

SECOND REGULAR SESSION\

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1311

94TH GENERAL ASSEMBLY

3341S.02T

2008

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Section A. Section 115.453, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.453, to read as follows: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

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 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 Friday immediately preceding the election day; except that, write-in
22 votes shall be counted only for candidates for election to state or federal office who have filed
23 a declaration of intent to be a write-in candidate for election to state or federal office with the
24 secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second 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. **No person shall file a declaration of intent to be a write-in candidate for election**
36 **to any municipal office unless such person is qualified to be certified as a candidate under**
37 **section 115.346.**

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

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

52 receiving the declaration of intent to be a write-in, notary public or other officer authorized by
53 law to administer oaths.

✓

