

FIRST REGULAR SESSION

# HOUSE BILL NO. 387

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES PEARCE, YATES, LEMBKE (85),  
DEEKEN (Co-sponsors), HOLAND, ENGLER, DUSENBERG, MAY AND BEARDEN.

Read 1<sup>st</sup> time February 5, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1347L.011

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### AN ACT

To repeal sections 115.105, 115.123, 115.349, 115.351, 115.755, 115.758, 115.761, 115.765, 115.767, 115.770, 115.773, 115.776, 115.785, and 115.801, RSMo, and to enact in lieu thereof four new sections relating to presidential primary elections.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 115.105, 115.123, 115.349, 115.351, 115.755, 115.758, 115.761,  
2 115.765, 115.767, 115.770, 115.773, 115.776, 115.785, and 115.801, RSMo, are repealed and  
3 four new sections enacted in lieu thereof, to be known as sections 115.105, 115.123, 115.349,  
4 and 115.351, to read as follows:

115.105. 1. The chair of the county committee of each political party named on the  
2 ballot shall have the right to designate a challenger for each polling place, who may be present  
3 during the hours of voting, and a challenger for each location at which absentee ballots are  
4 counted, who may be present while the ballots are being prepared for counting and counted. The  
5 designating chair may substitute challengers at his or her discretion during such hours.

6 2. Challenges may only be made when the challenger believes the election laws of this  
7 state have been or will be violated, and each challenger shall report any such belief to the  
8 election judges, or to the election authority if not satisfied with the decision of the election  
9 judges.

10 3. Prior to the close of the polls, challengers may list and give out the names of those  
11 who have voted. The listing and giving out of names of those who have voted by a challenger  
12 shall not be considered giving information tending to show the state of the count.

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.**

13 4. [In a presidential primary election, challengers may collect information about the party  
14 ballot selected by the voter and may disclose party affiliation information after the polls close.

15 5.] All persons selected as challengers shall have the same qualifications required by  
16 section 115.085 for election judges.

115.123. 1. All public elections shall be held on Tuesday. Except as provided in  
2 subsections [2, 3, and 4] **2 and 3** of this section, and section 247.180, RSMo, all public elections  
3 shall be held on the general election day, the primary election day, the general municipal election  
4 day, the first Tuesday after the first Monday in February or November, or on another day  
5 expressly provided by city or county charter, the first Tuesday after the first Monday in June and  
6 in nonprimary years on the first Tuesday after the first Monday in August.

7 2. [Notwithstanding the provisions of subsection 1 of this section, an election for a  
8 presidential primary held pursuant to sections 115.755 to 115.785 shall be held on the first  
9 Tuesday after the first Monday in March of each presidential election year.

10 3.] The following elections shall be exempt from the provisions of subsection 1 of this  
11 section:

- 12 (1) Bond elections necessitated by fire, vandalism or natural disaster;
- 13 (2) Elections for which ownership of real property is required by law for voting; and
- 14 (3) Special elections to fill vacancies and to decide tie votes or election contests.

15 [4.] **3.** No city or county shall adopt a charter or charter amendment which calls for  
16 elections to be held on dates other than those established in subsection 1 of this section.

17 [5.] **4.** Nothing in this section prohibits a charter city or county from having its primary  
18 election in March if the charter provided for a March primary before August 28, 1999.

19 [6.] **5.** Nothing in this section shall prohibit elections held pursuant to section 65.600,  
20 RSMo, but no other issues shall be on the March ballot except pursuant to this chapter.

115.349. 1. Except as otherwise provided in sections 115.361 to 115.383 [or sections  
2 115.755 to 115.785], no candidate's name shall be printed on any official primary ballot unless  
3 the candidate has filed a written declaration of candidacy in the office of the appropriate election  
4 official by 5:00 p.m. on the last Tuesday in March immediately preceding the primary election.

5 2. No declaration of candidacy for nomination in a primary election shall be accepted  
6 for filing prior to 8:00 a.m. on the last Tuesday in February immediately preceding the primary  
7 election.

