

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1311**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Financial and Governmental Organizations and Elections, April 10, 2008, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

3341S.02C

TERRY L. SPIELER, Secretary.

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**AN ACT**

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

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*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Section A. Section 115.453, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.453, to read as follows: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) 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. 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 cross (X) marks appear next to the names of more candidates for an office than are entitled to fill the office, no candidate for the office shall be counted as voted for. If more than one candidate is to be nominated or elected to an office, and any voter has voted for the same candidate more than once for the same office at the same election, no votes cast by the voter for the candidate shall be counted.

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

21 than are authorized by law.

22           (4) Write-in votes shall be counted only for candidates for election to office  
23 who have filed a declaration of intent to be a write-in candidate for election to  
24 office with the proper election authority, who shall then notify the proper filing  
25 officer of the write-in candidate prior to 5:00 p.m. on the second Friday  
26 immediately preceding the election day; except that, write-in votes shall be  
27 counted only for candidates for election to state or federal office who have filed  
28 a declaration of intent to be a write-in candidate for election to state or federal  
29 office with the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on  
30 the second Friday immediately preceding the election day. No person who filed  
31 as a party or independent candidate for nomination or election to an office may,  
32 without withdrawing as provided by law, file as a write-in candidate for election  
33 to the same office for the same term. No candidate who files for nomination to  
34 an office and is not nominated at a primary election may file a declaration of  
35 intent to be a write-in candidate for the same office at the general election. When  
36 declarations are properly filed with the secretary of state, the secretary of state  
37 shall promptly transmit copies of all such declarations to the proper election  
38 authorities for further action pursuant to this section. The election authority  
39 shall furnish a list to the election judges and counting teams prior to election day  
40 of all write-in candidates who have filed such declaration. This subdivision shall  
41 not apply to elections wherein candidates are being elected to an office for which  
42 no candidate has filed. **No person shall file a declaration of intent to be**  
43 **a write-in candidate for election to any municipal office unless such**  
44 **person is qualified to be certified as a candidate under section 115.346.**

45           (5) Write-in votes shall be cast and counted for a candidate without party  
46 designation. Write-in votes for a person cast with a party designation shall not  
47 be counted. Except for candidates for political party committees, no candidate  
48 shall be elected as a write-in candidate unless such candidate receives a separate  
49 plurality of the votes without party designation regardless of whether or not the  
50 total write-in votes for such candidate under all party and without party  
51 designations totals a majority of the votes cast.

52           (6) When submitted to the election authority, each declaration of intent  
53 to be a write-in candidate for the office of United States president shall include  
54 the name of a candidate for vice president and the name of nominees for  
55 presidential elector equal to the number to which the state is entitled. At least  
56 one qualified resident of each congressional district shall be nominated as

57 presidential elector. Each such declaration of intent to be a write-in candidate  
58 shall be accompanied by a declaration of candidacy for each presidential elector  
59 in substantially the form set forth in subsection 3 of section 115.399. Each  
60 declaration of candidacy for the office of presidential elector shall be subscribed  
61 and sworn to by the candidate before the election official receiving the declaration  
62 of intent to be a write-in, notary public or other officer authorized by law to  
63 administer oaths.

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