**1. Validity**

Oklahoma's voter registration statute, which did not allow voters from a non-recognized political

party to register as members of that party but required them to register as independents, violated the First Amendment rights of political associ-

ation and speech as applied to Oklahoma's Libertarian party; such party was an identifiable and active political group, statute prevented party from obtaining names of other party members,

and burden to state of registering party members by computer would be insubstantial. *Atherton v. Ward*, W.D.Okla.1998, 22 F.Supp.2d 1265.

### § 1-109. Party ceases to be recognized

A. Any recognized political party whose nominee for Governor or nominees for electors for President and Vice President fail to receive at least ten percent (10%) of the total votes cast for said offices in any General Election shall cease to be a recognized political party. Said party may regain recognition only by following the procedure prescribed for formation of new political parties. The State Election Board shall proclaim the fact of a party's failure to receive a sufficient number of votes and shall order that said party cease to be recognized.

B. Any recognized political party that ceases to be recognized under provisions of this section shall be designated as a political organization. Such political organization designation shall terminate four (4) years from the date that the political party ceases to be recognized or when the political organization regains recognition as a political party, whichever is earlier.

Amended by Laws 1999, c. 88, § 1, emerg. eff. April 13, 1999.

### § 1-110. Changes in party affiliation

A. The secretary of each county election board shall, within sixty (60) days after such proclamation by the State Election Board, change to Independent the party affiliation in the Oklahoma Election Management System of each registered voter of a political party which ceases to be a recognized political party.

B. The Secretary of the State Election Board shall change to Independent the party affiliation in the Oklahoma Election Management System of each registered voter of a political organization which ceases to be a political organization.

Amended by Laws 1999, c. 88, § 2, emerg. eff. April 13, 1999.

## ARTICLE II. ORGANIZATION

### § 2-118. Compensation of secretaries

A. The secretary of each county election board shall be paid an annual salary according to the following schedule. However, the salary of a county election board secretary shall not fall below the level of the June 30, 1997, salary, regardless of the number of registered voters, excluding inactive, in the county and provided that no salary shall be increased to the secretary of any county election board while that county is under the administrative supervision of the Secretary of the State Election Board:

1. Until July 1, 1997, the annual salary, payable monthly, shall be:

Registered Voters	Salary
0 to 10,000	\$15,438.28
10,001 to 15,000	\$16,238.28
15,001 to 17,500	\$19,402.45
17,501 to 25,000	\$22,578.93
25,001 to 50,000	\$28,288.18
50,001 to 75,000	\$37,160.58
75,001 to 150,000	\$42,285.58
150,001 or more	\$47,410.58

2. Beginning July 1, 1997, through June 30, 1998, the annual salary, payable monthly, shall be:

Registered Voters	Salary
0 to 10,000	\$15,888.28
10,001 to 15,000	\$16,688.28
15,001 to 17,500	\$19,852.45
17,501 to 25,000	\$23,028.93

Registered Voters	Salary
25,001 to 50,000	\$28,738.18
50,001 to 75,000	\$37,610.58
75,001 to 150,000	\$42,735.58
150,001 or more	\$47,860.58

3. Beginning July 1, 1998, the annual salary, payable monthly, shall be:

Registered Voters	Salary
0 to 10,000	\$16,338.28
10,001 to 15,000	\$17,138.28
15,001 to 17,500	\$20,302.45
17,501 to 25,000	\$23,478.93
25,001 to 50,000	\$29,188.18
50,001 to 75,000	\$38,060.58
75,001 to 150,000	\$43,185.58
150,001 or more	\$48,310.58

B. The salary and fringe benefits paid to each secretary shall be paid from county funds on a monthly basis and shall be reimbursed from funds appropriated by the Legislature for that purpose at a rate of not to exceed one hundred thirty-five percent (135%) of the above-specified salaries. Claims for said reimbursement shall be filed according to procedures prescribed by the Secretary of the State Election Board and approved by the Director of State Finance. Said claims for reimbursement shall only be paid for actual expenditures made by the county. The number of registered voters, for the purposes of this section, shall be determined by the number of registered voters, excluding inactive voters, in the county on January 1, 1979, and every two (2) years thereafter.

Amended by Laws 1997, c. 384, § 13, eff. July 1, 1997.

### § 2-124. Judge and clerk appointed by county election board— Terms—Parties to submit lists—Vacancies

The county election board shall appoint two members of each precinct election board, to serve terms of four (4) years each. No later than June 15, 1975, and every four (4) years thereafter, the county central committees of the two parties with the highest number of registered voters in the state, based on the latest January 15 registration report, shall submit a list of three nominees for each precinct to the county election board. The county election board shall be confined to the list of nominees submitted by either party and shall appoint one member of each precinct election board from each party no later than July 1, 1975, and every four (4) years thereafter. If no list is submitted by a county central committee for any precinct by the specified date, or if the nominees for a precinct are unable to serve, then the county election board shall appoint one member of said precinct election board from the ranks of said party within the precinct. Terms shall begin July 1, 1975, and every four (4) years thereafter. In the event of a vacancy, the county election board shall fill the unexpired term from the last list previously submitted by the county central committee. If there is no prior list, then the vacancy shall be filled from within the ranks of the same party within the affected county. The county election board shall designate one member as judge and the other as clerk for each precinct.

Amended by Laws 1998, c. 357, § 4, eff. Jan. 1, 1999.

### United States Supreme Court

Preclearance requirements of Voting Rights Act, changes in appointment of election judges, see *Foreman v. Dallas County, Texas*, 1997, 117 S.Ct. 2357.

### § 2-129. Compensation of inspectors, judges, clerks and counters

The inspector shall be paid Seventy-five Dollars (\$75.00) for each election and shall be allowed mileage reimbursement at the rate provided by the State Travel Reimbursement Act<sup>1</sup> for mileage incurred to receive or return ballots and materials for the



election. Judges, clerks and counters shall be paid Sixty-five Dollars (\$65.00) for each election. Precinct officials assigned to work a polling place ten (10) miles or more outside their precinct, shall be allowed mileage reimbursement at the rate provided by the State Travel Reimbursement Act for mileage incurred from their home to and from their assigned polling place. An additional Two Dollars (\$2.00) per election shall be paid to each inspector, judge, clerk and counter of a precinct from the funds of the county. Compensation provided herein shall be paid for any state, county, municipal or school district election; provided, however, that compensation for elections conducted concurrently shall not exceed in total the amount herein prescribed. Said compensation shall be paid by the State Election Board for all regular Primary, Runoff Primary and General Elections, all statewide special elections and all special elections for United States Representatives or United States Senators and State Senators or State Representatives.

