An Act

ENROLLED SENATE
BILL NO. 312

By: Holt of the Senate

and

Echols of the House

An Act relating to elections; amending 26 O.S. 2011, Sections 3-101, as last amended by Section 20, Chapter 15, O.S.L. 2013, 13-101 and 13-103 (26 O.S. Supp. 2014, Section 3-101), which relate to elections held by political subdivisions; modifying dates upon which elections to fill elective offices may be held by political subdivisions; deleting obsolete language; clarifying references; amending 11 O.S. 2011, Section 16-112, which relates to special elections of municipalities; modifying requirements to call for a special election; amending 19 O.S. 2011, Section 901.5, which relates to fire protection districts; modifying the filing date for an office on the board of directions and eliminating the filing fee; amending 26 O.S. 2011, Section 13-102, as last amended by Section 1, Chapter 126, O.S.L. 2012 (26 O.S. Supp. 2014, Section 13-102), which relates to municipal elections; modifying the filing period for a municipal election when it conflicts with a state or federal election; amending 26 O.S. 13A-109, 13A-110, which relate to school district elections; modifying the filing period for special elections and establishing governing legislation for the timeline of holding special elections; and providing an effective date.

SUBJECT: Elections

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

SECTION 1. AMENDATORY 26 O.S. 2011, Section 3-101, as last amended by Section 20, Chapter 15, O.S.L. 2013 (26 O.S. Supp. 2014, Section 3-101), is amended to read as follows:

Section 3-101. 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 regular or special election to fill an elective office shall be held by any county, school district, technology center school district, municipality or other political subdivision authorized to call elections except as follows:

1. The second Tuesday of February in any year;

2. The first Tuesday of April in any year;

3. The date of any regularly scheduled statewide state or federal election in an even-numbered year;

4. The second Tuesday of September in an odd-numbered year; and

5. The second Tuesday of November in an odd-numbered year.

C. Except as otherwise provided by law, no ~~special~~ election for any purpose other than to fill an elective office shall be held by any county, school district, technology center school district, municipality or other ~~entity~~ political subdivision authorized to call elections except on:

1. The second Tuesday of January, February, May, June, July, August, September, October and November and the first Tuesday in March and April in odd-numbered years; provided, a municipality with a population in excess of two hundred fifty thousand (250,000) persons, according to the most recent federal decennial census, may also hold an election on the second Tuesday of December in odd-numbered years; and

2. The second Tuesday of January and February, the first Tuesday in March and April, the last Tuesday in June, the fourth Tuesday in August, and the first Tuesday after the first Monday in November of any even-numbered year.

~~C.~~ D. 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.

~~D.~~ E. Notwithstanding any other provision of law or any provision of a municipal charter, any municipality, school district, technology center district, county, rural fire protection district, or any other entity seeking to hold a regular or special election to be conducted by a county election board on the same date as a regular or special federal or state election, shall file the resolution calling for the election with the county election board secretary no later than seventy-five (75) days prior to the election date. A candidate filing period, if so required by the resolution, shall begin no later than ten (10) days following the deadline to file the resolution with the secretary of the county election board; provided, the filing period for such municipal office may be scheduled on the same dates as the filing period for state or federal office to be filled at such election.

SECTION 2. AMENDATORY 26 O.S. 2011, Section 13-101.1, is amended to read as follows:

Section 13-101.1. ~~After July 1, 2005, no~~ No county election board shall be required to conduct elections for any municipality on a date other than an election date identified in subsection B of Section 3-101 of this title. Municipalities that hold both primary and general elections, in addition to scheduling elections on dates identified in ~~subsection B of~~ Section 3-101 of this title, shall provide no fewer than thirty-five (35) days between the primary and general elections~~; except however, primary and general elections may be scheduled on the identified election dates in March and April when there are fewer than thirty-five (35) days between the election dates~~.

SECTION 3. AMENDATORY 26 O.S. 2011, Section 13-103, is amended to read as follows:

Section 13-103. A. All municipal elections shall be held at the same place and in the same manner prescribed for conduct of state and county elections unless otherwise provided by law.

B. A municipality may adopt an ordinance requiring its elections to be partisan. If such an ordinance is adopted, a municipality shall notify the county election board that its election is to be partisan in its resolution calling for an election. If a municipality fails to notify the county election board that its election will be on a partisan basis in the resolution calling for an election, then the municipal election shall be on a nonpartisan basis. Provided, any municipality which is governed by a charter may provide otherwise by charter or ordinance.

C. All precincts totally or partially contained within the limits of a municipality shall be open for all elections held by such municipality; provided, however, that a municipality may authorize any precinct which is only partially contained within the limits of the municipality not to be opened by certifying to the county election board in its resolution calling for an election that no persons reside within that portion of the precinct contained within the limits of the municipality. Polling places shall be open from 7:00 a.m. until 7:00 p.m. Each precinct election board shall be the same as for state and county elections; provided, however, that substitutions, if necessary, shall be made by the county election board. Except as otherwise provided by law, the laws governing state and county Primary and General Elections shall be applicable to all municipal elections.

