

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1940

103RD GENERAL ASSEMBLY

4851S.02C

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 108.240, 115.125, 115.127, 493.050, and 493.070, RSMo, and to enact in lieu thereof five new sections relating to publication of notices.

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

Section A. Sections 108.240, 115.125, 115.127, 493.050,  
2 and 493.070, RSMo, are repealed and five new sections enacted  
3 in lieu thereof, to be known as sections 108.240, 115.125,  
4 115.127, 493.050, and 493.070, to read as follows:

108.240. 1. Before any general obligation bearer bond  
2 or general obligation registered bond, hereafter issued by  
3 any county, township, city, town, village or school district  
4 or special road district or fire protection district or by  
5 virtue of the provisions of chapters 243, 245, 248, and  
6 sections 242.010 to 242.690 for any purpose whatever, shall  
7 obtain validity or be negotiated:

8 (1) If such bonds are in bearer form, such bonds shall  
9 first be presented to the state auditor, who, other  
10 provisions of law notwithstanding, shall certify by manual  
11 or facsimile endorsement of such bonds that all conditions  
12 of the laws have been complied with in its issue, if that be  
13 the case, and also that the conditions of the contract,  
14 under which they were ordered to be issued, have also been  
15 complied with and the evidence of that fact shall be filed  
16 and preserved by the auditor. The state auditor may endorse

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 bearer bonds with the auditor's facsimile signature in lieu  
18 of manual signature after filing the auditor's manual  
19 signature, certified by the auditor under oath, with the  
20 secretary of state; and

21 (2) If such bonds are in registered form, the  
22 proceedings relating to the issuance of such registered  
23 bonds shall first be presented to the state auditor, who  
24 shall examine the same and shall issue a certificate that  
25 such proceedings comply with all conditions of the laws, if  
26 that be the case, and also that the conditions of the  
27 contract, under which they were ordered to be issued, have  
28 also been complied with, and the evidence of these facts  
29 shall be filed and preserved by the auditor. The state  
30 auditor shall also maintain the following information: the  
31 name of the issuer of the bonds; the amount thereof; the  
32 maturity dates thereof; the interest rates thereon; and the  
33 provisions with respect to prepayment, if any.

34 2. Such bearer bonds after receiving the said  
35 certificate of the auditor as herein provided and such  
36 registered bonds after the issuance of the said certificate  
37 as herein provided shall thereafter be held in every action,  
38 suit or proceeding in which their validity is, or may be,  
39 brought into question, prima facie, valid and binding  
40 obligations, and in every action brought to enforce  
41 collection of such bonds, the certificate of such auditor,  
42 or a duly certified copy thereof, shall be admitted and  
43 received in evidence of the validity of such bonds, together  
44 with the coupons thereto attached if any; provided, the only  
45 defense which can be offered against the validity of such  
46 bonds shall be for forgery or fraud. But this section shall  
47 not be construed to give validity to any such bonds as may  
48 be issued in excess of the limit fixed by the constitution,

49 or contrary to its provisions, but all such bonds shall, to  
50 the extent of such excess, be held void; and provided  
51 further, that the remedy of injunction shall also lie at the  
52 instance of any taxpayer of the respective county, city,  
53 town, village, township or school district or special road  
54 district or fire protection district or drainage district or  
55 levy district to prevent the registration of any bonds,  
56 alleged to be illegally issued or funded.

57 **3. For purposes of subsection 1 of this section, once**  
58 **the time period set forth in section 115.557 has expired, if**  
59 **no election contest has been brought, all conditions of**  
60 **chapter 115 shall be deemed as having been complied with in**  
61 **the issuance of the bond.**

115.125. 1. Not later than 5:00 p.m. on the tenth  
2 Tuesday prior to any election, except a special election to  
3 decide an election contest, tie vote or an election to elect  
4 seven members to serve on a school board of a district  
5 pursuant to section 162.241, or a delay in notification  
6 pursuant to subsection [3] 2 of this section, or pursuant to  
7 the provisions of section 115.399, the officer or agency  
8 calling the election shall notify the election authorities  
9 responsible for conducting the election. The notice shall  
10 be in writing, shall specify the name of the officer or  
11 agency calling the election and shall include a certified  
12 copy of the legal notice to be published pursuant to  
13 subsection 2 of section 115.127. The notice and any other  
14 information required by this section may, with the prior  
15 notification to the election authority receiving the notice,  
16 be accepted by **email or** facsimile transmission prior to 5:00  
17 p.m. on the tenth Tuesday prior to the election[, provided  
18 that the original copy of the notice and a certified copy of  
19 the legal notice to be published shall be received in the

20 office of the election authority within three business days  
21 from the date of the facsimile transmission.