Amended by Laws 1998, c. 357, § 5, eff. Jan. 1, 1999.

<sup>1</sup> Title 74, § 500.1 et seq.

### **§ 2-131. Eligibility for membership on county and precinct election boards**

To be eligible for membership on a county or precinct election board, one must be a registered voter of the county in which he will serve and demonstrate competence to perform his duties. Persons thus qualified and appointed shall be trained in their duties in a manner prescribed by the Secretary of the State Election Board.

Amended by Laws 1997, c. 176, § 1, eff. Nov. 1, 1997.

### **§ 2-132. Disqualification of board members**

No person shall serve on a county election board, precinct election board or absentee voting board at any election in which he or she is a candidate for office, or is a deputy or regular employee of a candidate for office. No person shall serve on a precinct election board or absentee voting board at any election in which he or she is related within the third degree by either consanguinity or affinity to a candidate for office on the ballot in the precinct. In the event a member of a precinct election board is disqualified for one of the aforementioned reasons, it shall be the duty of the secretary of the county election board to appoint a suitable replacement for the official for said election. Any person so disqualified shall resign the office or position no later than ten (10) days following the close of the filing period during which such candidacy was filed.

A member of the county election board shall not participate in or carry out any duties or functions associated with the office during the actual conduct of a contest of candidacy or recount if the member is related within the third degree by either consanguinity or affinity to a candidate who is the petitioner or contestee in the contest of candidacy or who is a candidate in an election being recounted. In the event of such a contest or recount, the alternate for the member shall carry out the duties of the office during the actual conduct of the contest of candidacy or recount. The Secretary of the State Election Board shall appoint a replacement for the secretary to carry out the duties or functions of the office, including voting as a member of the county election board, during the actual conduct of the contest of candidacy or recount.

Amended by Laws 1997, c. 176, § 2, eff. Nov. 1, 1997.

## **ARTICLE III. GENERAL ADMINISTRATION**

### **§ 3-101. Elections to be on Tuesdays—Scheduling of special elections—State holidays**

A. No election required to be conducted by any county election board shall be scheduled for a day other than Tuesday.

B. Except as otherwise provided by law, no special election shall be held by any county, school district, vocational-technical school district, municipality or other entity authorized to call elections except on the second Tuesday of January, February, May,

June, July, August, September, October, November and December and the first Tuesday in March and April in odd-numbered years and the second Tuesday of January, February, March, May, June and December, the first Tuesday in April, the fourth Tuesday in August, the third Tuesday in September and the first Tuesday after the first Monday in November of any even-numbered year.

C. In the event that a regular or special election date occurs on an official state holiday, the election shall be scheduled for the next following Tuesday.

Amended by Laws 1997, c. 176, § 3, eff. Nov. 1, 1997.

### § 3-105.1. Election personnel—Compensation and benefits— Election expenses

A. When any county, municipality, school district or other governmental entity authorizes an election to be conducted by the county election board, the secretary of the county election board shall, not less than thirty-five (35) days prior to the election, submit to the governmental entity for whom the election is authorized:

1. An itemized estimate of the number of precinct inspectors, judges, clerks, and absentee voting board members necessary for the election; and

2. An estimate of the compensation and employer's share of any benefits to be provided to each precinct inspector, judge, clerk, and absentee voting board member.

B. Not less than fifteen (15) days prior to the election, the county, municipality, school district or other governmental entity authorizing the election shall submit to the secretary of the county election board an amount of funds equal to the estimate of compensation and benefits for precinct inspectors, judges, clerks, and absentee voting board members as provided in subsection A of this section. If such amount is not submitted ten (10) days prior to the election, the secretary of the county election board shall not be required to hold the election. Upon receipt of the funds, the secretary of the county election board shall deposit the funds in the County Election Board Special Depository Account.

C. The secretary of the county election board shall issue vouchers for the compensation and benefits of precinct inspectors, judges, clerks, and absentee voting board members from the County Election Board Special Depository Account, pursuant to Section 681 et seq. of Title 19 of the Oklahoma Statutes. The secretary of the county election board shall provide the vouchers to the precinct inspector, except the voucher for the inspector and absentee voting board members, at the time the inspector receives supplies and ballots for the election. The vouchers shall be distributed to the appropriate precinct judges and clerks upon closing of the polls on the day of the election and to absentee voting board members upon completion of their prescribed duties, according to procedures to be prescribed by the Secretary of the State Election Board. Each precinct inspector, judge or clerk shall sign a form prescribed by the Secretary of the State Election Board acknowledging receipt of compensation and benefits. The inspector shall return the form, together with any unclaimed vouchers, to the county election board, together with the results of the election and other supplies and materials. At such time, the secretary of the county election board shall provide a voucher for payment to the inspector. The secretary of the county election board shall return any unclaimed vouchers to the county treasurer within seven (7) days after the election. If any additional vouchers for compensation and benefits are required, the secretary of the county election board shall issue such vouchers not less than seven (7) days after the election. In no event shall compensation be made until after services have been rendered.

D. As soon as practicable after conducting an election for a municipality, school district, or other governmental entity, except the state or county, the secretary of the county election board shall submit a claim to the governing body of the entity for whom the election was conducted. The claim shall itemize all expenses associated with the election, and shall deduct any amount paid by the municipality, school district or other governmental entity for the compensation and employer's share of any benefits provided to precinct inspectors, judges, clerks, and absentee voting board members pursuant to the provisions of subsection B of this section. Upon receipt of such itemized claim, the governing body shall make payment to the county election board within thirty (30) days.

Upon receipt of the payment, the secretary of the county election board shall deposit the payment in the County Election Board Special Depository Account. The secretary shall disburse payments for the expenses incurred in the election, pursuant to Section 681 et seq. of Title 19 of the Oklahoma Statutes.

