

SECOND REGULAR SESSION

HOUSE BILL NO. 1416

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENTLICHER.

5310H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.225, 115.237, and 115.493, RSMo, and to enact in lieu thereof four new sections relating to elections.

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

Section A. Sections 115.225, 115.237, and 115.493, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 115.225, 115.237, 115.493, and 115.506, to read as follows:

115.225. 1. Before use by election authorities in this state, the secretary of state shall approve the marking devices and the automatic tabulating equipment used in electronic voting systems and may promulgate rules and regulations to implement the intent of sections 115.225 to 115.235.

2. No electronic voting system shall be approved unless it:

(1) Permits voting in absolute secrecy;

(2) Permits each voter to vote for as many candidates for each office as a voter is lawfully entitled to vote for;

(3) Permits each voter to vote for or against as many questions as a voter is lawfully entitled to vote on, and no more;

(4) Provides facilities for each voter to cast as many write-in votes for each office as a voter is lawfully entitled to cast;

(5) Permits each voter in a primary election to vote for the candidates of only one party announced by the voter in advance;

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.

15 (6) Permits each voter at a presidential election to vote by use of a single punch or mark
16 for the candidates of one party or group of petitioners for president, vice president and their
17 presidential electors;

18 (7) Accurately counts all proper votes cast for each candidate and for and against each
19 question;

20 (8) Is set to reject all votes, except write-in votes, for any office and on any question
21 when the number of votes exceeds the number a voter is lawfully entitled to cast;

22 (9) Permits each voter, while voting, to clearly see the ballot label;

23 (10) **Produces the election results from paper ballots that voters have marked by**
24 **hand or, in the case of disabled voters who wish assistance, from paper ballots that have**
25 **been marked by paper ballot marking devices designed to assist disabled voters;**

26 (11) Has been tested and is certified by an independent authority that meets the voting
27 system standards developed by the Federal Election Commission or its successor agency. The
28 provisions of this subdivision shall not be required for any system purchased prior to August 28,
29 2002.

30 **3. If any election authority uses any direct-record electronic touch-screen, vote-**
31 **counting machine to accommodate disabled voters, the election authority may continue to**
32 **use such machine solely for disabled voters who desire to use it. Upon the removal of such**
33 **voting machine from the election authority's inventory because of mechanical malfunction,**
34 **wear and tear, or any other reason, the machine shall not be replaced and no additional**
35 **direct-record electronic voting machine shall be added to the election authority's inventory.**
36 **Replacement of equipment for use by disabled voters shall be with paper ballot marking**
37 **devices designed to assist the disabled.**

38 **4.** The secretary of state shall promulgate rules and regulations to allow the use of a
39 computerized voting system. The procedures shall provide for the use of a computerized voting
40 system with the ability to provide a paper audit trail. Notwithstanding any provisions of this
41 chapter to the contrary, such a system may allow for the storage of processed ballot materials in
42 an electronic form.

43 [4.] **5.** Any rule or portion of a rule, as that term is defined in section 536.010, that is
44 created under the authority delegated in this section shall become effective only if it complies
45 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
46 This section and chapter 536 are nonseverable and if any of the powers vested with the general
47 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
48 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
49 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.237. 1. **The official ballot shall be a paper ballot that is hand-marked by the voter or, in the case of disabled voters who wish assistance, by a paper ballot that has been marked by a device designed to assist the disabled, except as provided in subsection 3 of section 115.225.**

2. Each ballot printed or designed for use with an electronic voting system for any election pursuant to this chapter shall contain all questions and the names of all offices and candidates certified or filed pursuant to this chapter and no other. As far as practicable, all questions and the names of all offices and candidates for which each voter is entitled to vote shall be printed on one page except for the ballot for political party committee persons in polling places not utilizing an electronic voting system which may be printed separately and in conformity with the requirements contained in this section. As far as practicable, ballots containing only questions and the names of nonpartisan offices and candidates shall be printed in accordance with the provisions of this section, except that the ballot information may be listed in vertical or horizontal rows. The names of candidates for each office shall be listed in the order in which they are filed.

