

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1871
103RD GENERAL ASSEMBLY

5033H.04C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 115.125, 115.127, 115.233, 115.277, 115.284, 115.306, 115.427, 115.430, and 115.453, RSMo, and to enact in lieu thereof nine new sections relating to elections, with penalty provisions.

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

Section A. Sections 115.125, 115.127, 115.233, 115.277, 115.284, 115.306, 115.427, 2 115.430, and 115.453, RSMo, are repealed and nine new sections enacted in lieu thereof, to 3 be known as sections 115.125, 115.127, 115.233, 115.277, 115.284, 115.306, 115.427, 4 115.430, and 115.453, to read as follows:

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

14 ~~2. In lieu of a certified copy of the legal notice to be published pursuant to subsection 15 2 of section 115.127, each notice of a special election to fill a vacancy shall include the name~~

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 of the office to be filled, the date of the election and the date by which candidates must be
17 selected or filed for the office. Not later than the sixth Tuesday prior to any special election to
18 fill a vacancy called by a political subdivision or special district, the officer or agency calling
19 the election shall certify a sample ballot to the election authorities responsible for conducting
20 the election].

21 [3-] 2. Except as provided for in sections 115.247 and 115.359, if there is no
22 additional cost for the printing or reprinting of ballots or if the political subdivision or special
23 district calling for the election agrees to pay any printing or reprinting costs, a political
24 subdivision or special district may, at any time after certification of the notice of election
25 required in subsection 1 of this section, but no later than 5:00 p.m. on the eighth Tuesday
26 before the election, be permitted to make late notification to the election authority pursuant to
27 court order, which, except for good cause shown by the election authority in opposition
28 thereto, shall be freely given upon application by the political subdivision or special district to
29 the circuit court of the area of such subdivision or district. No court shall have the authority
30 to order an individual or issue be placed on the ballot less than eight weeks before the date of
31 the election.

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

16 2. Except as provided in subsections 1 and 4 of this section and in sections 115.521,
17 115.549 and 115.593, the election authority shall cause legal notice of each election held in its
18 jurisdiction to be published. The notice shall be published in two newspapers of different
19 political faith and qualified pursuant to chapter 493 which are published within the bounds of
20 the area holding the election. If there is only one so-qualified newspaper, then notice shall be
21 published in only one newspaper. If there is no newspaper published within the bounds of the

22 election area, then the notice shall be published in two qualified newspapers of different
23 political faith serving the area. Notice shall be published twice, the first publication occurring
24 in the second week prior to the election, and the second publication occurring within one
25 week prior to the election. Each such legal notice shall include the date and time of the
26 election, the name of the officer or agency calling the election and a sample ballot; and, unless
27 notice has been given as provided by section 115.129, the second publication of notice of the
28 election shall include the location of polling places. The election authority may provide any
29 additional notice of the election it deems desirable.

30 3. The election authority shall print the official ballot as the same appears on the
31 sample ballot, and no candidate's name or ballot issue which appears on the sample ballot or
32 official printed ballot shall be stricken or removed from the ballot except on death of a
33 candidate or by court order, but in no event shall a candidate or issue be stricken or removed
34 from the ballot less than eight weeks before the date of the election.

35 4. In lieu of causing legal notice to be published in accordance with any of the
36 provisions of this chapter, the election authority in jurisdictions which have less than seven
37 hundred fifty registered voters and in which no newspaper qualified pursuant to chapter 493 is
38 published, may cause legal notice to be mailed during the second week prior to the election,
39 by first class mail, to each registered voter at the voter's voting address. All such legal notices
40 shall include the date and time of the election, the location of the polling place, the name of
41 the officer or agency calling the election and a sample ballot.

42 5. If the opening date for filing a declaration of candidacy for any office in a political
43 subdivision or special district is not required by law or charter, the opening filing date shall be
44 8:00 a.m., the ~~seventeenth~~ **sixteenth** Tuesday prior to the election. If the closing date for
45 filing a declaration of candidacy for any office in a political subdivision or special district is
46 not required by law or charter, the closing filing date shall be 5:00 p.m., the ~~fourteenth~~
47 **thirteenth** Tuesday prior to the election, **or if the thirteenth Tuesday prior to the election**
48 **is a state or federal holiday, the closing filing date shall be 5:00 p.m. on the next day that**
49 **is not a state or federal holiday.** The political subdivision or special district calling an
50 election shall, before the ~~seventeenth~~ **sixteenth** Tuesday, prior to any election at which
51 offices are to be filled, notify the general public of the opening filing date, the office or offices
52 to be filled, the proper place for filing and the closing filing date of the election. Such
53 notification may be accomplished by legal notice published in at least one newspaper of
54 general circulation in the political subdivision or special district.