E. The State Election Board shall provide the compensation and employer's share of benefits for precinct inspectors, judges, clerks, and absentee voting board members in the payment made to the respective counties for elections for which said precinct inspectors, judges, clerks, and absentee voting board members are paid by the State Election Board, in the same manner as provided in subsections A and B of this section. For the foregoing elections, the county shall place in the County Election Board Special Depository Account an amount of funds equal to Two Dollars (\$2.00) for each inspector, judge, and clerk at each election in the same manner as provided in subsections A and B of this section. The Secretary of the State Election Board shall prescribe a procedure by which the State Election Board or the county shall be reimbursed for any overpayment made to a county election board for compensation and employer's share of benefits paid to precinct inspectors, judges, clerks, and absentee voting board members.

Amended by Laws 1998, c. 357, § 6, eff. Jan. 1, 1999; Laws 1999, c. 88, § 3, emerg. eff. April 13, 1999.

§ 3-105.2. Distribution of vouchers by mail

In lieu of the procedure for distribution of vouchers for precinct inspectors, judges, clerks, and absentee voting board members provided in Section 3-105.1 of this title, the secretary of the county election board may distribute the vouchers by United States mail. When vouchers are distributed by United States mail, the vouchers shall be distributed by mailing no later than the Tuesday next succeeding the day of the election.

Amended by Laws 1998, c. 357, § 7, eff. Jan. 1, 1999.

§ 3-108. County Election Board Special Depository Account

A special depository account, to be designated "County Election Board Special Depository Account", shall be used in each county for receipt and disbursement of monies received by said county election board pursuant to statutory provisions, but not including appropriated funds. The special depository account shall be a continuing fund not subject to fiscal year limitations and shall be under the administrative direction of the secretary of the county election board. Said special depository account shall be established and administered pursuant to Section 681 et seq. of Title 19 of the Oklahoma Statutes. Expenditures of forfeited filing fees from said fund may be made by the secretary of the county election board for any lawful purpose.

Amended by Laws 1997, c. 176, § 4, eff. Nov. 1, 1997.

§ 3-120. Polling places—Tort liability

Notes of Decisions

Liability of governmental entities 1

1. Liability of governmental entities

Fact that governmental entities are not included in statute exempting nongovernmental entities from tort liability in connection with provision of space for polling place did not mean that city could be held liable for injuries sustained by

voter when she fell on snow and ice-covered sidewalk in front of city offices being used as polling place; statute did not have to exempt governmental entities since they are already immune except to extent immunity is waived by Governmental Tort Claims Act, and voter's accident fell within Act's snow and ice exemption. *Kluver v. City of Hinton*, Okla.App. Div. 3, 924 P.2d 306 (1996).

## ARTICLE IV. VOTER REGISTRATION

**§ 4-103. Persons who will become qualified electors—Time for registration**

Any person who will become a qualified elector during the sixty (60) days before the next ensuing election at which he could vote shall be entitled to become a registered voter of the precinct of his or her residence not more than sixty (60) and not less than twenty-four (24) days prior to said election.

Amended by Laws 1997, c. 176, § 5, eff. Nov. 1, 1997.

**§ 4-112. Registration applications**

The Secretary of the State Election Board shall devise and distribute a registration application to be used for registering voters. Such registration application shall contain the following information: voters full name and date of birth, county and place of residence and mailing address; the names of political parties recognized by the laws of the State of Oklahoma with which the voter may be affiliated; the last four digits of the voter's social security number; an oath of the voter's eligibility to become a registered voter; and such other information as may be deemed necessary by the Secretary to identify such voter and to ascertain his or her eligibility. A voter registration application shall be signed by the applicant in writing. The applicant shall personally subscribe his or her name to or make his or her mark on the application, and no agent, representative or employee of the applicant may sign or mark on the applicant's behalf. The signature or mark must be the original, handwritten signature, autograph or mark of the applicant. No facsimile, reproduction, typewritten or other substitute signature, autograph or mark will be valid. Notwithstanding any law to the contrary, the Secretary of the State Election Board shall prescribe procedures to authorize any person incapable of personally making his mark to complete a voter registration application with assistance of an official of any voter registration agency or motor license agency specified in Sections 4-109.2 and 4-109.3 of this title. Persons who do not indicate a recognized political party or political organization on their registration application shall be designated as Independents. Any person may apply in writing to the Secretary of the State Election Board for permission to print, copy or otherwise prepare and distribute the registration applications designed by the Secretary of the State Election Board. The Secretary may revoke any such permission at any time. All registration applications shall be distributed to the public at no charge. The Secretary also shall prescribe procedures to accept and use federal registration applications as required by the National Voter Registration Act of 1993.<sup>1</sup>

Amended by Laws 1998, c. 357, § 8, eff. Jan. 1, 1999; Laws 1999, c. 88, § 4, emerg. eff. April 13, 1999.

<sup>1</sup> 42 U.S.C.A. § 1973gg et seq.

**Notes of Decisions**

**Information disclosure** 3  
**Residence** 4

by computer would be insubstantial. Atherton v. Ward, W.D.Okla.1998, 22 F.Supp.2d 1265.

**3. Information disclosure**

The State Election Board may request, but may not require, social security or driver license number disclosure on voter registration forms. Op.Atty.Gen. No. 97-3 (June 30, 1997).

**4. Residence**

For purposes of voter registration, a post office box number may suffice as registrant's mailing address, but it cannot serve as registrant's place of residence. Op.Atty.Gen. No. 97-45 (Feb. 12, 1998).

**1. Validity**

Oklahoma's voter registration statute, which did not allow voters from a non-recognized political party to register as members of that party but required them to register as independents, violated the First Amendment rights of political association and speech as applied to Oklahoma's Libertarian party; such party was an identifiable and active political group, statute prevented party from obtaining names of other party members, and burden to state of registering party members

**§ 4-120.2. Inactive voters**

A. No later than June 1 of each odd numbered year and for the previous twenty-four (24) months, any voter for whom a first-class mailing from the county election board was returned, any voter identified by the Secretary of the State Election Board as a potential duplicate, any voter who has surrendered his or her Oklahoma driver license to the Department of Public Safety upon being issued a driver license in another state, and any active registered voter who did not vote in the second previous general election or any election conducted by a county election board since the second previous general election and who has initiated no voter registration change shall be sent an address confirmation mailing prescribed by the Secretary of the State Election Board and paid for by the state. Voters who do not respond to the confirmation mailing or whose mailing is returned as nonforwardable shall be designated as inactive sixty (60) days after the mailing. An inactive voter's status shall be changed to active under the following conditions:

1. With any registration change initiated by the voter; or
2. By voting in any election conducted by a county election board.

