

An Act

ENROLLED SENATE
BILL NO. NO. 91

By: Jolley and Shortey of the
Senate

and

Banz, Bennett, Ritze, Derby
and Faught of the House

An Act relating to elections; amending 26 O.S. 2011, Sections 12-101, 12-103, 12-106, 12-108, 12-110.1, 12-111, 12-113 and 12-119, which relate to special elections; modifying date by which occurrence of vacancy in office requires calling of special election; modifying date by which resignation of State Senator requires vacancy to be filled by special election; modifying date upon which person elected at special election takes office under certain circumstances; providing for application of act to certain special elections; providing for noncodification; and declaring an emergency.

SUBJECT: Special elections

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

SECTION 1. AMENDATORY 26 O.S. 2011, Section 12-101, is amended to read as follows:

Section 12-101. A. Except as otherwise provided by law, whenever a vacancy shall occur in the office of a member of the United States Senate or United States House of Representatives from Oklahoma, such vacancy shall be filled at a Special Election to be called by the Governor within thirty (30) days after such vacancy occurs.

B. No special election shall be called if the vacancy occurs ~~after March 1 of any~~ in an even-numbered year if the term of the office expires the following year. In such case, the candidate elected to the office at the regular General Election shall be appointed by the Governor to fill the unexpired term.

SECTION 2. AMENDATORY 26 O.S. 2011, Section 12-103, is amended to read as follows:

Section 12-103. The proclamation required by Section 12-102 of this title shall prescribe filing and election dates that permit full compliance with the requirements of the federal Military and Overseas Voter Empowerment Act of 2009 and shall contain the following facts:

1. A filing period of three (3) days, on a Monday, Tuesday and Wednesday not less than ten (10) days from the date of such proclamation;

2. The date of the Special Primary Election, not less than twenty (20) days after the close of the filing period;

3. The date of the Special Runoff Primary Election, not less than twenty (20) days after the date of the Special Primary Election; and

4. The date of the Special General Election, not less than twenty (20) days after the date of the Special Runoff Primary Election.

Should such a vacancy occur ~~on or after March 1 of~~ in an even-numbered year, when a special election is required, the proclamation must contain dates that are the same as are required by law for the regular filing period, Primary Election, Runoff Primary Election and General Election, if practicable.

SECTION 3. AMENDATORY 26 O.S. 2011, Section 12-106, is amended to read as follows:

Section 12-106. 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~~ in an 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 ~~April 1~~ March 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.

SECTION 4. AMENDATORY 26 O.S. 2011, Section 12-108, is amended to read as follows:

Section 12-108. Such proclamation shall contain the following facts:

1. A filing period of three (3) days, on a Monday, Tuesday and Wednesday not less than ten (10) days from the date of such proclamation;

2. The date of the Special Primary Election, not less than twenty (20) days after the close of the filing period; and

3. The date of the Special General Election, not less than twenty (20) days after the date of the Special Primary Election.

Should such a vacancy occur ~~on or after March 1 of~~ in an even-numbered year, when a special election is required, the proclamation must contain dates that are the same as are required by law for the regular filing period, Primary Election, Runoff Primary Election and General Election, if practicable.

SECTION 5. AMENDATORY 26 O.S. 2011, Section 12-110.1, is amended to read as follows:

Section 12-110.1. A. Elections to fill the seat of a member of the Oklahoma State Senate or the Oklahoma House of Representatives who is not eligible to complete the term of office to which such member was elected due to the provisions of Section 17A of Article V of the Oklahoma Constitution shall be held as provided in this section.

B. Whenever a member's eligibility to serve shall expire ~~after March 1~~ in an even-numbered year, the vacancy shall be filled by a special election to be called by the Governor 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 ~~Title 26 of the Oklahoma Statutes~~ this title. The person elected in the special election shall take office on the later of the date other members of the Legislature elected at such election take office or the expiration of the incumbent's eligibility to serve and shall serve the remainder of the unexpired term.

C. Whenever a member's eligibility to serve shall expire in an odd-numbered year ~~or prior to March 1 in an even-numbered year~~, the position shall be filled by a special election to be called by the Governor. The Governor shall issue a proclamation calling such an election no less than sixty (60) days prior to the expiration of the member's eligibility to serve. The person elected shall take office upon the expiration of the incumbent's eligibility to serve.