55 6. Except as provided for in sections 115.247 and 115.359, if there is no additional
56 cost for the printing or reprinting of ballots or if the candidate agrees to pay any printing or
57 reprinting costs, a candidate who has filed for an office or who has been duly nominated for
58 an office may, at any time after the certification of the notice of election required in

59 subsection 1 of section 115.125 but no later than 5:00 p.m. on the eighth Tuesday before the
60 election, withdraw as a candidate pursuant to a court order, which, except for good cause
61 shown by the election authority in opposition thereto, shall be freely given upon application
62 by the candidate to the circuit court of the area of such candidate's residence.

115.233. [~~Within~~] **At least** fourteen days prior to an election **and no less than one**
2 **week prior to an election** at which an electronic voting system is to be used, the election
3 authority shall have the automatic tabulating equipment tested to ascertain that the equipment
4 is in compliance with the law and that it will correctly count the votes cast for all offices and
5 on all questions. At least forty-eight hours prior to the test, notice of the time and place of the
6 test shall be mailed to each independent and new party candidate and the chairman of the
7 county committee of each established political party named on the ballot. The test shall be
8 observed by at least two persons designated by the election authority, one from each major
9 political party, and shall be open to representatives of the political parties, candidates, the
10 news media and the public. The test shall be conducted by processing a preaudited group of
11 ballots. If any error is detected, the cause shall be ascertained and corrected, and an errorless
12 count shall be made before the tabulating equipment is approved.

115.277. 1. A registered voter of this state may cast an absentee ballot in person at a
2 location designated by the election authority for all candidates and issues for which such voter
3 is eligible to vote at the polling place if such voter expects to be prevented from going to the
4 polls to vote on election day due to one of the reasons listed in subsection 3 of this section. A
5 registered voter casting a ballot under the provisions of this subsection shall provide a form of
6 personal photo identification that is consistent with subsection 1 of section 115.427.
7 Beginning on the [~~second~~] **fourth** Tuesday prior to an election, a reason listed under
8 subsection 3 of this section shall not be required, provided that, the provisions of section
9 1.140 to the contrary notwithstanding, this sentence and section 115.427 shall be
10 nonseverable, and if any provision of section 115.427 is for any reason held to be invalid,
11 such decision shall invalidate this sentence.

12 2. Except as provided in subsections 4, 5, and 6 of this section, a registered voter of
13 this state may cast an absentee ballot not in person at a location designated by the election
14 authority for all candidates and issues for which such voter would be eligible to vote at the
15 polling place if such voter expects to be prevented from going to the polls to vote on election
16 day due to one of the reasons listed in subsection 3 of this section. An absentee ballot that is
17 not requested and completed in person at the office of the election authority with a form of
18 personal photo identification that is consistent with subsection 1 of section 115.427 shall have
19 the statement on the ballot envelope notarized as required under section 115.283, except that
20 absentee ballots requested under subdivisions (2) and (5) of subsection 3 of this section shall

21 not require notarization. This subsection shall apply only in the case of absentee ballots that
22 are not cast in person.

23 3. A voter may request an absentee ballot for any of the following reasons:

24 (1) Absence on election day from the jurisdiction of the election authority in which
25 such voter is registered to vote;

26 (2) Incapacity or confinement due to illness or physical disability on election day,
27 including a person who is primarily responsible for the physical care of a person who is
28 incapacitated or confined due to illness or disability and resides at the same address;

29 (3) Religious belief or practice;

30 (4) Employment as:

31 (a) An election authority, as a member of an election authority, or by an election
32 authority at a location other than such voter's polling place;

33 (b) A first responder;

34 (c) A health care worker; or

35 (d) A member of law enforcement;

36 (5) Incarceration, provided all qualifications for voting are retained;

37 (6) Certified participation in the address confidentiality program established under
38 sections 589.660 to 589.681 because of safety concerns.

39 4. Any covered voter who is eligible to register and vote in this state may vote in any
40 election for federal office, statewide office, state legislative office, or statewide ballot
41 initiatives by submitting a federal postcard application to apply to vote by absentee ballot or
42 by submitting a federal postcard application at the ~~[polling place]~~ **office of the election**
43 **authority on election day**, even though the person is not registered. A federal postcard
44 application submitted by a covered voter pursuant to this subsection shall also serve as a voter
45 registration application under section 115.908 and the election authority shall, if satisfied that
46 the applicant is entitled to register, place the voter's name on the voter registration file. Each
47 covered voter may vote by absentee ballot or, upon submitting an affidavit that the person is
48 qualified to vote in the election, may vote at the person's polling place.

49 5. Any interstate former resident may vote by absentee ballot **or at the office of the**
50 **election authority on election day** for presidential and vice presidential electors.

