

OK-SAFE, Inc.

Updated: September 1, 2010

State Questions for General Election, November 2, 2010 Ballot

1) State Question 744 – Education Funding

Initiative Petition No. 391- From the HOPE Petition Initiative; petition signatures were collected predominantly by the OEA.

Ballot: “The measure repeals a Section of the State Constitution. The repealed section required the Legislature annually to spend \$42.00 for each common school student. Common schools offer pre-kindergarten through twelfth grade.

The measure also adds a new Article to the Constitution. It sets a minimum average amount the State must annually spend on common schools. It requires the State to spend annually, no less than the average amount spent on each student by the surrounding states. Those surrounding states are Missouri, Texas, Kansas, Arkansas, Colorado and New Mexico. When the average amount spent by surrounding states declines, Oklahoma must spend the amount it spent the year before.

The measure deals with money spent on day-to-day operations of the schools and school districts. This includes spending on instructions, support services and non-instruction services. The measure does not deal with money spent to pay debt, on buildings or on other capital needs.

The measure requires that increased spending begin in the first fiscal year after its passage. It requires that the surrounding state average be met in the third fiscal year after passage.

The measure does not raise taxes, nor does it provide new funding for the new spending requirements.”

From Stop744.com - “SQ 744 is a proposal by the Oklahoma Education Association (OEA) that would force the state to spend nearly a billion dollars more on education by cutting all other state agencies or raise your taxes by the same amount.” [Source: www.stop744.com]

See ROPE website for a good analysis of what’s **wrong** with SQ744: www.RestoreOkPublicEducation.com)

OK-SAFE, Inc. - Recommends a NO vote on SQ 744.

2) State Question 746 - Voter ID

Legislative Referendum No. 347- On the ballot in accordance to the provisions of [SB 692](#) by *Ford* of the Senate and *Tibbs* of the House.

Ballot: “This measure amends statutes relating to voting requirements. It requires that each person appearing to vote present a document proving their identity. The document must meet the following requirements. It must have the name and photograph of the voter. It must have been issued by the federal, state or tribal government.

It must have an expiration date that is after the date of the election. No expiration date would be required on certain identity cards issued to persons 65 years of age or older.

In lieu of such a document, voters could present voter identification cards issued by the County Election Board. A person who cannot or does not present the required identification may sign a sworn statement and cast a provisional ballot. Swearing to a false statement would be a felony.

These proof of identity requirements also apply to in-person absentee voting. If adopted by the people, the measure would become effective July 1, 2011.”

OK-SAFE, Inc. – Recommends a NO Vote on SQ 746 due to concerns that this measure is part of the incremental steps being taken towards the creation of a national/international ID card. NOTE: Mexico has created a National Biometric Identification card (fingerprints, photo, and iris scan) which is set to replace their current voter ID card.

Source: <http://www.biometricsadvisor.com/index.php/2009/07/159/>

3) State Question 747 - Term Limits for Statewide Elected Officials

Legislative Referendum No 348- On the ballot in accordance to the provisions of [SJR 12](#) by *Brogdon* of the Senate and *Murphey* of the House.

Ballot: “This measure amends sections 4 and 23 of Articles 6 and section 15 of Article 9 of the State Constitution. It limits the ability of voters to re-elect statewide elected officers by limiting how many years those officers can serve. It limits the number of years a person may serve in each statewide elected office. Service as Governor is limited to eight years. Service as Lieutenant Governor is limited to eight years. Service as Attorney General is limited to eight years. Service as Treasurer is limited to eight years. Service as Commissioner of Labor is limited to eight years. Service as Auditor and Inspector is limited to eight years. Service as Superintendent of Public Instruction is limited to eight years. Service as Insurance Commissioner is limited to eight years. Service as a Corporation Commissioner is limited to twelve years. Service for less than a full term would not count against the limit on service. Years of service need not be consecutive for the limits to apply. Officers serving when this measure is passed can complete their terms. All such serving officers, except the Governor, can also serve an additional eight or twelve years.”

OK-SAFE, Inc. – Recommends a YES Vote on SQ 747

4) State Question 748 - Apportionment

Legislative Referendum No. 349- On the ballot in accordance to the provisions of [SJR 25](#) by *Coffee* of the Senate and *Benge* of the House.

Ballot: “This measure amends Sections 11A and 11B of Article 5 of the Oklahoma Constitution. These provisions deal with how the Legislature is divided into districts. This process is known as apportionment. The Legislature must make an apportionment after each ten-year federal census. If the Legislature fails to act, an Apportionment Commission must do so. The measure changes the name of this Commission. It removes all three existing Commission members. It removes the Attorney General. It removes the Superintendent of Public Instruction. It also removes the State Treasurer.

The measure increases the number of members from three to seven. The President Pro Tempore of the Senate appoints one Democrat and one Republican. The Speaker of the House of Representatives appoints one Democrat and one Republican. The Governor appoints one Democrat and one Republican.