D. All municipal elections, including elections for municipalities with home rule charters, shall be held only on dates identified ~~by subsection B of~~ in Section 3-101 of this title.

SECTION 4. AMENDATORY 11 O.S. 2011, Section 16-112, is amended to read as follows:

Section 16-112. When the municipal governing body shall deem it advisable, it may, by resolution or ordinance, authorize the mayor to call a special election on a date established in Section 3-101 of Title 26 of the Oklahoma Statutes for the purpose of submitting to the registered voters of the municipality the question of issuing

municipal bonds, of granting any franchise, or for any other purpose authorized by law.

SECTION 5. AMENDATORY 19 O.S. 2011, Section 901.5, is amended to read as follows:

Section 901.5. A. Directors of a fire protection district shall be the surface owners of real property in and residents of the district.

B. At the time of making its order organizing the district, the board of county commissioners shall appoint three directors who shall hold their office until the next General Election, at which time their successors shall be elected. At the election, the qualified person receiving the highest number of votes for member of board of directors of the district shall hold office for the term of six (6) years. The qualified person receiving the next highest number of votes shall be elected for four (4) years, and the qualified person having the next highest number of votes shall be elected for two (2) years. Each two (2) years thereafter, there shall be elected for a term of six (6) years one member of said board of directors.

C. 1. A board of directors may increase its membership to five (5) members by resolution of the board. If a board of directors adopts such a resolution, the position of the original board which will be up for election at the next General Election shall be for a five-year term.

2. An additional two members shall be elected at a special election called for that purpose by the board of directors. The two qualified persons who receive the highest number of votes for the additional two positions shall be elected to serve until the next General Election.

3. All board members elected thereafter to a five-member board shall serve a term of five (5) years with elections held yearly.

D. The board of directors of the district shall submit, within fifteen (15) days before the filing period of any district election, a resolution to the secretary of the county election board

conducting said election. The resolution shall contain the following:

1. The date of the election;

2. The offices to be filled or the questions to be voted upon at the election;

3. Qualifications for the offices;

4. The location of the polling place or places; and

5. Any other information necessary for conducting said election.

E. 1. The regular election in the district shall be held at the same time as the General Election in this state or on the second Tuesday in November in those years that a General Election is not held.

2. In those years that a General Election is not held the entire cost of the election shall be paid by the district. When the election is held at the same time as the General Election, the district shall pay only for the cost directly attributable to district election.

3. All polling places of precincts, all or any part of which include areas within the boundaries of the district, shall be supplied ballots for the purpose of permitting electors of the district to vote for members of the board of directors of the district.

4. Filing for the office of member of the board of directors shall be with the county election board on a nonpartisan basis ~~during the regular filing period for state and county offices in those years that a General Election is held.~~

~~5. In those years that a General Election is not held the filing time will be from 8 a.m. on the first Monday after Independence Day until 5 p.m. on the next succeeding Wednesday and shall be done without the payment of a filing fee~~ from 8 a.m. on the first Monday after Independence Day until 5 p.m. on the next

succeeding Wednesday each year. The payment of a filing fee shall not be required.

F. 1. Vacancies on the board shall be filled by the board of directors. In the event a vacancy occurs and the remaining members of the board are unable to make a decision on such vacancy within sixty (60) calendar days, the board of county commissioners shall immediately appoint a member to fill the vacancy. In the event the vacancies on the board are so numerous as to not provide a quorum, the board of county commissioners shall appoint as many members as are necessary to make a quorum.

2. All vacancies filled pursuant to the provisions of this subsection shall be filled until the next regular election, at which time a member shall be elected to serve the remainder of the unexpired term.

G. 1. The office of a member of the board of directors may be declared vacant by the board of directors if such member:

a. is absent from more than one-half (1/2) of all meetings of the board of directors, regular and special, held within any period of four (4) consecutive months,

b. ceases to be eligible for office pursuant to this section,

c. has a conviction in a court of any felony or crime involving moral turpitude,

d. uses alcohol, any stimulant, any drug or other substance which impairs intellect, judgment or physical ability to such an extent as to incapacitate the member to such a degree that the member is prevented from performing duties pursuant to Chapter 21 of this title, and

e. has a mental or physical weakness or inability which incapacitates the member to such a degree that the member is prevented from performing duties required pursuant to Chapter 21 of this title.

2. Vacancies determined pursuant to this subsection shall be filled pursuant to subsection F of this section after notice to the board member of such action and opportunity for a hearing.

3. Vacancies shall be determined at an official meeting of the board and shall be a specific agenda item.

4. Any appeal from a decision declaring an office vacant pursuant to this subsection shall be made to the district court within thirty (30) days of such determination.