51 6. Any new resident may vote by absentee ballot **or at the office of the election**
52 **authority on election day** for presidential and vice presidential electors after registering to
53 vote in such resident's new jurisdiction of residence.

115.284. 1. There is hereby established an absentee voting process to assist persons
2 with permanent disabilities in the exercise of their voting rights.

3 2. The local election authority shall send an application to participate in the absentee
4 voting process set out in this section to any registered voter residing within the election
5 authority's jurisdiction upon request.

6 3. Upon receipt of a properly completed application, the election authority shall enter
7 the voter's name on a list of voters qualified to participate as absentee voters pursuant to this
8 section.

9 4. The application to participate in the absentee voting process shall be in
10 substantially the following form:

11 State of _____

12 County (City) of _____

13 I, _____ (print applicant's name), declare that I am a resident and
14 registered voter of _____ County, Missouri, and am permanently
15 disabled. I hereby request that my name be placed on the election
16 authority's list of voters qualified to participate as absentee voters pursuant
17 to section 115.284, and that I be delivered an absentee ballot application for
18 each election in which I am eligible to vote.

19 _____

20 Signature of Voter

21 _____

22 _____

23 Voter's Address

24 5. Not earlier than ten weeks before an election but prior to the fourth Tuesday prior
25 to an election, the election authority shall deliver to each voter qualified to participate as
26 absentee voters pursuant to this section an absentee ballot application if the voter is eligible to
27 vote in that election. If the voter returns the absentee request application to the election
28 authority not later than 5:00 p.m. on the second Wednesday before an election and has
29 retained the necessary qualifications to vote, the election authority shall provide the voter
30 with an absentee ballot pursuant to this chapter.

31 6. The election authority shall remove from the list of voters qualified to participate
32 as absentee voters pursuant to this section any voter who:

- 33 (1) Asks to be removed from the list;
- 34 (2) Dies;
- 35 (3) Becomes disqualified from voting pursuant to this chapter; or
- 36 (4) No longer resides at the address of his or her voter registration.

37 7. **All lists of applications under this section shall be kept confidential. Such lists**
38 **of applications shall not be posted or displayed in an area open to the general public, nor**
39 **shall such lists of applications be shown to any unauthorized person.**

115.306. 1. No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state.

2. (1) Any person who files as a candidate for election to a public office shall be disqualified from participation in the election for which the candidate has filed if such person is delinquent in the payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state.

(2) Each potential candidate for election to a public office, except candidates for a county or city committee of a political party, shall file an affidavit with the department of revenue and include a copy of the affidavit with the declaration of candidacy required under section 115.349. Such affidavit shall be in substantially the following form:

AFFIRMATION OF TAX PAYMENTS AND BONDING
REQUIREMENTS:

I hereby declare under penalties of perjury that I am not currently aware of any delinquency in the filing or payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or that I am a past or present corporate officer of any fee office that owes any taxes to the state, other than those taxes which may be in dispute. I declare under penalties of perjury that I am not aware of any information that would prohibit me from fulfilling any bonding requirements for the office for which I am filing.

Candidate's Signature

Printed Name of Candidate

(3) Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state, the department of revenue shall investigate such potential candidate to verify the claim contained in the complaint. If the department of revenue finds a positive affirmation to be false, the department shall contact the secretary of state, or the election official who accepted such candidate's declaration of candidacy, and the potential candidate. The department shall notify the candidate of the outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed which are not the subject of dispute between the department and the

38 candidate. If the candidate fails to remit such amounts in full within thirty days, the candidate
39 shall be disqualified from participating in the current election and barred from refiling for an
40 entire election cycle even if the individual pays all of the outstanding taxes that were the
41 subject of the complaint.

42 **(4) Any person who files as a candidate for election to a public office that**
43 **performs county functions in a city not within a county shall file an affidavit with the**
44 **election authority and shall attach thereto official copies of receipts or no-tax-due**
45 **statements received from the collector and official statements from the collector that**
46 **indicate the person has paid all taxes due and is not delinquent in any tax. The election**
47 **authority shall review such documentation and the affirmation of tax payments**
48 **required under subdivision (2) of this subsection.**

115.427. 1. Persons seeking to vote in a public election shall establish their identity
2 and eligibility to vote at the polling place or, if voting absentee in person under section
3 115.277, at the office of the election authority or other authorized location designated by the
4 election authority by presenting a form of personal photo identification to election officials.
5 No form of personal photo identification other than the forms listed in this section shall be
6 accepted to establish a voter's qualifications to vote. Forms of personal photo identification
7 that satisfy the requirements of this section are any one of the following:

- 8 (1) Nonexpired Missouri driver's license;
- 9 (2) Nonexpired or nonexpiring Missouri nondriver's license;
- 10 (3) A document that satisfies all of the following requirements:
 - 11 (a) The document contains the name of the individual to whom the document was
12 issued, and the name substantially conforms to the most recent signature in the individual's
13 voter registration record;
 - 14 (b) The document shows a photograph of the individual;
 - 15 (c) The document includes an expiration date, and the document is not expired, or, if
16 expired, the document expired after the date of the most recent general election; and
 - 17 (d) The document was issued by the United States or the state of Missouri; or
- 18 (4) Any identification containing a photograph of the individual which is issued by
19 the Missouri National Guard, the United States Armed Forces, including the Space Force, or
20 the United States Department of Veteran Affairs to a member or former member of the
21 Missouri National Guard or the United States Armed Forces, including the Space Force, and
22 that is not expired or does not have an expiration date.