The measure provides that the Lieutenant Governor chairs the Commission and is a nonvoting member. It requires orders of apportionment to be signed by at least four members of the Commission.”

Critics of this measure say that this measure takes the governor out of the picture, and a political party relinquishes any power it would have had if that party had control of the legislature and the governorship. However, proponents say that it is a way to make sure that gerrymandering is reduced as much as possible and keeping to the principles of true apportionment

OK-SAFE, Inc. – Due to the continued concentration of powers being given to the Speaker of the House and the Senate Pro-Tempore, (paving the way for conflict of interest), this ballot measure raises some concerns, namely the issue of powers of appointment versus commission members who are elected in general elections and who can be held accountable. OK-SAFE recommends a NO vote on SQ 748.

5) State Question 750 – Ballot Access

Legislative Referendum No. 350- On the ballot in accordance to the provisions of [SJR 13](#) by *Brogdon* of the Senate and *Terrill* of the House.

Ballot: “This measure amends a section of the State Constitution. The section deals with initiative petitions. It also deals with referendum petitions. It deals with how many signatures are required on such petitions. It changes that requirement.

“Initiative” is the right to propose laws and constitutional amendments. “Referendum” is the right to reject a law passed by the Legislature.

The following voter signature requirements apply.

8% must sign to propose a law.

15% must sign to propose to change the State Constitution.

5% must sign to order a referendum.

These percentages are based upon the State office receiving the most total votes at the last General Election.

The measure changes this basis. The measure’s basis uses every other General Election. General Elections are held every two years. The Governor is on the ballot every four years. The measure’s basis only uses General Elections with the Governor on the ballot.

The President is on the ballot in intervening General Elections. The measure’s basis does not use General Elections with the President on the ballot.

More votes are usually cast at Presidential General Elections. Thus, the measure would generally have a lowering effect on the number of required signatures.”

The rationale behind the changing of the election used is because of the massive shifts in voter turnout. The Presidential General Election usually has a higher turnout. Thus, the measure would generally have a lowering effect on the number of required signatures.

OK-SAFE, Inc. – Recommends a YES Vote on SQ 750.

6) State Question 751 – English Language for Official Actions

Legislative Referendum No. 351- On the ballot in accordance with the provisions of [HJR 1042](#) by *Terrill* of the House and *Sykes* of the Senate.

Ballot: “This measure amends the State Constitution. It adds a new Article to the Constitution. That Article deals with the State’s official actions. It dictates the language to be used in taking official State action. It requires that official State actions be in English. Native American languages could also be used. When Federal law requires, other languages could also be used.

These language requirements apply to the State’s “official actions.” The term “official actions” is not defined.

The Legislature could pass laws determining the application of the language requirements. The Legislature would also pass laws implementing and enforcing the language requirements.

No lawsuit based on State law could be brought on the basis of a State agency’s failure to use a language other than English. Nor could such a lawsuit be brought against political subdivisions of the State.”

Even though this measure specifically allows for Native American languages to be used, the strongest opposition came from the Native American community, saying that they felt it discriminated against Native Americans. It is estimated that the State of Oklahoma could stand to save millions with the adoption of this measure.

OK-SAFE, Inc. – Recommends a YES Vote on SQ 751.

7) State Question 752 – Judicial Nominating Commission

Legislative Referendum No. 352- On the ballot in accordance with the provisions of [SJR 27](#) by *Anderson* of the Senate and *Sullivan* of the House.

Ballot: “This measure amends a section of the Oklahoma Constitution. It amends Section 3 of Article 7-B. The measure deals with the Judicial Nominating Commission. This Commission selects nominees to be appointed judges or justices, when a vacancy occurs. The Commission selects three, sometimes four, qualified nominees. The Governor must appoint one of the nominees.

The amendment adds two at-large members to the Commission. At-large members can come from any Oklahoma congressional district. The Senate President Pro Tempore appoints one of the new at-large members. The Speaker of the House of Representatives appoints the other. At-large members cannot be lawyers. Nor can they have a lawyer in their immediate family. Nor can more than two at-large members be from the same political party.

Six non-at-large members are appointed by the Governor. They cannot be Oklahoma lawyers. The measure adds a new qualification for non-lawyer members. They cannot have a lawyer from any state in their immediate family. Each congressional district must have at least one non-lawyer member. Six lawyer members are elected by members of the Oklahoma Bar Association. Each congressional district must have at least one lawyer member.”

OK-SAFE, Inc. – No position on SQ 752.

[Observation: Given the current trend of the OK legislature, and the support of the State Chamber for this ballot question, the most likely appointees would be from the private sector with connections to special interest groups.]

8) State Question 754 – State Appropriations

Legislative Referendum No. 354– On the ballot in accordance with the provisions of [HJR 1014](#) by *Osborn* of the House and *Lamb* of the Senate.)