An inactive voter who does not vote in any election conducted by a county election board during the period beginning on the date of the confirmation mailing and ending on the day after the date of the second successive general election for federal office shall be removed as a registered voter and all the information on that voter shall be destroyed. Each county election board secretary shall maintain a list of the names and addresses of all persons sent a confirmation mailing as described in this section and information on whether or not each such person has responded to the notice. Said list shall be maintained for twenty-four (24) months following the date of the second successive federal general election after the date of the confirmation mailing.

B. The secretary of each county election board shall cause all inactive voters in a precinct to be identified on the precinct registry.

C. No later than June 1 of each odd-numbered year, the Secretary of the State Election Board shall identify duplicate voter registrations in the state and shall direct appropriate county election board secretaries to cancel the voter registration of all but the latest registration of duplicate voter registrations. Each county election board secretary shall maintain for twenty-four (24) months a list of the names and addresses of all canceled duplicate voter registrations. For the purposes of this subsection, duplicate voter registrations are those registrations which contain the following identical information on more than one registration:

1. First name, middle name or initial, last name, and date of birth;
2. Driver license or social security number; or
3. Last name, date of birth, and the last four digits of the social security number.

Amended by Laws 1997, c. 177, § 1, eff. Nov. 1, 1997; Laws 1998, c. 357, § 9, eff. Jan. 1, 1999; Laws 1999, c. 88, § 5, emerg. eff. April 13, 1999.

**§ 4-120.3. Deceased persons—Cancellation of registration**

The State Health Department shall each month transmit to the Secretary of the State Election Board a certified list of all deaths of residents that have occurred within the state for the immediately preceding month. The Secretary of the State Election Board shall transmit said list to the secretary of the county election board who shall then use said list to ascertain those voters who are deceased, and shall thereafter remove such deceased person's name from the central registry and the Oklahoma Election Management System. Said list shall be used only for the purposes hereinbefore described. In addition, the registration of a deceased voter may be canceled by the secretary of a county election board upon the execution by the next of kin of said deceased voter of a form and upon the nature of proof of the fact thereof as prescribed by the Secretary of the State Election Board. Said form must be executed in person by said next of kin at the county election board office, in which case it shall be witnessed by the secretary or other designated employees, at the voter's precinct polling place on the day of any election, in which case it shall be witnessed by the inspector of said precinct, or the form

may be personally signed by the next of kin, such signature to be notarized by a notary public, and returned to the county election board.

Amended by Laws 1998, c. 357, § 10, eff. Jan. 1, 1999; Laws 1999, c. 88, § 6, emerg. eff. April 13, 1999.

#### ARTICLE V. FILING

### § 5-105a. Misdemeanor embezzlement and felony offenders barred from public office for certain time—Pardons

#### Notes of Decisions

##### 1. Validity

The provisions of this section barring convicted felons from holding office for fifteen years following completion of sentence do not violate

Const. Art. 5, § 18, since the absolute prohibition against holding public office under Const. Art. 5, § 18 applies only to election to the Legislature. Op.Atty.Gen. No. 98-34 (Dec. 8, 1998).

### § 5-107. Identical names prohibited

#### Notes of Decisions

Identical or similar names 2  
Validity ½

##### ½. Validity

Judicial candidate's constitutional rights to equal protection and to access to ballot were not denied when State Election Board struck his name from ballot for failure to comply with statute requiring candidates with the same or similar name as office's incumbent to file preliminary declaration of candidacy prior to filing period. *Freeman v. State Election Bd. of State, Okla., 969 P.2d 982 (1998)*, corrected.

##### 1. Construction and application

Statute requiring candidate "whose name is identical or similar to the name of the incumbent" to file preliminary declaration of candidacy applied to candidate whose birth name was same as incumbent, not to candidates using assumed or legally changed name, who were covered by separate statute. *Freeman v. State Election Bd. of State, Okla., 969 P.2d 982 (1998)*, corrected.

State Election Board ruling disqualifying candidate with similar name to that of incumbent for failure to file preliminary declaration of candidacy prior to filing period was proper application of statute, even though incumbent, who was candidate's father, withdrew after filing deadline passed, and there were no other candidates; by failing to file a preliminary declaration, candidate waived the right to prove that his filing was in good faith and not done to "confuse" voters; disqualification also avoided appearance of unfairness to other potential candidates. *Freeman v. State Election Bd. of State, Okla., 969 P.2d 982 (1998)*, corrected.

##### 2. Identical or similar names

Name of judicial candidate which was identical to incumbent except for addition of "Jr." was "similar" name for purpose of statute requiring candidate "whose name is identical or similar to the name of the incumbent" to file preliminary declaration of candidacy. *Freeman v. State Election Bd. of State, Okla., 969 P.2d 982 (1998)*, corrected.

### § 5-116. Withdrawals from runoff primary

A candidate in a Runoff Primary Election may withdraw his candidacy upon filing a written notice of withdrawal as a candidate with the secretary of the election board which accepted said candidate's declaration of candidacy. Said notice shall be signed by the candidate, whose signature shall be notarized by a notary public, and shall be filed on or before 5:00 p.m. on the Friday following the date of the Primary Election.

Amended by Laws 1997, c. 176, § 6, eff. Nov. 1, 1997.

#### § 5-116.1. Withdrawal from general election

A candidate in a General Election may withdraw his candidacy upon filing a written notice of withdrawal as a candidate with the secretary of the election board which accepted said candidate's declaration of candidacy. Said notice shall be signed by the candidate, whose signature shall be notarized by a notary public, and shall be filed on or before 5:00 p.m. on the Friday following the date of the Runoff Primary Election.

Amended by Laws 1997, c. 176, § 7, eff. Nov. 1, 1997.