8 3. Each declaration of candidacy for nomination in a primary election shall state the  
9 candidate's full name, residence address, office for which such candidate proposes to be a  
10 candidate, the party ticket on which he or she wishes to be a candidate and that if nominated and  
11 elected he or she will qualify. The declaration shall be in substantially the following form:

12 I, ....., a resident and registered voter of the county of ..... and the state of

13 Missouri, residing at ....., do announce myself a candidate for the office of..... on the ..... party  
14 ticket, to be voted for at the primary election to be held on the .... day of ....., ..., and I further  
15 declare that if nominated and elected to such office I will qualify.

16 ..... Subscribed and sworn to  
17 Signature of candidate before me this .... day  
18 of ....., .....

19 .....  
20 Residence address Signature of election  
21 official or other officer  
22 authorized to administer

23 oaths  
24 .....

25 Mailing address (if different)  
26 .....

27 Telephone Number (Optional)

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29 If the declaration is to be filed in person, it shall be subscribed and sworn to by the candidate  
30 before an official authorized to accept his or her declaration of candidacy. If the declaration is  
31 to be filed by certified mail pursuant to the provisions of subsection 2 of section 115.355, it shall  
32 be subscribed and sworn to by the candidate before a notary public or other officer authorized  
33 by law to administer oaths.

115.351. No person who files as a party candidate for nomination or election to an office  
2 shall, without withdrawing, file as another party's candidate or an independent candidate for  
3 nomination or election to the office for the same term. No person who files as an independent  
4 candidate for election to an office shall, without withdrawing, file as a party candidate for  
5 nomination or election to the office for the same term. No person shall file for one office and,  
6 without withdrawing, file for another office to be filled at the same election. [A person who files  
7 a request to be included on the presidential primary ballot is not prohibited by this section from  
8 filing or appearing on any ballot as a party candidate for nomination to another office.] Receipt  
9 by the secretary of state of proper certification of nomination pursuant to subsection 1 of section  
10 115.399 constitutes withdrawal by operation of law pursuant to subsection 1 of section 115.359  
11 of any presidential or vice presidential nominee from any other office for which such nominee  
12 is a candidate at the same election. Any person violating any provision of this section shall be  
13 disqualified from running for nomination or election to any office at the primary and general  
14 election next succeeding the violation.

[115.755. A statewide presidential preference primary shall be held on the

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first Tuesday after the first Monday in February of each presidential election year.]

[115.758. On or before the tenth Tuesday prior to the date of the presidential preference primary, the secretary of state shall announce the official list of presidential candidates for each established political party as provided in section 115.761.]

[115.761. 1. The official list of presidential candidates for each established political party shall include the names of all constitutionally qualified candidates for whom, on or after 8:00 a.m. on the fifteenth Tuesday prior to the presidential primary, and on or before 5:00 p.m., on the eleventh Tuesday prior to the presidential primary, a written request to be included on the presidential primary ballot is filed with the secretary of state along with:

(1) Receipt of payment to the state committee of the established political party on whose ballot the candidate wishes to appear of a filing fee of one thousand dollars; or

(2) A written statement, sworn to before an officer authorized by law to administer oaths, that the candidate is unable to pay the filing fee and does not have funds in a campaign fund or committee to pay the filing fee and a petition signed by not less than five thousand registered Missouri voters, as determined by the secretary of state, that the candidate's name be placed on the ballot of the specified established political party for the presidential preference primary. The request to be included on the presidential primary ballot shall include each signer's printed name, registered address and signature and shall be in substantially the following form:

I (We) the undersigned, do hereby request that the name of ..... be placed upon the March ....., ....., presidential primary ballot as candidate for nomination as the nominee for President of the United States on the ..... party ticket.

2. The state or national party organization of an established political party that adopts rules imposing signature requirements to be met before a candidate can be listed as an official candidate shall notify the secretary of state by October first of the year preceding the presidential primary.

3. Any candidate or such candidate's authorized representative may have such candidate's name stricken from the presidential primary ballot by filing with the secretary of state on or before 5:00 p.m. on the eleventh Tuesday prior to the presidential primary election a written statement, sworn to before an officer authorized by law to administer oaths, requesting that such candidate's name not be printed on the official primary ballot. Thereafter, the secretary of state shall not include the name of that candidate in the official list announced pursuant to section 115.758 or in the certified list of candidates transmitted pursuant to section 115.765.