[2.] 3. Except as provided in subsection [5] 6 of this section, each ballot shall have:

- (1) Each party name printed in capital letters not less than eighteen point in size;
- (2) The name of each office printed in capital letters not less than eight point in size;
- (3) The name of each candidate printed in capital letters not less than ten point in size;
- (4) A small square, the sides of which shall not be less than one-fourth inch in length, printed directly to the left of each candidate's name and on the same line as the candidate's name. When write-in votes are authorized and no candidate's name is to be printed under the name of an office in a party or nonpartisan column, under the name of the office in the column shall be printed a square. Directly to the right of the square shall be printed a horizontal line on which the voter may vote for a person whose name does not appear on the ballot. When more than one position is to be filled for an office, and the number of candidates' names under the office in a column is less than the number of positions to be filled, the number of squares and write-in lines printed in the column shall equal the difference between the number of candidates' names and the number of positions to be filled;
- (5) The list of candidates of each party and all nonpartisan candidates placed in separate columns with a heavy vertical line between each list;
- (6) A horizontal line extending across the ballot three-eighths of an inch below the last name or write-in line under each office in such a manner that the names of all candidates and all write-in lines for the same office appear between the same horizontal lines. If write-in votes are not authorized, the horizontal line shall extend across the ballot three-eighths of an inch below the name of the last candidate under each office;

37 (7) In a separate column or beneath a heavy horizontal line under all names and write-in
38 lines, all questions;

39 (8) At least three-eighths of an inch below all other matter on the ballot, printed in
40 ten-point Gothic type, the words "Instructions to Voters" followed by directions to the voter on
41 marking the ballot as provided in section 115.439;

42 (9) Printed at the top on the face of the ballot the words "Official Ballot" followed by the
43 date of the election and the statement "Instruction to Voters: Place an X in the square opposite
44 the name of the person for whom you wish to vote."

45 [3.] 4. As nearly as practicable, each ballot shall be in substantially the following form:

46 OFFICIAL BALLOT

DATE

47 REPUBLICAN	DEMOCRATIC	THIRD PARTY	INDEPENDENT
48 For President	For President	For President	For President
49 and	and	and	and
50 Vice President	Vice President	Vice President	Vice President
51 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
52			
53 For	For	For	For
54 United States	United States	United States	United States
55 Senator	Senator	Senator	Senator
56 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
57			
58 For Governor	For Governor	For Governor	For Governor
59 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
60			
61 For Lieutenant	For Lieutenant	For Lieutenant	For Lieutenant
62 Governor	Governor	Governor	Governor
63 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
64			
65 For Secretary	For Secretary	For Secretary	For Secretary
66 of State	of State	of State	of State
67 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
68			
69 For Treasurer	For Treasurer	For Treasurer	For Treasurer
70 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

71

72	For Attorney	For Attorney	For Attorney	For Attorney
73	General	General	General	General
74	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
75				
76	For	For	For	For
77	United States	United States	United States	United States
78	Representative	Representative	Representative	Representative
79	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
80				
81	For State	For State	For State	For State
82	Senator	Senator	Senator	Senator
83	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
84				
85	For State	For State	For State	For State
86	Representative	Representative	Representative	Representative
87	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
88				
89	For Circuit	For Circuit	For Circuit	For Circuit
90	Judge	Judge	Judge	Judge
91	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
92				

[4.] 5. No ballot printed or designed for use with an electronic voting system for any partisan election held under this chapter shall allow a person to vote a straight political party ticket. For purposes of this subsection, a "straight political party ticket" means voting for all of the candidates for elective office who are on the ballot representing a single political party by a single selection on the ballot.

[5.] 6. The secretary of state shall promulgate rules that specify uniform standards for ballot layout for each electronic or computerized ballot counting system approved under the provisions of section 115.225 so that the ballot used with any counting system is, where possible, consistent with the intent of this section. Nothing in this section shall be construed to require the format specified in this section if it does not meet the requirements of the ballot counting system used by the election authority.

[6.] 7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general

108 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
109 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
110 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.493. The election authority shall keep all voted ballots, ballot cards, processed ballot
2 materials in electronic form and write-in forms, and all applications, statements, certificates,
3 affidavits and computer programs relating to each election for twenty-two months after the date
4 of the election. During the time that voted ballots, ballot cards, processed ballot materials in
5 electronic form and write-in forms are kept by the election authority, it shall not open or inspect
6 them or allow anyone else to do so, except upon order of a legislative body trying an election
7 contest, a court or a grand jury. After twenty-two months, the ballots, ballot cards, processed
8 ballot materials in electronic form, write-in forms, applications, statements, certificates,
9 affidavits and computer programs relating to each election may be destroyed. If an election
10 contest, grand jury investigation or civil or criminal case relating to the election is pending at the
11 time, however, the materials shall not be destroyed until the contest, investigation or case is
12 finally determined.

115.506. 1. No election shall be certified until an audit has been completed on the
2 **election returns.**

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