23 2. (1) An individual who appears at a polling place **or, if voting absentee in person**
24 **pursuant to section 115.277, at the office of the election authority or other authorized**
25 **location designated by the election authority** without a form of personal identification
26 described in subsection 1 of this section and who is otherwise qualified to vote at that ~~polling~~

27 ~~place~~ **location** shall be allowed to cast a provisional ballot. The election judges **or election**
28 **authority** shall make a notation on the provisional ballot envelope to indicate that the voter's
29 identity was not verified.

30 (2) No person shall be entitled to receive a provisional ballot until such person has
31 completed a provisional ballot affidavit on the provisional ballot envelope. All provisional
32 ballots shall be marked with a conspicuous stamp or mark that makes them distinguishable
33 from other ballots.

34 (3) The provisional ballot envelope shall be completed by the voter for use in
35 determining the voter's eligibility to cast a ballot.

36 3. The provisional ballot envelope shall provide a place for the voter's name, address,
37 date of birth, and last four digits of his or her Social Security number, followed by a
38 certificate in substantially the following form:

39 I do solemnly swear that I am the person identified above and the
40 information provided is correct. I understand that my vote will not be
41 counted unless:

42 (1) (a) I return to this polling place today between 6:00 a.m. and 7:00
43 p.m. and provide one of the following forms of identification:

44 a. Nonexpired Missouri driver's license;

45 b. Nonexpired or nonexpiring Missouri nondriver's license;

46 c. A document that satisfies all of the following requirements:

47 (i) The document contains my name, in substantially the same form as
48 the most recent signature on my voter registration record;

49 (ii) The document contains my photograph;

50 (iii) The document contains an expiration date and is not expired, or if
51 expired, the document expired after the date of the most recent general
52 election; and

53 (iv) The document was issued by the United States or the state of
54 Missouri; or

55 d. Identification containing my photograph issued to me by the
56 Missouri National Guard, the United States Armed Forces, including
57 Space Force, or the United States Department of Veteran Affairs as a
58 member or former member of the Missouri National Guard or the
59 United States Armed Forces that is not expired or does not have an
60 expiration date; or

61 (b) The election authority verifies my identity by comparing my
62 signature on this envelope to the signature on file with the election

63 authority and determines that I was eligible to cast a ballot at this
64 polling place; and

65 (2) This provisional ballot otherwise qualifies to be counted under the
66 laws of the State of Missouri.

67	_____	_____
68	Signature of Voter	Date
69	_____	_____
70	Signature of Election Officials	

71
72 Once voted, the provisional ballot shall be sealed in the provisional ballot envelope and
73 placed in a separate secured container by the election judge **or election authority**.

74 4. The provisional ballot cast by such voter shall not be counted unless:

75 (1) (a) The voter returns to the polling place during the uniform polling hours
76 established by section 115.407 **or, if voting by absentee ballot in person, the voter returns**
77 **to the election authority's office by 7 p.m. on election day** and provides a form of personal
78 identification that allows the election judges to verify the voter's identity as provided in
79 subsection 1 of this section; or

80 (b) The election authority verifies the identity of the individual by comparing that
81 individual's signature to the signature on file with the election authority and determines that
82 the individual was eligible to cast a ballot at the ~~[polling place]~~ **location** where the ballot was
83 cast; and

84 (2) The provisional ballot otherwise qualifies to be counted under section 115.430.

85 5. The secretary of state shall provide notice of the personal photo identification
86 requirements described in subsection 1 of this section on the official state internet website of
87 the secretary of state.

88 6. (1) Notwithstanding the provisions of section 136.055 and section 302.181 to the
89 contrary, the state and all fee offices shall provide one nondriver's license at no cost to any
90 otherwise qualified voter who does not already possess such identification and who desires
91 the identification for voting.

92 (2) This state and its agencies shall provide one copy of each of the following, free of
93 charge, if needed by an individual seeking to obtain a form of personal photo identification
94 described in subsection 1 of this section in order to vote:

- 95 (a) A birth certificate;
- 96 (b) A marriage license or certificate;
- 97 (c) A divorce decree;
- 98 (d) A certificate of decree of adoption;

- 99 (e) A court order changing the person's name;
- 100 (f) A Social Security card reflecting an updated name; and
- 101 (g) Naturalization papers or other documents from the United States Department of
- 102 State proving citizenship.