**§ 5-118. Contests of candidacy**

Any candidate, hereafter referred to as petitioner, may contest the candidacy of any other candidate for the same office, hereafter referred to as contestee, by filing a written petition with the secretary of the election board with whom said candidate filed the declaration of candidacy. In the event only one candidate files for an office, a petition contesting the candidacy may be filed by any registered voter who is eligible to vote for the candidate.

Amended by Laws 1997, c. 130, § 1, emerg. eff. April 17, 1997.

**§ 5-121. Deposit required for contest**

The petition must be accompanied by a cashier's check or certified check in the amount of Two Hundred Fifty Dollars (\$250.00).

Amended by Laws 1999, c. 88, § 7, emerg. eff. April 13, 1999.

**§ 5-127. Candidacy may be stricken****Notes of Decisions**

**Mandamus 2**  
**Powers of board 1**

**2. Mandamus**

If the record reflects that the election board committed an abuse of discretion and an arbitrary act in striking a candidate's name from a ballot, Supreme Court will assume original jurisdiction and issue a writ of mandamus. *Arthur v. Payne County Election Bd., Okla., 964 P.2d 213 (1998).*

**1. Powers of board**

State Election Board may only remove from the ballot the names of those who are not qualified by law for the office being sought. *Gray v. State ex rel. State Election Bd., Okla., 962 P.2d 1 (1998), corrected.*

**ARTICLE VI. BALLOTS****§ 6-103. Ballots printed by State Election Board**

The State Election Board shall cause ballots to be printed for statewide Primary, Runoff Primary, General Elections and special elections at such time as to insure delivery of said ballots to the several county election boards for distribution to the several precinct election boards prior to election day. Said board shall cause ballots to be printed for the following offices: Electors for President and Vice President; United States Senators; United States Representatives; state officers; Justices of the Supreme Court; Judges of the Court of Criminal Appeals; Judges of the Court of Appeals; district judges and associate district judges; State Senators; State Representatives; district attorneys; county officers, and such other officers as required by law, in the order they appear in the statutes, and shall cause ballots to be printed for state questions.

Amended by Laws 1997, c. 176, § 8, eff. Nov. 1, 1997.

**§ 6-104. Ballots printed by county election board**

Each county election board shall cause ballots to be printed for county, municipal, school or other local elections at such time as to insure distribution of said ballots to the several precinct election boards within each county prior to election day. Said board shall cause ballots to be printed for offices in the order they appear in the statutes. The county election board shall cause a sufficient number of ballots to be printed for each precinct, taking into account the highest percentage of registered voters likely to vote in a given election based on historical experience and other factors, but shall not necessarily require a ballot to be printed for each registered voter.

Amended by Laws 1997, c. 176, § 9, eff. Nov. 1, 1997.

**§ 6-106. Manner of printing ballot cards for general election**

The official ballot card for the General Election shall be printed so that the nominees of the various political parties and nonpartisan candidates will appear in columns. For each ballot for which there are partisan candidates, the candidates of the recognized parties shall be printed in the first position in lot order followed by candidates of unrecognized parties in lot order followed by independent candidates in lot order. Candidates of recognized and unrecognized parties shall be printed in the lot order of their respective party. Each political party shall have the right to select an emblem to be used in designating its candidates on the ballot; provided, however, that no party shall be allowed to use the coat of arms or seal of Oklahoma or of the United States, or the respective flags thereof. Until changed by resolution of a political party, in state convention, the emblem of the Democratic party shall be a rooster and that of the Republican party an eagle. Change in a party emblem shall be authorized by the Secretary of the State Election Board only after receipt of written notice of said change by said Secretary from the state central committee of a party. At the top of each ballot on which there are partisan candidates shall appear the name of each recognized party with the emblem of said party in lot order as prescribed by the Secretary of the State Election Board. Below said name and emblems shall be a line extending across the entire ballot. The name of the office entitled to the first place in the column, preceded by the word "for," shall appear in bold type, as "For Governor". Immediately after same shall be the names of the nominees for such office printed with the name of the nominee's party followed by candidates who file as Independents for such office printed with the word "Independent". The list shall be continued down each column, naming the officers in the order in which they are set out by the Constitution and statutes, until all the nominees are given space. The columns shall be set off with well defined lines. Amended by Laws 1997, c. 177, § 2, eff. Nov. 1, 1997.

**Notes of Decisions****Validity****Validity**

Candidates for public office in Oklahoma general election had standing to bring action challenging constitutionality of Election Code section providing that in all Oklahoma general elections, ballots are to be printed so that for each public office designated on valid form, Democratic party candidate always appears in top position above any other candidates, even though general election was over, where candidates stated their intentions to run again for election, and the general election was ongoing for only a few months, not long enough for candidates to seek and be granted any proper final relief on their claims. *Graves v. McElderry*, W.D.Okla.1996, 946 F.Supp. 1569.

First and Fourteenth Amendment interest burdened as a result of implementation of Okla-

homa Election Code section mandating that name of Democratic party candidate for office always be printed in top position on general election ballots was right of Oklahoma citizens to cast a meaningful and fully weighted vote in Oklahoma's general election. *Graves v. McElderry*, W.D.Okla.1996, 946 F.Supp. 1569.

To the extent Oklahoma desired to maintain a uniform office block ballot system and retain capability for straight party voting in general elections, Oklahoma Election Code section was constitutional and Oklahoma could continue to implement Code to the extent it called for such a system to be used. *Graves v. McElderry*, W.D.Okla.1996, 946 F.Supp. 1569.

Oklahoma Election Code section mandating that name of Democratic party candidate for office always be printed in top position on general election ballots violated equal protection clause. *Graves v. McElderry*, W.D.Okla.1996, 946 F.Supp. 1569.

**§ 6-109. Order of names for primary and runoff primary**

On all Primary and Runoff Primary Election ballots, except absentee ballots, the names of the candidates for each office shall be rotated in such a manner that all candidates' names appear in each position on said ballots an equal number of times. Provided, however, the names of candidates for judicial, school, city and town offices shall be placed on the ballot according to lot.

Amended by Laws 1997, c. 176, § 10, eff. Nov. 1, 1997.