22 2. In lieu of a certified copy of the legal notice to  
23 be published pursuant to subsection 2 of section 115.127,  
24 each notice of a special election to fill a vacancy shall  
25 include the name of the office to be filled, the date of the  
26 election and the date by which candidates must be selected  
27 or filed for the office. Not later than the sixth Tuesday  
28 prior to any special election to fill a vacancy called by a  
29 political subdivision or special district, the officer or  
30 agency calling the election shall certify a sample ballot to  
31 the election authorities responsible for conducting the  
32 election.

33 3.] 2. Except as provided for in sections 115.247 and  
34 115.359, if there is no additional cost for the printing or  
35 reprinting of ballots or if the political subdivision or  
36 special district calling for the election agrees to pay any  
37 printing or reprinting costs, a political subdivision or  
38 special district may, at any time after certification of the  
39 notice of election required in subsection 1 of this section,  
40 but no later than 5:00 p.m. on the eighth Tuesday before the  
41 election, be permitted to make late notification to the  
42 election authority pursuant to court order, which, except  
43 for good cause shown by the election authority in opposition  
44 thereto, shall be freely given upon application by the  
45 political subdivision or special district to the circuit  
46 court of the area of such subdivision or district. No court  
47 shall have the authority to order an individual or issue be  
48 placed on the ballot less than eight weeks before the date  
49 of the election.

115.127. 1. Except as provided in subsection 4 of  
2 this section, upon receipt of notice of a special election

3 to fill a vacancy [submitted pursuant to subsection 2 of  
4 section 115.125], the election authority shall cause legal  
5 notice of the special election to be published in a  
6 newspaper of general circulation in its jurisdiction. The  
7 notice shall include the name of the officer or agency  
8 calling the election, the date and time of the election, the  
9 name of the office to be filled and the date by which  
10 candidates must be selected or filed for the office. Within  
11 one week prior to each special election to fill a vacancy  
12 held in its jurisdiction, the election authority shall cause  
13 legal notice of the election to be published in two  
14 newspapers of different political faith and general  
15 circulation in the jurisdiction. The legal notice shall  
16 include the date and time of the election, the name of the  
17 officer or agency calling the election and a sample ballot.  
18 If there is only one newspaper of general circulation in the  
19 jurisdiction, the notice shall be published in the newspaper  
20 within one week prior to the election. If there are two or  
21 more newspapers of general circulation in the jurisdiction,  
22 but no two of opposite political faith, the notice shall be  
23 published in any two of the newspapers within one week prior  
24 to the election.

25 2. Except as provided in subsections 1 and 4 of this  
26 section and in sections 115.521, 115.549 and 115.593, the  
27 election authority shall cause legal notice of each election  
28 held in its jurisdiction to be published. The notice shall  
29 be published in two newspapers of different political faith  
30 and qualified pursuant to chapter 493 which are published  
31 within the bounds of the area holding the election. If  
32 there is only one so-qualified newspaper, then notice shall  
33 be published in only one newspaper. If there is no  
34 newspaper published within the bounds of the election area,

35 then the notice shall be published in two qualified  
36 newspapers of different political faith serving the area.  
37 Notice shall be published twice[, the first publication  
38 occurring in the second week prior to the election, and the  
39 second publication occurring] within [one week] **six weeks**  
40 prior to the election. Each such legal notice shall include  
41 the date and time of the election, the name of the officer  
42 or agency calling the election and a sample ballot; and,  
43 unless notice has been given as provided by section 115.129,  
44 the second publication of notice of the election shall  
45 include the location of polling places. The election  
46 authority may provide any additional notice of the election  
47 it deems desirable.

48 3. The election authority shall print the official  
49 ballot as the same appears on the sample ballot, and no  
50 candidate's name or ballot issue which appears on the sample  
51 ballot or official printed ballot shall be stricken or  
52 removed from the ballot except on death of a candidate or by  
53 court order, but in no event shall a candidate or issue be  
54 stricken or removed from the ballot less than eight weeks  
55 before the date of the election.

56 4. In lieu of causing legal notice to be published in  
57 accordance with any of the provisions of this chapter, the  
58 election authority [in jurisdictions which have less than  
59 seven hundred fifty registered voters and in which no  
60 newspaper qualified pursuant to chapter 493 is published,]  
61 may cause legal notice to be mailed [during the second week  
62 prior to the election, by first class mail,] **within six**  
63 **weeks prior to the election** to each registered voter at the  
64 voter's voting address **and published once in one or more**  
65 **newspapers in the county. An election authority may exclude**  
66 **from this mailing any voter that is designated as an**

67 **inactive voter pursuant to section 115.193.** All such legal  
68 notices shall include the date and time of the election, the  
69 location of the polling place, the name of the officer or  
70 agency calling the election and a sample ballot.