103

104 Any individual seeking one of the above documents in order to obtain a form of personal
 105 photo identification described in subsection 1 of this section for voting may request the
 106 secretary of state to facilitate the acquisition of such documents. The secretary of state shall
 107 pay any fee or fees charged by another state or its agencies, or any court of competent
 108 jurisdiction in this state or any other state, or the federal government or its agencies, in order
 109 to obtain any of the above documents from such state or the federal government.

110 (3) Any applicant who requests a nondriver's license for voting shall not be required
 111 to pay a fee. The state of Missouri shall pay the legally required fees for any such applicant.
 112 The department of revenue and a local election authority may enter into a contract that allows
 113 the local election authority to assist the department in issuing nondriver's license photo
 114 identifications.

115 7. The director of the department of revenue shall, by January first of each year,
 116 prepare and deliver to each member of the general assembly a report documenting the number
 117 of individuals who have requested and received a nondriver's license photo identification for
 118 the purposes of voting under this section. The report shall also include the number of persons
 119 requesting a nondriver's license for purposes of voting under this section, but not receiving
 120 such license, and the reason for the denial of the nondriver's license.

121 8. The precinct register shall serve as the voter identification certificate. The
 122 following form shall be printed at the top of each page of the precinct register:

123

VOTER'S IDENTIFICATION CERTIFICATE

124

Warning: It is against the law for anyone to vote, or attempt to vote,
 125 without having a lawful right to vote.

126

PRECINCT

127

WARD OR TOWNSHIP _____

128

GENERAL (SPECIAL, PRIMARY) ELECTION

129

Held _____, 20_____

130

Date

131

I hereby certify that I am qualified to vote at this election by signing
 132 my name and verifying my address by signing my initials next to my
 133 address.

134

135

9. The secretary of state shall promulgate rules to effectuate the provisions of this
 section.

136 10. Any rule or portion of a rule, as that term is defined in section 536.010, that is
137 created under the authority delegated in this section shall become effective only if it complies
138 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
139 This section and chapter 536 are nonseverable and if any of the powers vested with the
140 general assembly pursuant to chapter 536 to review, to delay the effective date or to
141 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
142 rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid
143 and void.

144 11. If any voter is unable to sign his name at the appropriate place on the certificate or
145 computer printout, an election judge **or election authority** shall print the name and address of
146 the voter in the appropriate place on the precinct register, the voter shall make his mark in lieu
147 of signature, and the voter's mark shall be witnessed by the signature of an election judge **or**
148 **election authority**.

115.430. 1. This section shall apply to ~~[primary and general elections where~~
2 ~~candidates for federal or statewide offices are nominated or elected and any election where~~
3 ~~statewide issue or issues are submitted to the voters]~~ **any public election**.

4 2. (1) A voter claiming to be properly registered in the jurisdiction of the election
5 authority and eligible to vote in an election, but whose eligibility at that precinct cannot be
6 immediately established upon examination of the precinct register, shall be entitled to vote a
7 provisional ballot after providing a form of personal identification required pursuant to
8 section 115.427 or upon executing an affidavit under section 115.427, or may vote at a central
9 polling place as established in section 115.115 where the voter may vote his or her
10 appropriate ballot for his or her precinct of residence upon verification of eligibility or vote a
11 provisional ballot if eligibility cannot be determined. The provisional ballot provided to a
12 voter under this section shall be the ballot provided to a resident of the voter's precinct
13 determined by reference to the affidavit provided for in this section. If the voter declares that
14 the voter is eligible to vote and the election authority determines that the voter is eligible to
15 vote at another polling place, the voter shall be directed to the correct polling place or a
16 central polling place as established by the election authority pursuant to subsection 5 of
17 section 115.115. If the voter refuses to go to the correct polling place or a central polling
18 place, the voter shall be permitted to vote a provisional ballot at the incorrect polling place,
19 but such ballot shall not be counted if the voter was not eligible to vote at that polling place.

20 (2) The following steps shall be taken to establish a voter's eligibility to vote at a
21 polling place:

22 (a) The election judge shall examine the precinct register as provided in section
23 115.425. If the voter is registered and eligible to vote at the polling place, the voter shall
24 receive a regular ballot;

25 (b) If the voter's eligibility cannot be immediately established by examining the
26 precinct register, the election judge shall contact the election authority. If the election
27 authority cannot immediately establish that the voter is registered and eligible to vote at the
28 polling place upon examination of the Missouri voter registration system, or if the election
29 judge is unable to make contact with the election authority immediately, the voter shall be
30 notified that the voter is entitled to a provisional ballot.