**§ 6-113. Ballots for state questions**

Ballots for state questions shall be printed in such a manner as to include the number of the state question, the ballot title, and the following language, "SHALL THE



PROPOSAL BE APPROVED?" followed by the words "FOR THE PROPOSAL - YES" and "AGAINST THE PROPOSAL - NO", one above the other.

Amended by Laws 1997, c. 176, § 11, eff. Nov. 1, 1997.

### § 6-120. Contracts for ballots—Advertising for bids.

The State Election Board is authorized to contract with the Department of Central Services for all ballots required by the State Election Board. If ballots are not printed by the Department of Central Services, the State Election Board and each county election board, for required ballot printing, shall cause advertisement for bids for printing of all ballots to be made, and shall provide specifications and copy for said ballots. A contract for printing said ballots shall be awarded to the lowest and best bidder. The successful bidder shall be required to post a bond of double the amount of the cost of the most expensive ballots for any election covered by the bid, said bond taken in the name of the state or county, as the case may be, and conditioned upon the faithful performance of said contract.

Amended by Laws 1999, c. 88, § 8, emerg. eff. April 13, 1999.

## ARTICLE VII. CONDUCT OF ELECTIONS

### § 7-115.1. Inactive voter address confirmation form

Before being issued a ballot, an inactive voter shall be required by the judge to complete an address confirmation form prescribed by the Secretary of the State Election Board.

Added by Laws 1997, c. 177, § 3, eff. Nov. 1, 1997.

### § 7-116. Use of voter identification card—Affidavit required

A. If the precinct registry does not contain a voter's name, or if a precinct official should deny the voter the right to vote, said voter shall be allowed to vote only if the voter presents and surrenders a voter identification card showing the voter to be a registered voter of the precinct to the judge, completes a voter registration application for a residence address within the county and signs an affidavit swearing or affirming that the voter is currently registered and eligible to vote in said precinct and that the voter has not cast an absentee ballot for said election.

B. If a person alleges to an election official in the county of the person's residence on a day of regular or in-person absentee voting that the person applied to become a registered voter twenty-five (25) days or more prior to the election, the person shall be allowed to vote a ballot for the precinct of the person's residence if:

1. The county election board secretary of the person's county of residence confirms that a valid application for the person is on file at the county election board office and the application became valid twenty-five (25) days or more prior to the election; and

2. The person signs an affidavit swearing or affirming that the person applied to become a registered voter of the precinct of the person's residence twenty-five (25) days or more prior to the election.

Amended by Laws 1997, c. 177, § 4, eff. Nov. 1, 1997.

### § 7-123.3. Blind, disabled or voter unable to read—Oath—Assistance

#### Cross References

Affidavit, materials to accompany absentee ballot, see Title 26, § 14-112.1.

Voter responsible for directing marking of absentee ballot, see Title 26, § 14-113.2.

## ARTICLE VIII. CERTIFICATIONS AND CONTESTS

**§ 8-103. Certificates of election**

The county election board shall certify a list of successful candidates for county offices and shall provide Certificates of Election to the same following the General Election, except that Certificates of Election may be issued to unopposed candidates after 5 p.m. on the second day following the close of the filing period. The State Election Board shall certify a list of successful candidates for offices for which the Board accepts filings of Declarations of Candidacy and shall provide Certificates of Election to the same following the General Election, except that Certificates of Election may be issued to unopposed candidates after 5 p.m. on the second day following the close of the filing period.

Amended by Laws 1999, c. 88, § 9, emerg. eff. April 13, 1999.

**§ 8-111. Petition for recount—Deposit required—Service of notice—Recounts of issue or question elections**

A. 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. Said 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. The candidate or individual may indicate in the petition requesting the recount that said candidate or individual desires to have the ballots recounted manually. Failure by the candidate or individual to state such preference for a manual recount in the petition shall result in a recount by electronic voting devices. If the candidate or individual requests that the ballots be recounted manually, the petition must be accompanied by a cashier's check or certified check in the amount of Six Hundred Dollars (\$600.00) for the first three thousand (3,000) ballots and Six Hundred Dollars (\$600.00) for each additional six thousand (6,000) ballots or fraction thereof, to be recounted for each county affected. If the petition for a manual recount is filed with the State Election Board, the petition must be accompanied by a cashier's check in the amount of Three Hundred Dollars (\$300.00) in addition to the amount required above. When such petition is properly filed, it shall be the duty of the secretary of the appropriate election board to order said recount to begin not less than three (3) nor more than ten (10) days from the date of filing of said petition. In elections involving candidates, it shall be the duty of such contestant to cause to be served upon the opposing candidate or candidates, and directly affected by said contest, a true copy of said petition and a true copy of said order. Service shall be made in person where possible, within twenty-four (24) hours after the filing of said original petition of contest. Service shall be made by the sheriff of the county as to all offices, except that of sheriff, in which case the same shall be served by the county clerk and the certificate of returns of such sheriff or county clerk, showing the inability to make such service within the above-mentioned time, shall be deemed sufficient proof of the absence of such candidate, or candidates, or the inability to serve such notice upon the candidate, and to justify the constructive service hereafter provided. Where personal service is impossible, within said time, it is hereby made the duty of said contestant to serve said true copies upon the secretary of the appropriate election board. Provided that for the purpose of such constructive service, the secretaries of the county election boards are hereby made and constituted the service agents for all contests of elections filed in accordance herewith. By filing declaration of candidacy for election, a candidate shall thereby be conclusively presumed to have accepted the terms and provisions hereof and specifically the aforesaid constructive service. When constructive service becomes necessary, said constructive service shall be made at the date, time and place of said hearing.

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

1. The margin of votes between those for and those against the issue 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

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

2. The margin of votes between those for the issue and the number required for approval 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.

D. Recounts of issue or question elections shall not be permitted of any statewide election.

Amended by Laws 1997, c. 176, § 12, eff. Nov. 1, 1997; Laws 1999, c. 88, § 10, emerg. eff. April 13, 1999.

### **§ 8-121.1. Hearings on petitions alleging irregularities or fraud involving two or more counties**

When a petition is filed alleging irregularities or fraud involving two or more counties, the hearings for all counties shall be scheduled at a single location by the election board secretary who accepted the petition. When such a petition is filed with the Secretary of the State Election Board, the Supreme Court shall assign a single judge to hear and determine the issue for all affected counties.

