

HCS HB 2140 -- ELECTIONS (McGaugh)

This bill changes election laws. In its main provisions the bill:

- (1) Authorizes the Secretary of State (SOS) to audit voter registration lists and require election authorities to remove improper names. Audit procedures and deadlines are specified in the bill and noncompliance could result in a withhold of funds (Section 28.960, RSMo);
- (2) Removes obsolete references to ballot cards and requires voting machines to be air gapped as a security measure. The term "air gapped" is specified in the bill (Section 115.013, 115.417, 115.447);
- (3) Prohibits the state and its political subdivisions from receiving or expending private money for preparing, administering, or conducting an election or registering voters (Section 115.022);
- (4) Removes the one year voter and residency requirement for election commissioners, but retains the requirements of voter registration and residency at the time of appointment (Section 115.031);
- (5) Exempts board of election commissioners and clerk employees from requirement to reside or register within the jurisdiction in which they serve (Sections 115.045 and 115.051);
- (6) Allows appointment of election judges who reside outside the requisite election authority's jurisdiction without the need for written consent from the election authority in whose jurisdiction the potential judge resides. Procedures for selecting election judges from lists submitted by political party committees is specified (Section 115.081; 115.085);
- (7) Repeals specified registration exceptions for intrastate new residents and authorizes registration in the state of Missouri for such individuals (Section 115.135);
- (8) Authorizes the Department of Revenue to use electronic applications when sending materials to election authorities under the existing voter registration program in place at the Division of Motor Vehicles and Drivers Licensing, within the Department of Revenue. No person with documentation showing non-citizenship will be offered registration to vote, and voter information may be analyzed to avoid mistakes using the statewide voter registration database as specified in the bill. Electronic applications shall be sent no later than three business days after completion of a form. The electronic applications shall be secure and in a format

compatible with the existing Voter Registration System under Section 115.158. The Secretary of State and Director of the Department of Revenue shall guarantee the security and transmission of electronic data. Images of signatures may be used for the purpose of voter registration (Sections 115.151, 115.160, 115.960);

(9) Restricts voter information released by election authorities by eliminating the date of birth and prohibiting uses for commercial purposes. Certain requirements to release such information to the general public are also repealed or modified. Specified voter history information will be forwarded to the Secretary of State within three months after an election (Sections 115.157 and 115.289);

(10) Allows registered voters to file change of address forms in person after the deadline to register to vote including on election day at the Office of the Election Authority if they provide a type of personal identification under Subsection 1 of Section 115.427 which involves photographic identification (Sections 115.165);

(11) Prohibit payment for soliciting voter registration applications and requires registration with the Secretary of State's office for soliciting more than 10 voter registration applications as specified in the bill (Section 115.205).

(12) Beginning January 1, 2024, the bill requires the use of a paper ballot and repeals electronic voting system language with certain exceptions for voting equipment used for the disabled. The bill requires local election authorities to be members of the Center for Internet Security and allows the SOS to review cyber security for local election authorities and vendors as specified in the bill. Testing of vendor products such as programs and machines is allowed and subject to appropriation (Sections 115.225, 115.237, 115.447);

(13) Defines absentee ballots as those authorized to be cast away from a polling place or in the office of the election authority or other authorized location designated by the election authority. References to Space Force are included for purposes of voting processes and electronic ballot information authorized for the Armed Forces (Sections 115.257, 115.275, 115.902);

(14) Allows use of absentee ballots to vote in person with a form of personal identification as specified in the bill. Notarization requirements are also specified in the bill depending upon the excuse for voting absentee and whether or not voting is conducted in person. Affidavit forms are modified. The casting of in person absentee ballots with photographic identification is authorized only if courts uphold the constitutionality of photographic

identification requirements as specified in the bill. No individual or group shall solicit voters regarding absentee ballot applications and such applications shall not be pre-filled and provided to voters (Sections 115.277 and 115.279, 115.283);

(15) Defines casting of absentee ballots as specified in the bill (Section 115.286);

(16) Allows voter assistance in cases of temporary confinement due to illness or physical disability on election day, but repeals specific COVID-19 references to mail-in ballots that have expired (Sections 115.287, 115.291, and 115.652);

(17) Specifies photographic identification requirements for voting a regular ballot, but allows use of provisional ballots with any type of documentation currently allowed for voting. A line item appropriation for the Secretary of State's Office regarding notice of personal identification is repealed. Certain affidavit requirements are repealed and requirements for provisional ballots are specified in the bill (Section 115.427);

(18) Specifies that once a ballot is submitted, then it is deemed cast (115.435);

(19) Repeals expired Section 115.302, which allowed mail in ballots during the COVID-19 crisis and other sections referencing obsolete COVID-19 laws (Section 115.652);

(20) Establishes the "Missouri Elections Sovereignty Act" which demarcates the distinction between federal and state elections and reserves the power of the General Assembly over those aspects of both state and federal elections granted to the states under the federal constitution as specified in the bill (Section 115.1200);

(21) Requires certain state agencies and persons authorized to administer elections to report communications involving elections from the federal government and its agencies as specified in the bill. The implementation of federal guidance concerning election laws, rules, and policies will require notice to the General Assembly and a time limit of 30 days prior to implementation. Violation of implementation requirements will result in a fine of \$5000 to be levied every 30 days until any implemented guidance is withdrawn. This provision expires on February 1, 2025 (Section 115.1505);

(22) Requires notice of the receipt or intent to distribute federal funds for use in election administration as specified in the bill. The General Assembly, by vote, may decline acceptance of funds during the 30 day notice periods. A violation of the notice

requirements will result in a fine in the amount of any funds accepted or distributed in violation of the bill and an additional \$1000. This notice requirement expires on February 1, 2025 (Section 115.1510);

(23) Authorizes any school district to adopt specified provisions prohibiting students of the male sex from participating in athletic activities reserved exclusively for females if such provisions are approved by a vote of the residents of the school district. The joint committee on education will study policies involving exclusively male and female athletic events and issue a report with findings and recommendations to the General Assembly before January 1, 2024 (167.177);

(24) Limits the authority or ability of specified public officials to nullify, suspend, enjoin, alter, or accept compromises conflicting with Chapters 115 to 128. State or federal court challenges to state statutes as unconstitutional or preempted by federal law or as otherwise void shall require notice to the Speaker of the House of Representatives and the President Pro Tem of the Senate within 14 days. Methods for intervention in lawsuits by each house or joint intervention by both houses of the General Assembly are specified in the bill and include how public funds may be used upon appropriation. Intervention of right does not waive the legislative immunity or legislative privilege of any member, officer, or staff of the General Assembly (Section 1); and

(25) Creates the offense of tampering with an election official which is specified in the bill as the release of certain personal information about election officials with the intent to harass, threaten, or influence an official. The offense of tampering with an election official shall be a class D felony unless the offense results in death or bodily injury to the official or a member of the official's family, the offense shall be a class B felony.

This bill is similar to HB 2113 (2022) and HB 738 Reperfected (2021).