

FIRST REGULAR SESSION

HOUSE BILL NO. 721

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DEEKEN.

Read 1st time February 1, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1703L.01I

AN ACT

To repeal sections 115.045, 115.124, 115.241, 115.385, 115.395, and 115.453, RSMo, and to enact in lieu thereof four new sections relating to election requirements.

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

Section A. Sections 115.045, 115.124, 115.241, 115.385, 115.395, and 115.453, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 115.045, 115.124, 115.395, and 115.453, to read as follows:

115.045. Each election authority shall have the authority to employ such attorneys and other employees as may be necessary to promptly and correctly perform the duties of the election authority. Where an electronic voting system or voting machines are used, the election authority shall designate competent employees to have custody of and supervise maintenance of the voting equipment. Board of election commissioners' employees shall be subject to the same restrictions and subscribe the same oath as members of the board of election commissioners, except that no employee of a board of election commissioners shall be required to post bond unless directed to do so by the board. Employee oaths and any bonds shall be filed and preserved in the office of the board. **No employee of the election authority shall be required to reside within the jurisdiction of the election authority as a condition of employment.**

115.124. 1. Notwithstanding any other law to the contrary, in a nonpartisan election in any **city, town, or village, as defined in chapter 72, RSMo, any** political subdivision, or special district [except for municipal elections], if the notice provided for in subsection 5 of section 115.127 has been published in at least one newspaper of general circulation in the

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.

5 district, and if the number of candidates who have filed for a particular office is equal to the
6 number of positions in that office to be filled by the election, no election shall be held for such
7 office, and the candidates shall assume the responsibilities of their offices at the same time and
8 in the same manner as if they had been elected. Notwithstanding any other provision of law to
9 the contrary, if at any election **in any city, town or village, as defined in chapter 72, RSMo,**
10 **any political subdivision, or any special district** the number of candidates filing for a particular
11 office exceeds the number of positions to be filled at such election, the election authority shall
12 hold the election as scheduled, even if a sufficient number of candidates withdraw from such
13 contest for that office so that the number of candidates remaining after the filing deadline is equal
14 to the number of positions to be filled.

15 2. The election authority or political subdivision responsible for the oversight of the
16 filing of candidates in any nonpartisan election in any political subdivision or special district
17 shall clearly designate where candidates shall form a line to effectuate such filings and determine
18 the order of such filings; except that, in the case of candidates who file a declaration of candidacy
19 with the election authority or political subdivision prior to 5:00 p.m. on the first day for filing,
20 the election authority or political subdivision may determine by random drawing the order in
21 which such candidates' names shall appear on the ballot. If a drawing is conducted pursuant to
22 this subsection, it shall be conducted so that each candidate may draw a number at random at the
23 time of filing. If such drawing is conducted, the election authority or political subdivision shall
24 record the number drawn with the candidate's declaration of candidacy. If such drawing is
25 conducted, the names of candidates filing on the first day of filing for each office on each ballot
26 shall be listed in ascending order of the numbers so drawn.

115.395. 1. At each primary election, there shall be as many separate ballots as there are
2 parties entitled to participate in the election.

3 2. The names of the candidates for each office on each party ballot shall be listed in the
4 order in which they are filed, except that, in the case of candidates who file a declaration of
5 candidacy with the secretary of state prior to 5:00 p.m. on the first day for filing, the secretary
6 of state shall determine by random drawing the order in which such candidates' names shall
7 appear on the ballot. The drawing shall be conducted so that each candidate may draw a number
8 at random at the time of filing. The secretary of state shall record the number drawn with the
9 candidate's declaration of candidacy. The names of candidates filing on the first day for filing
10 for each office on each party ballot shall be listed in ascending order of the numbers so drawn.
11 For the purposes of this subsection, the election authority responsible for oversight of the filing
12 of candidates, other than candidates that file with the secretary of state, shall clearly designate
13 where candidates shall form a line to effectuate such filings and determine the order of such
14 filings; except that, in the case of candidates who file a declaration of candidacy with the election

15 authority prior to 5:00 p.m. on the first day for filing, the election authority may determine by
16 random drawing the order in which such candidates' names shall appear on the ballot. If a
17 drawing is conducted pursuant to this subsection, it shall be conducted so that each candidate
18 may draw a number at random at the time of filing. If such drawing is conducted, the election
19 authority shall record the number drawn with the candidate's declaration of candidacy. If such
20 drawing is conducted, the names of candidates filing on the first day for filing for each office on
21 each party ballot shall be listed in ascending order of the numbers so drawn.

22 3. Insofar as applicable, the provisions of sections 115.237[, 115.241] and 115.245 shall
23 apply to each ballot prepared for a primary election, except that the ballot information may be
24 placed in vertical or horizontal rows, no circle shall appear under any party name and no write-in
25 lines shall appear under the name of any office for which a candidate is to be nominated at the
26 primary. At a primary election, write-in votes shall be counted only for persons who can be
27 elected to an office at the primary.