31 (3) The voter shall have the duty to appear and vote at the correct polling place. If an
32 election judge determines that the voter is not eligible to vote at the polling place at which a
33 voter presents himself or herself, and if the voter appears to be eligible to vote at another
34 polling place, the voter shall be informed that he or she may cast a provisional ballot at the
35 current polling place or may travel to the correct polling place or a central polling place, as
36 established by the election authority under subsection 5 of section 115.115, where the voter
37 may cast a regular ballot or provisional ballot if the voter's eligibility still cannot be
38 determined. Provisional ballots cast at a polling place shall be counted only if the voter was
39 eligible to vote at such polling place as provided in subsection 5 of this section.

40 (4) For a voter requesting an absentee ballot in person, such voter shall be entitled to
41 cast a provisional ballot when the voter's eligibility cannot be immediately established upon
42 examination of the precinct registers or the Missouri voter registration system.

43 (5) Prior to accepting any provisional ballot at the polling place, the election judges
44 shall determine that the information provided on the provisional ballot envelope by the
45 provisional voter is consistent with the identification provided by such person under section
46 115.427.

47 3. (1) No person shall be entitled to receive a provisional ballot until such person has
48 completed a provisional ballot affidavit on the provisional ballot envelope.

49 (2) The secretary of state shall produce appropriate sizes of provisional ballot
50 envelopes and distribute them to each election authority according to their tabulating system.
51 All provisional ballot envelopes shall be printed on a distinguishable color of paper that is
52 different from the color of the regular ballot. The provisional ballot envelope shall be in the
53 form required by subsection 4 of this section. All provisional ballots shall be marked with a
54 conspicuous stamp or other distinguishing mark that makes them readily distinguishable from
55 the regular ballots.

56 (3) Once voted, the provisional ballot shall be placed and sealed in a provisional
57 ballot envelope.

58 4. The provisional ballot in its envelope shall be deposited in the ballot box. The
59 provisional ballot envelope shall be completed by the voter for use in determining eligibility.
60 The provisional ballot envelope specified in this section shall contain a voter's certificate
61 which shall be in substantially the following form:

62 STATE OF _____

63 COUNTY OF _____

64 I do solemnly swear (or affirm) that my name is _____; that my date of
65 birth is _____; that the last four digits of my Social Security Number are _
66 _____; that I am registered to vote in _____ County or City (if a City not
67 within a County), Missouri; that I am a qualified voter of said County (or
68 City not within a County); that I am eligible to vote at this polling place;
69 and that I have not voted in this election.

70 I understand that if the above-provided information is not correct and the
71 election authority determines that I am not registered and eligible to vote,
72 my vote will not be counted. I further understand that knowingly providing
73 false information is a violation of law and subjects me to possible criminal
74 prosecution.

75 _____
76 (Signature of Voter)

77 _____
78 (Current Address)

79 Subscribed and affirmed before me this _____ day of _____, 20_____

80 _____
81 (Signature of Election Official)

82

83 The voter may provide additional information to further assist the election authority in
84 determining eligibility, including the place and date the voter registered to vote, if known.

85 5. (1) Prior to counting any provisional ballot, the election authority shall determine
86 if the voter is registered and eligible to vote and if the vote was properly cast. The eligibility
87 of provisional votes shall be determined according to the requirements for a voter to cast a
88 ballot in the election as set forth in sections 115.133 and 115.135. A provisional [~~voter~~] ballot
89 shall not be eligible to be counted until the election authority has determined that:

90 (a) The voter cast such provisional ballot at a polling place established for the voter or
91 the central polling place established by the election authority under subsection 5 of section
92 115.115;

93 (b) The individual who cast the provisional ballot is an individual registered to vote in
94 the respective election at the polling place where the ballot was cast;

95 (c) The voter did not otherwise vote in the same election by regular ballot, absentee
96 ballot, or otherwise; and

97 (d) The information on the provisional ballot envelope is found to be correct,
98 complete, and accurate.

99 (2) When the ballot boxes are delivered to the election authority from the polling
100 places, the receiving teams shall separate the provisional ballots from the rest of the ballots
101 and place the sealed provisional ballot envelopes in a separate container. Teams of election
102 authority employees or teams of election judges with each team consisting of one member of
103 each major political party shall photocopy each provisional ballot envelope, such photocopy
104 to be used by the election authority to determine provisional voter eligibility. The sealed
105 provisional ballot envelopes shall be placed by the team in a sealed container and shall remain
106 therein until tabulation.

107 (3) To determine whether a provisional ballot is valid and entitled to be counted, the
108 election authority shall examine its records and verify that the provisional voter is properly
109 registered and eligible to vote in the election. If the provisional voter has provided
110 information regarding the registration agency where the provisional voter registered to vote,
111 the election authority shall make an inquiry of the registration agency to determine whether
112 the provisional voter is properly registered and eligible to vote in the election.