71 5. If the opening date for filing a declaration of  
72 candidacy for any office in a political subdivision or  
73 special district is not required by law or charter, the  
74 opening filing date shall be 8:00 a.m., the seventeenth  
75 Tuesday prior to the election. If the closing date for  
76 filing a declaration of candidacy for any office in a  
77 political subdivision or special district is not required by  
78 law or charter, the closing filing date shall be 5:00 p.m.,  
79 the fourteenth Tuesday prior to the election. The political  
80 subdivision or special district calling an election shall,  
81 before the seventeenth Tuesday, prior to any election at  
82 which offices are to be filled, notify the general public of  
83 the opening filing date, the office or offices to be filled,  
84 the proper place for filing and the closing filing date of  
85 the election. Such notification may be accomplished by  
86 legal notice published in at least one newspaper of general  
87 circulation in the political subdivision or special district.

88 6. Except as provided for in sections 115.247 and  
89 115.359, if there is no additional cost for the printing or  
90 reprinting of ballots or if the candidate agrees to pay any  
91 printing or reprinting costs, a candidate who has filed for  
92 an office or who has been duly nominated for an office may,  
93 at any time after the certification of the notice of  
94 election required in subsection 1 of section 115.125 but no  
95 later than 5:00 p.m. on the eighth Tuesday before the  
96 election, withdraw as a candidate pursuant to a court order,  
97 which, except for good cause shown by the election authority  
98 in opposition thereto, shall be freely given upon

99 application by the candidate to the circuit court of the  
100 area of such candidate's residence.

493.050. All public advertisements and orders of  
2 publication required by law to be made and all legal  
3 publications affecting the title to real estate shall be  
4 published in some daily, triweekly, semiweekly, or weekly  
5 newspaper of general circulation in the county where  
6 located, and **[which] such a newspaper** shall have:

7 (1) Been admitted to the post office as periodicals  
8 class matter in the city of publication; **[shall have]**

9 (2) Been **either:**

10 (a) Published regularly and consecutively for a period  
11 of **[three years] one year**, except that a newspaper of  
12 general circulation may be deemed to be the successor to a  
13 defunct newspaper of general circulation, and subject to all  
14 of the rights and privileges of said prior newspaper under  
15 this statute, if the successor newspaper shall begin  
16 publication no later than **[thirty] ninety** consecutive days  
17 after the termination of publication of the prior newspaper;  
18 **[shall have] or**

19 (b) **Purchased or newly established by a newspaper that**  
20 **satisfies the requirements of paragraph (a) of this**  
21 **subdivision; and**

22 (3) A list of bona fide subscribers voluntarily  
23 engaged as such, who have paid or agreed to pay a stated  
24 price for a subscription for a definite period of time**;**  
25 **provided, that when].**

26 **If** a public notice**[,]** required by law to be published once a  
27 week for a given number of weeks**[, shall] is to** be published  
28 in a daily, triweekly, semiweekly, or weekly newspaper, the  
29 notice shall appear once a week, on the same day of each

30 week[, and further provided, that]. Every affidavit to  
31 proof of publication shall state that the newspaper in which  
32 such notice was published has complied with the provisions  
33 of this section[; provided further, that]. The duration of  
34 consecutive publication provided for in this section shall  
35 not affect newspapers which have become legal publications  
36 prior to September 6, 1937[; provided, however, that when].  
37 **If** any newspaper shall be forced to suspend publication in  
38 any time of war, due to the owner or publisher being  
39 inducted into the Armed Forces of the United States, the  
40 newspaper may be reinstated within one year after actual  
41 hostilities have ceased, with all the benefits provided  
42 pursuant to the provisions of this section, upon the filing  
43 with the secretary of state of notice of intention of such  
44 owner or publisher, the owner's surviving spouse or legal  
45 heirs, to republish such newspaper, setting forth the name  
46 of the publication, its volume and number, its frequency of  
47 publication, and its readmission to the post office where it  
48 was previously entered as periodicals class mail matter, and  
49 [when] **if** it [shall have] **has** a list of bona fide  
50 subscribers voluntarily engaged as such who have paid or  
51 agreed to pay a stated price for subscription for a definite  
52 period of time. All laws or parts of laws in conflict with  
53 this section except sections 493.070 to 493.120, are hereby  
54 repealed.

493.070. In all cities of this state which now have,  
2 or shall hereafter have, a population of one hundred  
3 thousand inhabitants or more, all public notices and  
4 advertisements, directed by any court[, ] or required by law  
5 to be published in a newspaper, shall be published in some  
6 daily newspaper of such city, of general circulation  
7 therein, which shall have been established and continuously

8 published as such for a period of at least [three  
9 consecutive years] **one year** next prior to the publication of  
10 any such notice.

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