Ballot: “This measure adds a new section to the Oklahoma Constitution. It adds Section 55A to Article 5. The Legislature designates amounts of money to be used for certain functions. These designations are called appropriations. The measure deals with the appropriation process. The measure limits how the Constitution could control that process. Under the measure the Constitution could not require the Legislature to fund state functions based on:

1. Predetermined constitutional formulas,
2. How much other states spend on a function,
3. How much any entity spends on a function.

Under the measure these limits on the Constitution’s power to control appropriations would apply even if:

1. A later constitutional amendment changed the Constitution, or
2. A constitutional amendment to the contrary was passed at the same time as this measure.

Thus, under the measure, once adopted, the measure could not be effectively amended. Nor could it be repealed.”

SQ754 was referred to the ballot as the Legislature’s attempt to negate the effects of State Question 744.

The Constitutionality of this measure is really in question. This State Question should be approached with much trepidation.

OK-SAFE, Inc. – Recommends a NO Vote on SQ 754.

Although in agreement with the initial intent of this legislation, there are serious concerns with limiting the power of future legislatures to amend the state’s Constitution, plus concerns about possible unintended consequences of undoing beneficial existing and/or future Constitutional formulas.

(Heads up: the State Chamber of Commerce supports this bill)

9) State Question 755 – State Courts and Law

Legislative Referendum No. 355– On the ballot in accordance with the provisions of [HJR 1056](#) by *Duncan* of the House and *Sykes* of the Senate.

Ballot: “This measure amends the State Constitution. It changes a section that deals with the courts of this state. It would amend Article 7, Section 1. It makes courts rely on federal and state law when deciding cases. It forbids courts from considering or using international law. It forbids courts from considering or using Sharia Law. International law is also known as the law of nations. It deals with the conduct of international organizations and independent nations, such as countries, states and tribes. It deals with their relationship with each other.

It also deals with some of their relationships with persons.

The law of nations is formed by the general assent of civilized nations. Sources of international law also include international agreements, as well as treaties.

Sharia Law is Islamic law. It is based on two principal sources, the Koran and the teaching of Mohammed.”

OK-SAFE, Inc. – Suggests a tentative YES on SQ 755. There are still concerns with consulting other states’ laws, i.e. states that recognize homosexual marriage, being considered in OK courts. One lawyer we consulted did not think this would be an issue, but was an opinion only.

10) State Question 756 – Health Insurance (aka ‘Obama-Care opt out’)

Legislative Referendum No. 356– On the ballot in accordance with the provisions of [SJR 59](#) by *Newberry* of the Senate and *Thompson* of the House.

Ballot: “This measure adds a new section of law to the State Constitution. It adds Section 37 to Article 2. It defines “health care system.” It prohibits making a person participate in a health care system. It prohibits making an employer participate in a health care system. It prohibits making a health care provider provide treatment in a health care system. It allows persons and employees to pay for treatment directly. It allows a health care provider to accept payment for treatment directly. It allows the purchase of health care insurance in private health care systems. It allows the sale of health insurance in private health care systems.

The measure’s effect is limited. It would not affect any law or rule in effect as of January 1, 2010.

Nor could the measure affect or negate all federal laws or rules. The United States Constitution has a Supremacy Clause. That clause makes federal law the supreme law of the land. Under that clause Congress has the power to preempt state law. When Congress intends to preempt state law, federal law controls. When Congress intends it, constitutionally enacted federal law would preempt some or all of the proposed measure.”

Opponents of the measure say that since ‘Obama-Care’ is a Federal Law, that the supremacy clause of the Constitution will trump SQ756, and will result in costly litigation that will ultimately be fruitless.

Proponents of the measure say that the 10th Amendment clearly defines the scope of Federal power and within that scope the regulation of the choice to not purchase or to not participate in a particular system is non-economic activity and therefore cannot be reached by Congress in the exercise of the Interstate Commerce Clause of the Constitution; that a fine for the violation of the compulsory insurance provision falls outside the reach of Congress’ taxation power as defined by the Court.

OK-SAFE, Inc. – This is the weaker of the two bills introduced in 2010 opposing the federal healthcare bill. However, at this point, OK-SAFE recommends a YES Vote on SQ 756.

11) State Question 757 – Rainy Day Fund

Legislative Referendum No. 357– On the ballot in accordance with the provisions of [SJR 51](#) by *Johnson (Mike)* of the Senate and *Miller* of the House.

Ballot: “This measure amends the State Constitution. It amends Section 23 of Article 10. It increases the amount of surplus revenue which goes into a special fund. That fund is the Constitutional Reserve Fund. The amount would go from 10% to 15% of the funds certified as going to the General Revenue fund for the preceding fiscal year.”

OK-SAFE, Inc. – Recommends a NO Vote on SQ 757. Since the money (our money) ends up in a Reserve Fund that the Legislature has demonstrated they will tap into for virtually any reason under the sun, we cannot support increasing the surplus revenue amount by 50%.