113 (4) If the election authority determines that the provisional voter is registered and
114 eligible to vote in the election, the election authority shall provide documentation verifying
115 the voter's eligibility. Such documentation shall be noted on the copy of the provisional ballot
116 envelope and shall contain substantially the following information:

117 (a) The name of the provisional voter;

118 (b) The name of the reviewer;

119 (c) The date and time; and

120 (d) A description of evidence found that supports the voter's eligibility.

121 (5) The local election authority shall record on a provisional ballot acceptance/
122 rejection list the provisional ballot identification number and a notation marking it as
123 accepted.

124 (6) If the election authority determines that the provisional voter is not registered or
125 eligible to vote in the election, the election authority shall provide documentation verifying
126 the voter's ineligibility. Such documentation shall be noted on the copy of the provisional
127 ballot envelope and shall contain substantially the following information:

128 (a) The name of the provisional voter;

129 (b) The name of the reviewer;

130 (c) The date and time;

131 (d) A description of why the voter is ineligible.

132 (7) The local election authority shall record on a provisional ballot acceptance/
133 rejection list the provisional ballot identification number and notation marking it as rejected.

134 (8) If rejected, a photocopy of the envelope shall be made and used by the election
135 authority as a mail-in voter registration. The actual provisional ballot envelope shall be kept
136 as ballot material, and the copy of the envelope shall be used by the election authority for
137 registration record keeping.

138 6. All provisional ballots cast by voters whose eligibility has been verified as
139 provided in this section shall be counted in accordance with the rules governing ballot
140 tabulation. Provisional ballots shall not be counted until all provisional ballots are determined
141 either eligible or ineligible and all provisional ballots must be processed before the election is
142 certified. The provisional ballot shall be counted only if the election authority determines that
143 the voter is registered and eligible to vote. Provisional ballots voted in the wrong polling
144 place shall not be counted. If the voter is not registered but is qualified to register for future
145 elections, the affidavit shall be considered a mail-in application to register to vote pursuant to
146 this chapter.

147 7. (1) After the election authority completes its review of the provisional voter's
148 eligibility under subsection 5 of this section, the election authority shall deliver the
149 provisional ballots and copies of the provisional ballot envelopes that include eligibility
150 information to bipartisan counting teams, which may be the board of verification, for review
151 and tabulation. The election authority shall maintain a record of such delivery. The record
152 shall include the number of ballots delivered to each team and shall include a signed receipt
153 from two judges, one from each major political party. The election authority shall provide
154 each team with a ballot box and material necessary for tabulation.

155 (2) If the person named on the provisional ballot affidavit is found to have been
156 properly qualified and registered to cast a ballot in the election and the provisional ballot
157 otherwise qualifies to be counted under the provisions of this section, the envelope shall be
158 opened, and the ballot shall be placed in a ballot box to be counted.

159 (3) If the person named on the provisional ballot affidavit is found not to have been
160 properly qualified and registered to cast a ballot in the election or if the election authority is
161 unable to determine such person's right to vote, the envelope containing the provisional ballot
162 shall not be opened, and the person's vote shall not be counted. The members of the team
163 shall follow the procedures set forth in subsection 5 of this section for rejected provisional
164 ballots.

165 (4) The votes shall be tallied and the returns made as provided in sections 115.447 to
166 115.525 for paper ballots. After the vote on all ballots assigned to a team have been counted,
167 the ballots, ballot envelopes, and copies of ballot envelopes with the eligibility information
168 provided by the election authority shall be enclosed in sealed containers marked "Voted
169 provisional ballots and ballot envelopes from the election held _____, 20_____". All
170 rejected provisional ballots, ballot envelopes, and copies of ballot envelopes with the

171 eligibility information provided by the election authority shall be enclosed in sealed
172 containers marked "Rejected provisional ballots and ballot envelopes from the election held _
173 _____, 20____". On the outside of each voted ballot and rejected ballot container, each
174 member of the team shall write their name and all such containers shall be returned to the
175 election authority. Upon receipt of the returns and ballots, the election authority shall tabulate
176 the provisional votes.

177 8. Challengers and watchers, as provided by sections 115.105 and 115.107, may be
178 present during all times that the bipartisan counting teams are reviewing or counting the
179 provisional ballots, the provisional ballot envelopes, or copies of the provisional ballot
180 envelopes that include eligibility information provided by the election authority. Challengers
181 and watchers shall be permitted to observe the determination of the eligibility of all
182 provisional ballots. The election authority shall notify the county chair of each major
183 political party of the time and location when bipartisan counting teams will be reviewing or
184 counting the provisional ballots, the provisional ballot envelopes, or the copies of the
185 provisional ballot envelopes that include the eligibility information provided by the election
186 authority.