D. The Governor shall issue a proclamation, a copy of which must be filed with the Secretary of the State Election Board, for any election to be held pursuant to this section. Such proclamation shall be issued prior to the date the member's eligibility to serve expires and must be issued at least ten (10) days prior to the filing period. For an election held pursuant to subsection C of this section, the proclamation shall contain the following facts:

1. A filing period of three (3) days, on a Monday, Tuesday and Wednesday, not less than ten (10) days from the date of ~~said~~ such proclamation;

2. The date of the Special Primary Election, not less than twenty (20) days after the close of the filing period; and

3. The date of the Special General Election, not less than twenty (20) days after the date of the Primary Election.

E. For purposes of this section:

1. A full term of service in the Oklahoma House of Representatives shall be counted as two (2) years of service;

2. A full term of service in the Oklahoma State Senate shall be counted as four (4) years of service;

3. A period of service of less than a full term which is not exempt from the constitutional limitations on length of legislative service shall be calculated from the date the legislator assumes the office for such term until the date the legislator vacates such office; and

4. A period of service with respect to a term during which a member reaches the constitutionally limited length of service shall be calculated from the date the legislator assumes the office for such term until the date the legislator completes a total of twelve (12) years of service not exempt from the constitutional limitations.

SECTION 6. AMENDATORY 26 O.S. 2011, Section 12-111, is amended to read as follows:

Section 12-111. A. Whenever a vacancy shall occur in the office of a county commissioner, 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~~ in an even-numbered year if the term of the office expires the following year. In such case, the candidate elected to the office at the Primary Election, runoff Primary Election, or the regular General Election

shall be appointed by the Governor as soon as practical after the applicable election to fill the unexpired term.

B. Whenever a vacancy shall occur in any elective county office of any county in this state having a population of more than the population figure specified in subsection B of Section 10 of Title 51 of the Oklahoma Statutes, 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~~ in an even-numbered year if the term of the office expires the following year. In such case, the candidate elected to the office at the Primary Election, runoff Primary Election, or the regular General Election shall be appointed by the Governor as soon as practical after the applicable election to fill the unexpired term.

SECTION 7. AMENDATORY 26 O.S. 2011, Section 12-113, is amended to read as follows:

Section 12-113. Such proclamation shall contain the following facts:

1. A filing period of three (3) days, on a Monday, Tuesday and Wednesday, not less than ten (10) days from the date of such proclamation;
2. The date of the Special Primary Election, not less than twenty (20) days after the close of the filing period; and
3. The date of the Special General Election, not less than twenty (20) days after the date of the Special Primary Election.

Should such a vacancy occur ~~on or after March 1 of~~ in an even-numbered year, when a special election is required, the proclamation must contain dates that are the same as are required by law for the regular filing period, Primary Election, Runoff Primary Election and General Election, if practicable.

SECTION 8. AMENDATORY 26 O.S. 2011, Section 12-119, is amended to read as follows:

Section 12-119. Except as otherwise provided by law, an incumbent in any elective office for which a vacancy is filled by special election called by the Governor may file with the Oklahoma Secretary of State an irrevocable resignation in writing which states that the resignation will not become effective immediately, but rather will become effective on some date certain. Upon receipt of the irrevocable letter of resignation, the Governor shall set the date for the special election. The person elected at the special election shall take office on the later of the date of certification of the results of the special election or the date the resignation of the incumbent becomes effective and shall serve the remainder of the unexpired term.

SECTION 9. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The provisions of this act shall apply to special elections called on or after the effective date of this act.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 15th day of March, 2012.

A. Bryce Marshall
Presiding Officer of the Senate

Passed the House of Representatives the 19th day of March, 2012.

Lee R. Young
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 19th
day of March, 2012,
at 4:12 o'clock P. M.

By: Jessica B. Pagora

Approved by the Governor of the State of Oklahoma the 19th day of
March, 2012, at 4:30 o'clock P. M.

Jodel Lamb
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
19th day of March, 2012,
at 4:44 o'clock P. M.

By: Muriel R. Day