SECTION 6. AMENDATORY 26 O.S. 2011, Section 13-102, as last amended by Section 1, Chapter 126, O.S.L. 2012 (26 O.S. Supp. 2014, Section 13-102), is amended to read as follows:

Section 13-102. A. Not fewer than fifteen (15) days before the filing period for any regular municipal election, or in the event of a special election, not fewer than sixty (60) days before such election, the governing board of any municipality shall submit a resolution to the secretary of the county election board conducting such election. Such resolution shall contain the following facts:

1. The dates of the election or elections;

2. The offices to be filled or the questions to be voted upon at such election or elections;

3. Qualifications for such offices;

4. Designation of which offices shall be filled by voting by ward and which offices shall be filled by voting at large;

5. Indication of whether the election will be partisan or nonpartisan;

6. For charter cities where the charter is silent, indication of any portion of state law which will apply;

7. A list of precincts partially contained within the limits of the municipality which are eligible to be closed pursuant to the provisions of subsection C of Section 13-103 of this title, and a

certification of whether such precincts shall be open or not open for the election; and

8. Any other information necessary for conducting said election or elections.

B. In the event that a municipality governed by charter schedules a regular or special election for a municipal office on the same date as an election involving state or federal offices, the filing period for such municipal office shall be scheduled ~~on a Monday, Tuesday and Wednesday not less than fifteen (15) days nor more than twenty (20) days following the date of the resolution or order~~ to meet the requirements of Section 16-102 of Title 11 of the Oklahoma Statutes and of Section 3-101 of Title 26 of the Oklahoma Statutes; provided, the filing period for such municipal office may be scheduled on the same dates as the filing period for state or federal office to be filled at such election.

SECTION 7. AMENDATORY 26 O.S. 2011, Section 13A-109, is amended to read as follows:

Section 13A-109. A. The board of education of every school district and technology center school district shall notify, by resolution, the secretary of the county election board responsible for certifying its election of any regular or special election.

B. The resolution calling for an election or elections shall include, but shall not be limited to, the following information:

1. Date or dates of the election or elections;

2. Identification of the office or offices to be filled, qualifications of candidates for office and the length of term of each;

3. Information describing election districts within the school district, if applicable;

4. Ballot titles of the question or questions to be voted upon;

5. Information describing the persons eligible to vote in the election; and

6. All other information necessary for conducting the election or elections.

C. Resolutions calling for regular elections shall be delivered to the secretary of the county election board no fewer than fifteen (15) days preceding the first day of the filing period established in Section 13A-105 of this title. The resolution shall contain all questions to be voted upon at the election to be held on the day as required in Section 13A-103 of this title.

D. Resolutions calling for special elections shall be delivered to the secretary of the county election board no fewer than sixty (60) days preceding the election. A special filing period, if necessary, shall be scheduled for three days and shall begin not more than twenty (20) days following the date the resolution is required to be submitted to the county election board.

E. In addition to notifying the secretary of the county election board of the election by resolution as required in this section:

1. For elections of members of the board of education of a school district, the board shall also publish a legal notice for each regular and special election in one issue of a legal newspaper of the county, as defined by Section 106 of Title 25 of the Oklahoma Statutes, in the county wherein the school district administrative office is located at least ten (10) days prior to the filing period and shall issue a news release of the upcoming filing period and election to a newspaper of general circulation in the county wherein the school district administrative office is located. The legal notice and press release shall include, but shall not be limited to, the dates of the filing period for the election or elections and the office or offices to be filled. The notice shall also be posted at the school district administrative offices and county election board offices; and

2. For elections of members of the board of education of a technology center school district, the board shall also publish a legal notice for each regular and special election in one issue of a legal newspaper of the county, as defined by Section 106 of Title 25 of the Oklahoma Statutes, in each county wherein the school district

is a member in the technology center district at least ten (10) days prior to the filing period. Additionally, the technology center school district shall issue a news release of the upcoming filing period and election to a newspaper of general circulation in each county wherein the school district is a member in the technology center district. The legal notice and press release shall include, but shall not be limited to, the dates of the filing period for the election or elections and the office or offices to be filled. The notice shall also be posted in each county at the technology center school district administrative offices, if such office exists in the county, and county election board office in each county.

SECTION 8. AMENDATORY 26 O.S. 2011, Section 13A-110, is amended to read as follows:

Section 13A-110. A. Vacancies for members of the board of education of every school district or technology center 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. The special election shall be called on a date established by subsection B of Section 3-101 of this title, and the special filing period shall be

scheduled as required in subsection D of Section 13A-109 of this title.

SECTION 9. This act shall become effective January 1, 2016.

Passed the Senate the 21st day of May, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of May, 2015.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 22nd day of May, 2015, at 9:20 o'clock A M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 4th day of June, 2015, at 2:58 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 4th day of June, 2015, at 5:19 o'clock P. M.

By: Chris Mewis