Added by Laws 1997, c. 176, § 13, eff. Nov. 1, 1997.

## **ARTICLE XII. SPECIAL ELECTIONS**

### **§ 12-106. Vacancies in the Legislature**

A. Whenever a vacancy shall occur in the office of a member of the State Senate or the State House of Representatives, the vacancy shall be filled at a Special Election to be called by the Governor within thirty (30) days after the vacancy occurs; provided, no special election shall be called if the vacancy occurs after March 1 of any even-numbered year if the term of the office expires the same year.

B. If in an even-numbered year an incumbent State Senator with two (2) or more years remaining in the term for which elected shall file with the Oklahoma Secretary of State before June 1 a resignation in writing which states that the resignation will not become effective immediately, but rather will become effective on some date certain that is after the General Election but before the convening of the next session of the

Legislature, the vacancy shall be filled by a special election which shall be held in that even-numbered year on the same dates as the regular Primary Election, Runoff Primary Election and General Election. The filing period for the special election shall be the regular filing period prescribed in Section 5-110 of this title. The person elected in the General Election of the special election shall take office on the date the resignation of the incumbent becomes effective and shall serve the remainder of the unexpired term.

Amended by Laws 1998, c. 357, § 11, eff. Jan. 1, 1999.

## § 12-116. Special elections on state or local questions

### Notes of Decisions

#### Notice 1

##### 1. Notice

Statute providing for shortened 45-day notice period for special election called for by school district "to be held on the date of the annual school runoff election" for school board mem-

bership refers to the state-wide date for the annual runoff election, and thus, local school district may use 45-day notice period by holding special election on the state-wide runoff date even if school district is not holding local runoff election. *Matter of Protest Against Tax Levy of Ardmore Independent School No. 19 for Fiscal Year 1997-1998*, Okla., 959 P.2d 580 (1998).

## ARTICLE XIII-A. SCHOOL DISTRICT AND VOCATIONAL-TECHNICAL SCHOOL DISTRICT ELECTIONS

## § 13A-103. Election dates—Special elections

### Notes of Decisions

#### Time of election 1

##### 1. Time of election

Statute permitting school board to call a special election on any question authorized by law

permits a school board to call a special election on the question of a school district building-fund levy in the same year as a previous general election at which the levy question failed. *Matter of Protest Against Tax Levy of Ardmore Independent School No. 19 for Fiscal Year 1997-1998*, Okla., 959 P.2d 580 (1998).

## § 13A-105. Declaration of candidacy

Candidates for member of the board of education of every school district or vocational-technical school district shall file declarations of candidacy in the same place and with the same officials as candidates for county office. The declaration of candidacy to be signed by the candidate shall have an attachment to be signed by the candidate listing the requirements of a candidate for election or reelection to a school board as set forth in Sections 13A-106 and 5-105a of this title and Sections 5-110, 5-110.1, and 5-113 of Title 70 of the Oklahoma Statutes, and the candidate shall swear or affirm that he or she is eligible to run for such office or serve in such office if elected. Candidates shall file on the first Monday in December through the following Wednesday. For school districts and vocational-technical school districts located in more than one county, filing shall be in the county wherein supervision of the district is located.

Amended by Laws 1997, c. 130, § 2, emerg. eff. April 17, 1997; Laws 1998, c. 217, § 1, eff. July 1, 1998.

## § 13A-110. Vacancies

A. Vacancies for members of the board of education of every school district or vocational-technical school district shall be filled by appointment by the board. Persons appointed to fill such vacancies in the first half of the term of office for the board position shall serve only until the next succeeding election, at which time the office which they hold shall be placed on the ballot for the balance of the unexpired term. Vacancies filled by appointment following the delivery of the resolution calling for regular elections to the secretary of the county election board shall be filled until the regular elections the following year. Persons elected to fill unexpired terms shall begin those terms at the

next regular meeting of the board of education following the election. Persons appointed to fill such vacancies after the first half of the term of office for the board position shall serve for the balance of the unexpired term. No person shall be appointed to a board of education who does not meet the eligibility qualifications needed to be a candidate for such position as provided for in Sections 13A-106 of this title and Sections 5-110, 5-110.1 and 5-113 of Title 70 of the Oklahoma Statutes.

B. If the board of education does not fill the vacancy by appointment within sixty (60) days of the date the board declared the seat vacant, the board of education shall call a special election to fill the vacancy for the unexpired term.

Amended by Laws 1999, c. 322, § 1, eff. July 1, 1999.

#### ARTICLE XIV. ABSENTEE VOTING

### § 14-101. Absentee ballots authorized—Adjustment of filing period

A. Absentee ballots shall be provided for any election conducted by a county election board. A charter municipality may adjust its filing period and election dates to allow sufficient time for the mailing and return of absentee ballots if the filing period or election dates provided in the municipality's charter do not provide sufficient time for the mailing and return of absentee ballots.

B. Any election called by a charter municipality simultaneously with any other entity's election held in any part of the municipality shall provide no less time for the mailing and return of absentee ballots than the least time provided by the other entity.

Amended by Laws 1997, c. 176, § 14, eff. Nov. 1, 1997.

### § 14-112.1. Materials to accompany ballot

Said ballots must be accompanied by:

1. A plain opaque envelope in which voted ballots must be placed by the voter;
2. An envelope bearing an affidavit stating that the voter is qualified to vote, that he has personally marked the ballots or has directed a person chosen by the voter to mark the ballots in accordance with the provisions of Section 7-123.3 of this title; and
3. A return envelope addressed to the secretary of the county election board.

Amended by Laws 1997, c. 176, § 15, eff. Nov. 1, 1997.

### § 14-113.2. Marking and return of ballot

The voter shall be responsible for marking the ballots or directing a person chosen by the voter to mark the ballots in accordance with the provisions of Section 7-123.3 of this title and as prescribed by the Secretary of the State Election Board; seal the ballots in the plain opaque envelope; fill out completely and sign the affidavit, such signature to be witnessed by two persons whose signature and address shall appear on the affidavit; seal the plain opaque envelope inside the envelope bearing the affidavit and return both envelopes, sealed inside the return envelope, by United States mail to the county election board.

