



2004 Legislative Information Packet

OBAR is a coalition committed to the cause of fair ballot access and maximum voter choices. We are members of the Libertarian, Green and Constitution Parties, along with many Independents and members of the Republican and Democratic parties. We are diverse in our political views but we do agree on one thing – the right to vote is meaningless if you cannot vote for the candidate of **your** own choice.

OBAR is providing this informational packet to all members of the Oklahoma state legislature. Our hope is that once you are armed with the facts on the crisis of our undemocratic ballot access laws, that you will join us in fighting for changing a return to democracy. In particular we are looking for co-sponsors for the **Fair Ballot Access and Maximum Voter Choice Bill**.

If we can be of any assistance or you would like more information please contact us:

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1. Comparison of the number of 2004 Presidential candidate choices available to voters in each state

ONE State gave its voters only 2 choices: Oklahoma

Eight States had 4 choices* on the ballot: Arizona, Georgia, Hawaii, Illinois, Indiana New Hampshire, North Carolina, Texas

Seven states had 5 choices on the ballot: Idaho, Massachusetts, Missouri, Ohio, Virginia, West Virginia, South Dakota

Nine states had 6 choices on the ballot: Alabama, Kansas, Kentucky, New York, North Dakota, Oregon, Pennsylvania, Tennessee, Wyoming,

Eleven states and Washington, D.C. had 7 choices on the ballot: Alaska, Arkansas, California, Connecticut, The District of Columbia, Maine, Maryland, Montana, Nevada, New Mexico, Vermont, South Carolina

Seven states had 8 choices on the ballot: Delaware, Michigan, Mississippi, Nebraska, Rhode Island, Utah, Wisconsin

Three states had 8 choices on the ballot: Florida, Iowa, Louisiana,

Three states had 10 choices on the ballot: Minnesota, New Jersey, Washington,

One state had 13 choices on the ballot: Colorado

** 45 states include write-in voting as an option which in theory would allow an infinite number of potential candidates. For the purpose of this comparison however the write-in option was counted as one choice.*

2. Comparison of Oklahoma's ballot access requirements with those of its neighbors

The following charts show the ballot access requirements for Oklahoma as compared to nearby states.

In 2004 Oklahoma had the second highest signature requirement of any state in the region for full-party ballot access.

Signature requirements for 2004 election cycle

Ranking for highest signature/registration requirement for full party ballot access	State	Petitioning requirement for full party ballot access	Petitioning Requirement to run Presidential candidate
1	Louisiana	128,120	None (pay fee)
2	Oklahoma	51,781	37,027
3	Texas	45,540	64,077
4	Kansas	16,714	5,000
5-tie	Missouri	10,000	10,000
5-tie	Arkansas	10,000	1,000
7	New Mexico	2,422	14,527
8	Colorado	1,000 *	None (pay fee)

However for 2005** the rankings have changed. Louisiana has changed its election laws this year (effective for the 2005 election cycle) moving it from first to seventh place, while Oklahoma is now in the number one spot for the region's most undemocratic ballot access laws.

Signature requirements for 2005 election cycle

Ranking for highest signature/registration requirement for full party ballot access	State	Petitioning requirement for full party ballot access	Petitioning Requirement to run Presidential candidate
1	Oklahoma	73,188	43,913
2	Texas	45,540	74,108
3	Kansas	16,714	5,000
4-tie	Missouri	10,000	10,000
4-tie	Arkansas	10,000	1,000
6	New Mexico	3,781	15,126
7-tie	Colorado	1,000 *	None (pay fee)
7-tie	Louisiana	1,000	None (pay fee)

* Colorado does not require a petitioning process for new parties but instead requires 1,000 residents to register under the new party's affiliation to secure ballot access.

** 2004 signature requirements shown above were taken from www.ballot-access.org. 2005 signature requirements were calculated based on the relevant statutes in each state. The numbers changed in some cases from 2004-2005 due to the respective and varying formulas used in each state and by legislative action (in Louisiana).

3. Frequently Asked Questions

Won't third party ballot access create a spoiler effect?

Any 'spoiler effect' caused by third-party candidates is due to the choices of voters to support those candidates. Restricting ballot access to prevent 'spoilers' is nothing more than an attempt to suppress the will of voters. Further, 'spoilers' are purported to have helped bring about the elections of both Democrats, such as Governor Henry and former President Clinton, and Republicans, such as President Bush and former Governor Keating.

Shouldn't we keep the current laws in place to preserve the two-party system?

The US Constitution did not set up the two-party system, but rather the two parties did. Democracy means free participation in the party of your choice. No Oklahoman should be denied the right to support the candidate or party of his or her own choice.

Won't open ballot access law allow fringe extremist groups to get on the ballot or even be elected to office?

Under current law, any extremist group can just pay a fee and run candidates as Independents for any office except President. In fact, Independents from such fringe groups as the Southern Party and the Natural Law Party have done so. Voters have no party labels to guide them about the party affiliation of Independent candidates. Recent elections show that Independents usually get two to three times as many votes as candidates identified as representing a third party.

And there's nothing to stop an extremist candidate from running under current laws on a major party ticket, as former KKK leader David Duke did when he ran for office in Louisiana as a Republican.

Will Ballot Access Reform actually increase representation of the public?

In 2002 the Oklahoma League of Political Scientists conducted a survey of its membership on ballot access reform. 59% of the respondents favored easing ballot access because it would ensure better representation for Oklahoma citizens and 71% thought that fair ballot access laws would have a positive impact on policy deliberation and legislation.