187 9. The certificate of ballot cards shall:

188 (1) Reflect the number of provisional envelopes delivered; and

189 (2) Reflect the number of sealed provisional envelopes with voted ballots deposited in
190 the ballot box.

191 10. In counties where the voting system does not utilize a paper ballot, the election
192 authority shall provide the appropriate provisional ballots to each polling place.

193 11. The secretary of state may promulgate rules for purposes of ensuring the uniform
194 application of this section. No rule or portion of a rule promulgated pursuant to the authority
195 of this section shall become effective unless it has been promulgated pursuant to chapter 536.

196 12. The secretary of state shall design and provide to the election authorities the
197 envelopes and forms necessary to carry out the provisions of this section.

198 13. Pursuant to the Help America Vote Act of 2002, the secretary of state shall ensure
199 a free access system is established, such as a toll-free number or an internet website, that any
200 individual who casts a provisional ballot may access to discover whether the vote of that
201 individual was counted, and, if the vote was not counted, the reason that the vote was not
202 counted. At the time an individual casts a provisional ballot, the election authority shall give
203 the voter written information that states that any individual who casts a provisional ballot will
204 be able to ascertain under such free access system whether the vote was counted, and if the
205 vote was not counted, the reason that the vote was not counted.

206 14. In accordance with the Help America Vote Act of 2002, any individual who votes
207 in an election as a result of a court order or any other order extending the time established for

208 closing the polls in section 115.407 may vote only by using a provisional ballot, and such
209 provisional ballot shall be separated and held apart from other provisional ballots cast by
210 those not affected by the order. Such ballots shall not be counted until such time as the ballots
211 are determined to be valid. No state court shall have jurisdiction to extend the polling hours
212 established by law, including section 115.407.

115.453. Election judges shall count votes for all candidates in the following manner:

2 (1) No candidate shall be counted as voted for, except a candidate before whose name
3 a distinguishing mark appears preceding the name and a distinguishing mark does not appear
4 in the square preceding the name of any candidate for the same office in another column.
5 Except as provided in this subdivision and subdivision (2) of this section, each candidate with
6 a distinguishing mark preceding his or her name shall be counted as voted for;

7 (2) If distinguishing marks appear next to the names of more candidates for an office
8 than are entitled to fill the office, no candidate for the office shall be counted as voted for. If
9 more than one candidate is to be nominated or elected to an office, and any voter has voted for
10 the same candidate more than once for the same office at the same election, no votes cast by
11 the voter for the candidate shall be counted;

12 (3) No vote shall be counted for any candidate that is not marked substantially in
13 accordance with the provisions of this section. The judges shall count votes marked
14 substantially in accordance with this section and section 115.456 when the intent of the voter
15 seems clear. Regulations promulgated by the secretary of state shall be used by the judges to
16 determine voter intent. No ballot containing any proper votes shall be rejected for containing
17 fewer marks than 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
21 prior to 5:00 p.m. on the second Friday immediately preceding the election day; except that,
22 write-in votes shall be counted only for candidates for election to state or federal office who
23 have filed a declaration of intent to be a write-in candidate for election to state or federal
24 office with the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second
25 Friday immediately preceding the election day. No person who filed as a party or
26 independent candidate for nomination or election to an office may, without withdrawing as
27 provided by law, file as a write-in candidate for election to the same office for the same term.
28 No candidate who files for nomination to an office and is not nominated at a primary election
29 may file a declaration of intent to be a write-in candidate for the same office at the general
30 election. When declarations are properly filed with the secretary of state, the secretary of
31 state shall promptly transmit copies of all such declarations to the proper election authorities
32 for further action pursuant to this section. The election authority shall furnish a list to the

33 election judges and counting teams prior to election day of all write-in candidates who have
34 filed such declaration. ~~[This subdivision shall not apply to elections wherein candidates are
35 being elected to an office for which no candidate has filed.]~~ No person shall file a declaration
36 of intent to be a write-in candidate for election to any municipal office unless such person is
37 qualified to be certified as a candidate under section 115.306;

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-
45 in candidate for the office of United States president shall include the name of a candidate for
46 vice president and the name of nominees for presidential elector equal to the number to which
47 the state is entitled. At least one qualified resident of each congressional district shall be
48 nominated as presidential elector. Each such declaration of intent to be a write-in candidate
49 shall be accompanied by a declaration of candidacy for each presidential elector in
50 substantially the form set forth in subsection 3 of section 115.399. Each declaration of
51 candidacy for the office of presidential elector shall be subscribed and sworn to by the
52 candidate before the election official receiving the declaration of intent to be a write-in,
53 notary public or other officer authorized by law to administer oaths.

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