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

2 (1) No candidate shall be counted as voted for, except a candidate before whose name
3 a cross (X) mark appears in the square preceding the name and a cross (X) mark does not appear
4 in the square preceding the name of any candidate for the same office in another column. Except
5 as provided in this subdivision and subdivision (2) of this section, each candidate with a cross
6 (X) mark in the square preceding his or her name shall be counted as voted for.

7 (2) If cross (X) marks appear next to the names of more candidates for an office than are
8 entitled to fill the office, no candidate for the office shall be counted as voted for. If more than
9 one candidate is to be nominated or elected to an office, and any voter has voted for the same
10 candidate more than once for the same office at the same election, no votes cast by the voter for
11 the candidate shall be counted.

12 (3) No vote shall be counted for any candidate that is not marked substantially in
13 accordance with the provisions of this section. The judges shall count votes marked substantially
14 in accordance with this section and section 115.456 when the intent of the voter seems clear.
15 Regulations promulgated by the secretary of state shall be used by the judges to determine voter
16 intent. No ballot containing any proper votes shall be rejected for containing fewer marks than
17 are authorized by law.

18 (4) Write-in votes shall be counted only for candidates for election to office who have
19 filed a declaration of intent to be a write-in candidate for election to office with the proper
20 election authority, who shall then notify the proper filing officer of the write-in candidate prior
21 to 5:00 p.m. on the [second] **sixth** Friday immediately preceding the election day; except that,
22 write-in votes shall be counted only for candidates for election to state or federal office who have
23 filed a declaration of intent to be a write-in candidate for election to state or federal office with

24 the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the [second] **sixth** Friday
25 immediately preceding the election day. No person who filed as a party or independent candidate
26 for nomination or election to an office may, without withdrawing as provided by law, file as a
27 write-in candidate for election to the same office for the same term. No candidate who files for
28 nomination to an office and is not nominated at a primary election may file a declaration of intent
29 to be a write-in candidate for the same office at the general election. When declarations are
30 properly filed with the secretary of state, the secretary of state shall promptly transmit copies of
31 all such declarations to the proper election authorities for further action pursuant to this section.
32 The election authority shall furnish a list to the election judges and counting teams prior to
33 election day of all write-in candidates who have filed such declaration. This subdivision shall
34 not apply to elections wherein candidates are being elected to an office for which no candidate
35 has filed.

36 (5) Write-in votes shall be cast and counted for a candidate without party designation.
37 Write-in votes for a person cast with a party designation shall not be counted. Except for
38 candidates for political party committees, no candidate shall be elected as a write-in candidate
39 unless such candidate receives a separate plurality of the votes without party designation
40 regardless of whether or not the total write-in votes for such candidate under all party and
41 without party designations totals a majority of the votes cast.

42 (6) When submitted to the election authority, each declaration of intent to be a write-in
43 candidate for the office of United States president shall include the name of a candidate for vice
44 president and the name of nominees for presidential elector equal to the number to which the
45 state is entitled. At least one qualified resident of each congressional district shall be nominated
46 as presidential elector. Each such declaration of intent to be a write-in candidate shall be
47 accompanied by a declaration of candidacy for each presidential elector in substantially the form
48 set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of
49 presidential elector shall be subscribed and sworn to by the candidate before the election official
50 receiving the declaration of intent to be a write-in, notary public or other officer authorized by
51 law to administer oaths.

2 [115.241. Each party emblem shall be printed on the ballot above the
3 party caption.]

2 [115.385. 1. Not later than the twelfth Tuesday before an election at
3 which the party's name will appear on the ballot, the state committee of each
4 established statewide political party, the chairman of the county or district
5 committee of each political party established for a county or district, and the
6 provisional party chairman of each new party and group of petitioners shall select
7 a party emblem and submit it in writing to the secretary of state. No party shall
submit the American flag as an emblem. Except as provided in subsections 2 and

8 3 of this section, no party shall submit any emblem deceptively similar to an
9 emblem which has been used by any other party in the past five years or is the
10 subject of a pending certification.

11 2. If a new party is formed for more than one district or county at the
12 same time, with the same name and the same provisional party chairman, the
13 same party emblem may be submitted for the party in each such district or
14 county.

15 3. Any political party established in a district or county may, by a
16 majority vote of its committee members, authorize the use of its emblem in other
17 districts and counties, and in the state as a whole.

18 4. When a party emblem is properly submitted to the secretary of state,
19 the secretary of state shall certify the emblem to the appropriate election
20 authorities when the secretary of state certifies the names of candidates pursuant
21 to sections 115.387 and 115.401.]

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