

SECOND REGULAR SESSION

# HOUSE BILL NO. 1994

## 93RD GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE HOSKINS.

Read 1st time March 9, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5554L.01I

---

### AN ACT

To repeal section 115.453, RSMo, and to enact in lieu thereof one new section relating to write-in candidates.

---

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

Section A. Section 115.453, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.453, to read as follows:

115.453. Election judges shall count votes for all candidates in the following manner:

(1) If a cross (X) mark appears in the circle immediately below a party name at the head of a column, each candidate of the party shall be counted as voted for. If a cross (X) mark appears in the circle immediately below more than one party name, no candidate shall be counted as voted for, except a candidate before whose name a cross (X) mark appears in the square preceding the name and a cross (X) mark does not appear in the square preceding the name of any candidate for the same office in another column. If a cross (X) mark appears in the circle immediately below a party name at the head of a column, and a cross (X) mark appears in the square next to the name of any candidate in another column, each candidate of the party whose circle is marked shall be counted as voted for, except where a cross (X) mark appears in the square preceding the name of any candidate in another column. Except as provided in this subdivision and subdivision (2) of this section, each candidate with a cross (X) mark in the square preceding his or her name shall be counted as voted for.

(2) If no cross (X) mark appears in the circle immediately below any party name, but a cross (X) mark does appear in the square next to any candidate's name, the name of each

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

16 candidate next to which a cross (X) mark appears shall be counted as voted for, and no other  
17 name shall be counted as voted for. If cross (X) marks appear next to the names of more  
18 candidates for an office than are entitled to fill the office, no candidate for the office shall be  
19 counted as voted for. If more than one candidate is to be nominated or elected to an office, and  
20 any voter has voted for the same candidate more than once for the same office at the same  
21 election, no votes cast by the voter for the candidate shall be counted.

22 (3) No vote shall be counted for any candidate that is not marked substantially in  
23 accordance with the provisions of this section. The judges shall count votes marked substantially  
24 in accordance with this section when the intent of the voter seems clear. Regulations  
25 promulgated by the secretary of state shall be used by the judges to determine voter intent. No  
26 ballot containing any proper votes shall be rejected for containing fewer marks than are  
27 authorized by law.

28 (4) Write-in votes shall be counted only for candidates for election to office who have  
29 filed a declaration of intent to be a write-in candidate for election to office with the proper  
30 election authority, who shall then notify the proper filing officer of the write-in candidate prior  
31 to 5:00 p.m. on the second Friday immediately preceding the election day; except that, write-in  
32 votes shall be counted only for candidates for election to state or federal office who have filed  
33 a declaration of intent to be a write-in candidate for election to state or federal office with the  
34 secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second Friday  
35 immediately preceding the election day. No person who filed as a party or independent candidate  
36 for nomination or election to an office may, without withdrawing as provided by law, file as a  
37 write-in candidate for election to the same office for the same term. No candidate who files for  
38 nomination to an office and is not nominated at a primary election may file a declaration of intent  
39 to be a write-in candidate for the same office at the general election. When declarations are  
40 properly filed with the secretary of state, the secretary of state shall promptly transmit copies of  
41 all such declarations to the proper election authorities for further action pursuant to this section.  
42 The election authority shall furnish a list to the election judges and counting teams prior to  
43 election day of all write-in candidates who have filed such declaration. This subdivision shall  
44 not apply to elections wherein candidates are being elected to an office for which no candidate  
45 has filed. **No person shall file a declaration of intent to be a write-in candidate for election  
46 to any municipal office unless such person is qualified to file a declaration of candidacy  
47 under section 115.349.**

48 (5) Write-in votes shall be cast and counted for a candidate without party designation.  
49 Write-in votes for a person cast with a party designation shall not be counted. Except for  
50 candidates for political party committees, no candidate shall be elected as a write-in candidate  
51 unless such candidate receives a separate plurality of the votes without party designation

52 regardless of whether or not the total write-in votes for such candidate under all party and  
53 without party designations totals a majority of the votes cast.

54 (6) When submitted to the election authority, each declaration of intent to be a write-in  
55 candidate for the office of United States president shall include the name of a candidate for vice  
56 president and the name of nominees for presidential elector equal to the number to which the  
57 state is entitled. At least one qualified resident of each congressional district shall be nominated  
58 as presidential elector. Each such declaration of intent to be a write-in candidate shall be  
59 accompanied by a declaration of candidacy for each presidential elector in substantially the form  
60 set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of  
61 presidential elector shall be subscribed and sworn to by the candidate before the election official  
62 receiving the declaration of intent to be a write-in, notary public or other officer authorized by  
63 law to administer oaths.

✓