4. The filing times set out in this section shall only apply to presidential preference primaries, and are in lieu of those established in section 115.349.]

[115.765. On or before the tenth Tuesday prior to a presidential preference primary, the secretary of state shall transmit to each election authority a certified list containing the names of all candidates whose names shall appear on the presidential

4 preference primary ballot of each party. The names of the candidates shall appear in  
5 the order in which their request to be included on the presidential primary ballot was  
6 received in the office of the secretary of state, except that, in the case of candidates  
7 who file a request to be included on the presidential primary ballot with the secretary  
8 of state prior to 5:00 p.m. on the first day for filing, the secretary of state shall  
9 determine by random drawing the order in which such candidates' names shall appear  
10 on the ballot. The drawing shall be conducted so that each candidate, or candidate's  
11 representative, may draw a number at random at the time of filing. The secretary of  
12 state shall record the number drawn with the candidate's request to be included on the  
13 presidential primary ballot. The names of candidates filing on the first day for filing  
14 on each party ballot shall be listed in ascending order of the numbers so drawn.]

2 [115.767. Each election authority shall cause the name of candidates certified  
3 by the secretary of state to appear on the presidential preference primary ballot of  
each party, followed by a listing for an uncommitted vote.]

2 [115.770. The conduct of the presidential preference primary election and the  
3 count and canvass of the votes cast therein shall conform as nearly as is practicable  
4 to that prescribed for the conduct of the primary election for state officers. All  
5 primary election laws not inconsistent with the provisions of sections 115.750 to  
6 115.785 shall be applicable to the conduct of this election, and the form of the ballot  
7 insofar as is practicable shall be substantially as that prescribed by section 115.395.  
8 In a presidential preference primary, each voter shall be entitled to receive the ballot  
9 of one and only one established political party, designated by the voter before  
10 receiving such voter's ballot. Each voter who participates in a presidential preference  
11 primary shall be entitled to vote on all questions and for any candidates submitted by  
12 political subdivisions and special districts at the general municipal election. Each  
13 voter who does not wish to participate in a presidential preference primary may vote  
14 on all questions and for any candidates submitted by a political subdivision or special  
district at the general municipal election.]

2 [115.773. After the count and canvass of the votes cast, the secretary of state  
3 shall notify the state chair of each of the established political parties for whom a  
4 candidate was listed, of the number of votes recorded in that established political  
party's primary that each candidate and uncommitted listing received.]

2 [115.776. The state party organization which is the state organization  
3 recognized by the national organization of that established political party shall, after  
4 the primary and before the national convention, conduct a series of caucuses  
5 culminating in congressional and state conventions. Delegates to the national  
6 conventions shall be chosen at the congressional district and state conventions  
pursuant to rules established by the political parties.]

2 [115.785. All costs of a presidential preference primary shall be paid by the  
3 state, except that, pursuant to section 115.065, costs shall be shared proportionately  
4 by the state and any political subdivisions and special districts holding an election on  
5 the same day as any such primary. For any county with more than five hundred  
polling places, the state shall assist in assuring adequate poll workers and

6 equipment.]

2 [115.801. 1. Subject to appropriation from federal funds, the secretary of  
3 state shall administer a grant program annually for the purpose of involving youth in  
4 youth voting programs. The secretary of state may promulgate rules to effectuate the  
5 provisions of this subsection.

6 2. The secretary of state shall administer a grant program for the purpose of  
7 allowing election authorities to receive grants from the federal government for the  
8 purpose of improving the election process in federal elections. The secretary of state  
9 may promulgate rules to effectuate the provisions of this subsection.

10 3. Any rule or portion of a rule, as that term is defined in section 536.010,  
11 RSMo, that is created under the authority delegated in this section shall become  
12 effective only if it complies with and is subject to all of the provisions of chapter 536,  
13 RSMo, and, if applicable, section 536.028, RSMo. This subsection and chapter 536,  
14 RSMo, are nonseverable and if any of the powers vested with the general assembly  
15 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove  
16 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
17 authority and any rule proposed or adopted after August 28, 2002, shall be invalid  
and void.]