Amended by Laws 1997, c. 176, § 16, eff. Nov. 1, 1997; Laws 1998, c. 357, § 12, eff. Jan. 1, 1999.

### § 14-115.4. In-person absentee voting

A. A registered voter may apply for an in-person absentee ballot at a location designated by the secretary of the county election board from 9 a.m. to 5 p.m. on Thursday, Friday and Monday immediately preceding any election. As part of the application for an in-person absentee ballot such registered voter shall swear or affirm that he or she has not voted a regular mail absentee ballot and that he or she will not vote at the regular polling place in the election for which the in-person absentee ballot is requested.

B. One or more absentee voting boards shall be on duty from 9 a.m. to 5 p.m. at the in-person absentee polling place on Thursday, Friday and Monday immediately preceding any election. If the secretary of a county election board receives an application from a registered voter requesting to vote by in-person absentee ballot the secretary shall cause to be implemented the following procedures:

1. An absentee voting board shall provide to each registered voter who applies for an in-person absentee ballot appropriate ballots and materials as may be necessary to vote;

2. The voter must sign an in-person absentee voter record, and his signature on such record must be certified by both members of the absentee voting board;

3. The voter must mark his ballots in the manner provided by law in the presence of the absentee voting board, but in such a manner as to make it impossible for any person other than the voter to ascertain how said ballots are marked. Insofar as is possible, the voting procedure shall be the same as if the voter were casting his vote in person at a precinct;

4. The voter shall then deposit the ballot in a voting device designated for in-person absentee voting by the secretary of the county election board;

5. When the in-person polling place is closed on each day of in-person absentee voting the in-person absentee voting board shall, without obtaining a printout of results, remove the vote data pack from the voting device and seal ballots counted that day in a transfer case which shall be secured by the sheriff of the county in the same manner as provided in Section 8-110 of this title. The vote data pack shall be sealed in a container prescribed by the Secretary of the State Election Board. The sheriff shall secure the sealed vote data pack container and return it to the in-person absentee voting board no later than 8:45 a.m. on the next day of the in-person absentee voting or to the secretary of the county election board at the time of the county election board meeting to count absentee ballots on the Tuesday election day;

6. The vote data pack or packs used for in-person absentee voting shall be used by the county election board to count absentee ballots on election day as provided in Section 14-125 of this title; and

7. If there is a malfunction in such a way that the vote data pack used for in-person absentee voting will not function, the sheriff is authorized to return the transfer cases containing in-person absentee ballots to the county election board to be recounted as provided in Section 7-134.1 of this title.

Amended by Laws 1997, c. 176, § 17, eff. Nov. 1, 1997.

### **§ 14-121. Discharged military personnel or personnel on officially authorized leave—Authorization to vote**

Any person eligible to register, who has been honorably discharged or is on officially authorized leave from the Armed Forces of the United States, or who has been terminated in his or her service or employment overseas and returned home too late to register at the time when, and at the place where, registration is required, to vote at the next ensuing election, shall be entitled to vote a ballot at such election in the precinct for which he or she is a qualified elector without being registered. Such person shall be entitled to vote upon satisfying the precinct inspector or in-person absentee voting board member that he or she is entitled to vote at such election and completing a voter registration application for an address within the precinct.

Amended by Laws 1997, c. 176, § 18, eff. Nov. 1, 1997; Laws 1998, c. 357, § 13, eff. Jan. 1, 1999.

### **§ 14-132. Retention of materials**

All materials used for procuring and casting an absentee ballot shall be retained by the secretary of the county election board for a period of twenty-four (24) months after the day of the election.

Amended by Laws 1997, c. 176, § 19, eff. Nov. 1, 1997.

## ARTICLE XVI. PENALTIES

**§ 16-101. Felony offenses**

Any person deemed guilty of a felony under provisions of this act shall, upon conviction, be confined in the State Penitentiary for not more than two (2) years, or fined not more than Five Thousand Dollars (\$5,000.00), or both.

Amended by Laws 1997, c. 133, § 441, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 325, eff. July 1, 1999.

**§ 16-123. Voter registration or voting crimes—Notification of district attorney—Investigation and report**

A. The Secretary of the State Election Board or any county election board who has documents that appear to be evidence of voter registration or voting crimes shall notify the district attorney for the county or counties involved.

B. When presented with documentation of possible voter registration or voting crimes by the Secretary of the State Election Board or any county election board, a district attorney shall investigate and, within thirty (30) days and each thirty (30) days thereafter following receipt of such documentation, report in writing to the Secretary of the State Election Board or county election board the status of the investigation until charges are filed or the district attorney declines to file charges.

Added by Laws 1997, c. 177, § 5, eff. Nov. 1, 1997.

**TITLE 27**  
**EMINENT DOMAIN**  
**GENERAL PROVISIONS**

**§ 11. Reimbursement of expenses when property not acquired or jury award exceeds Commissioners' award by at least ten percent**

**Notes of Decisions**

**1. Construction and application**

Oklahoma Turnpike Authority v. New, Okla., 853 P.2d 765 (1993), [main volume] amended on rehearing.

**5. Reasonableness of fees**

Trial court could award appraisal fees to landowner in condemnation action, without making specific findings of fact that the fees were actually incurred, that it was reasonable for landowner to incur such fees, or that amount of fees was reasonable. State ex rel. Dept. of Transp. v. Oliver, Okla.Civ.App. Div. 1, 972 P.2d 39 (1998).

Landowner "incurred" appraisal fees, within meaning of fee recovery statute for condemna-

tion cases, though landowner had not yet been billed for the fees, as landowner's agreement with appraisers did not make fee obligation contingent on result of condemnation case, so that landowner bore ultimate responsibility for the fees. State ex rel. Dept. of Transp. v. Oliver, Okla.Civ.App. Div. 1, 972 P.2d 39 (1998).

Award of hourly fees to landowner's appraisers for being in courthouse for entire day during condemnation case was not excessive, though each appraiser testified for only 30 minutes during the day. State ex rel. Dept. of Transp. v. Oliver, Okla.Civ.App. Div. 1, 972 P.2d 39 (1998).

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