

SECOND REGULAR SESSION

# HOUSE BILL NO. 1778

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CURTMAN.

5321H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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

Section A. Sections 115.225 and 115.237, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 115.225 and 115.237, to read as follows: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

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

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.

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

25 (10) Permits each voter, while voting, to clearly see the ballot label;

26 [(10)] (11) Has been tested and is certified by an independent authority that meets the  
27 voting system standards developed by the Federal Election Commission or its successor agency.  
28 The provisions of this subdivision shall not be required for any system purchased prior to August  
29 28, 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**  
2 **voter, or in the case of disabled voters who need assistance, by a paper ballot-marking**  
3 **device designed to assist the disabled, except as provided in subsection 3 of section 115.225.**

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

15           [2.] **3.** In polling places using electronic voting systems, the ballot information may be  
16 arranged in vertical or horizontal rows or on a number of separate pages or screens. In any event,  
17 the name of each candidate, the candidate's party, the office for which he or she is a candidate,  
18 and each question shall be indicated clearly on the ballot.

19           [3.] **4.** Nothing in this subchapter shall be construed as prohibiting the use of a separate  
20 paper ballot for questions or for the presidential preference primary in any polling place using  
21 an electronic voting system.

22           [4.] **5.** Where electronic voting systems are used and when write-in votes are authorized  
23 by law, a write-in ballot, which may be in the form of a separate paper ballot, card, or envelope,  
24 may be provided by the election authority to permit each voter to write in the names of persons  
25 whose names do not appear on the ballot.

26           [5.] **6.** No ballot printed or designed for use with an electronic voting system for any  
27 partisan election held under this chapter shall allow a person to vote a straight political party  
28 ticket. For purposes of this subsection, a "straight political party ticket" means voting for all of  
29 the candidates for elective office who are on the ballot representing a single political party by a  
30 single selection on the ballot.

31           [6.] **7.** The secretary of state shall promulgate rules that specify uniform standards for  
32 ballot layout for each electronic or computerized ballot counting system approved under the  
33 provisions of section 115.225 so that the ballot used with any counting system is, where possible,  
34 consistent with the intent of this section. Nothing in this section shall be construed to require  
35 the format specified in this section if it does not meet the requirements of the ballot counting  
36 system used by the election authority.

37           [7.] **8.** Any rule or portion of a rule, as that term is defined in section 536.010, that is  
38 created under the authority delegated in this section shall become effective only if it complies  
39 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.

40 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
41 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and  
42 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
43 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

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