Why shouldn't third parties have to prove that they are a "legitimate" party before being given access to the ballot?

As the 9th Circuit, U.S. Court of Appeals, said in July 1985 (765 F.2d 1417), "A state may not require a preliminary showing of voter support as an end in itself. Denying ballot access is permissible only if and to the extent that it is necessary as a means to further other legitimate state interests, including avoidance of the

voter confusion that may result from the presence on the ballot of too many frivolous candidates."

The voters should be the ones who decide what candidates are worthy of support.

What about the issue of voter confusion? Won't too many choices intimidate or deter new voters?

It's a myth that there are dozens of people who want to run for office. Tennessee only requires 25 signatures for an independent candidate to get on the ballot for any office, and no fee is required. But there have been several elections in the last 20 years with no independent candidates for the U.S. House on the Tennessee ballot.

It is also a myth that numerous candidates on the ballot can cause voters to become confused. In the 2003 California Governor's Recall Election, Arnold Schwarzenegger won the race without a runoff, even though there were 134 names on the ballot for governor.

4. The Fair Ballot Access and Maximum Voter Choice Bill

STATE OF OKLAHOMA

(2005)

HOUSE/SENATE BILL _____

By: _____

AS INTRODUCED

An Act relating to elections; amending 26 O.S. 2001, Sections 1-108 and 1-109, which relate to political parties; modifying requirements for recognition and termination of recognition of political parties; amending 26 O.S. 2001, Section 10-101, which relates to nomination of presidential electors; modifying requirement for petitions seeking ballot access for uncommitted candidates; authorizing fee in lieu of petition; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2001, Section 1-108, is amended to read as follows:

Section 1-108. A group of persons may form a recognized political party at any time except during the period between July 1 and November 15 of any even-numbered year if the following procedure is observed:

1. Notice of intent to form a recognized political party must be filed in writing with the Secretary of the State Election Board at any time except during the period between March 1 and November 15 of any even-numbered year.

2. After said notice is filed, petitions seeking recognition of a political party, in a form to be prescribed by the Secretary of the State Election Board, shall be filed with said Secretary, bearing the signatures of one thousand (1,000) registered voters ~~equal to at least five percent (5%) of the total votes cast in the last General Election either for Governor or for electors for President and Vice President.~~ Each page of said petitions must contain the names of registered voters from a single county. Petitions may be circulated a maximum of one (1) year after notice is filed, provided that petitions shall be filed with said Secretary no later than May 31 of an even-numbered year. Said petitions shall not be circulated between May 31 and November 15 of any even-numbered year.

3. Within thirty (30) days after receipt of said petitions, the State Election Board shall determine the sufficiency of said petitions. If said Board determines there are a sufficient number of valid signatures of registered voters, the party becomes recognized under the laws of the State of Oklahoma with all rights and obligations accruing thereto.

SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-109, is amended to read as follows:

Section 1-109. 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%)~~ one percent (1%) 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.

SECTION 3. AMENDATORY 26 O.S. 2001, Section 10-101, is amended to read as follows:

Section 10-101. The nominees for Presidential Electors of any recognized political party shall be selected at a statewide convention of said party in a manner to be determined by said party. The nominees for Presidential Electors shall be certified by said party's chairman to the Secretary of the State Election Board no fewer than ninety (90) days nor more than one hundred eighty (180) days from the date of the General Election at which candidates for Presidential Electors shall appear on the ballot. Failure of a political party to properly certify the names of its nominees for Presidential Electors within the time specified shall bar such party from placing any candidates for Presidential Electors on the ballot at said election. Candidates for Presidential Electors seeking to appear on the ballot as uncommitted shall be entitled to have their names placed upon the ballot at a General Election by observing the following procedure:

1. No later than July 15 of a presidential election year, petitions seeking ballot access for said uncommitted candidates for Presidential Electors, in a form to be prescribed by the Secretary of the State Election Board, shall be filed with said Secretary,

bearing the signatures of one thousand (1,000) registered voters ~~equal to at least three percent (3%) of the total votes cast in the last General Election for President~~. Each page of said petitions must contain the name of registered voters from a single county. A filing fee of Five Thousand Dollars (\$5,000.00) may be submitted in lieu of a petition. The filing fee shall be in a form prescribed by the Secretary of the State Election Board and shall be filed with said Secretary. The filing fee shall be refunded if the candidates receive more than one percent (1%) of the vote in the General Election. If the candidates do not receive more than one percent (1%) of the vote in the General Election, the filing fee shall be forfeited.

2. Within thirty (30) days after receipt of ~~said~~ petitions seeking ballot access for uncommitted candidates for Presidential Electors, the State Election Board shall determine the sufficiency of said petitions. If said Board determines there are a sufficient number of valid signatures of registered voters, the nominees for Presidential Electors are entitled to appear on the ballot at the next following General Election at which candidates for Presidential Electors shall appear on the ballot.

SECTION 4. This act shall become effective November 1, 2005.

5. Editorials and Op-ed commentary from Oklahoma media advocating Ballot Access Reform

Editorial and columns advocating for Fair Ballot Access reform in Oklahoma from Oklahoma media (including *The Oklahoman*, *The Tulsa World* and *The Oklahoma Observer*) are posted online at: **www.okballotchoice.org/op-edcommentary.pdf**