

SECOND REGULAR SESSION

HOUSE BILL NO. 3209

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REUTER.

7047H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 116.155 as enacted by senate bill no. 22, one hundred third general assembly, first regular session, section 116.155 as enacted by house bill no. 676, ninetieth general assembly, first regular session, section 116.160 as enacted by senate bill no. 22, one hundred third general assembly, first regular session, section 116.160 as enacted by house bill no. 676, ninetieth general assembly, first regular session, section 116.190 as enacted by senate bill no. 22, one hundred third general assembly, first regular session, section 116.190 as enacted by senate bill no. 104, ninety-eighth general assembly, first regular session, section 116.334 as enacted by senate bill no. 22, one hundred third general assembly, first regular session, and section 116.334 as enacted by house bill no. 117, ninety-seventh general assembly, first regular session, and to enact in lieu thereof four new sections relating to ballot titles for statewide ballot measures.

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

Section A. Section 116.155 as enacted by senate bill no. 22, one hundred third general
2 assembly, first regular session, section 116.155 as enacted by house bill no. 676, ninetieth
3 general assembly, first regular session, section 116.160 as enacted by senate bill no. 22, one
4 hundred third general assembly, first regular session, section 116.160 as enacted by house bill
5 no. 676, ninetieth general assembly, first regular session, section 116.190 as enacted by senate
6 bill no. 22, one hundred third general assembly, first regular session, section 116.190 as
7 enacted by senate bill no. 104, ninety-eighth general assembly, first regular session, section
8 116.334 as enacted by senate bill no. 22, one hundred third general assembly, first regular
9 session, and section 116.334 as enacted by house bill no. 117, ninety-seventh general

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.

10 assembly, first regular session, are repealed and four new sections enacted in lieu thereof, to
 11 be known as sections 116.155, 116.160, 116.190, and 116.334, to read as follows:

2 ~~[116.155. 1. The general assembly may include the official summary~~
 3 ~~statement and a fiscal note summary in any statewide ballot measure that it~~
 4 ~~refers to the voters.~~

5 ~~2. The official summary statement approved by the general assembly~~
 6 ~~shall, taken together with the approved fiscal note summary, be the official~~
 7 ~~ballot title and such summary statement shall contain no more than one~~
 8 ~~hundred words, excluding articles. The title shall be a true and impartial~~
 9 ~~statement of the purposes of the proposed measure in language neither~~
 10 ~~intentionally argumentative nor likely to create prejudice either for or against~~
 11 ~~the proposed measure.~~

12 ~~3. The fiscal note summary approved by the general assembly shall~~
 13 ~~contain no more than fifty words, excluding articles, which shall summarize~~
 14 ~~the fiscal note prepared for the measure in language neither argumentative nor~~
~~likely to create prejudice for or against the proposed measure.]~~

2 116.155. 1. The general assembly may include the official summary statement and a
 3 fiscal note summary in any statewide ballot measure that it refers to the voters.

4 2. The official summary statement approved by the general assembly shall, taken
 5 together with the approved fiscal note summary, be the official ballot title and such summary
 6 statement shall contain no more than **[fifty] one hundred** words, excluding articles. The title
 7 shall be a true and impartial statement of the purposes of the proposed measure in language
 8 neither intentionally argumentative nor likely to create prejudice either for or against the
 9 proposed measure.

10 3. The fiscal note summary approved by the general assembly shall contain no more
 11 than fifty words, excluding articles, which shall summarize the fiscal note prepared for the
 12 measure in language neither argumentative nor likely to create prejudice for or against the
 13 proposed measure.

2 ~~[116.160. 1. If the general assembly adopts a joint resolution~~
 3 ~~proposing a constitutional amendment or a bill without a fiscal note summary,~~
 4 ~~which is to be referred to a vote of the people, after receipt of such resolution~~
 5 ~~or bill the secretary of state shall promptly forward the resolution or bill to the~~
 6 ~~state auditor. If the general assembly adopts a joint resolution proposing a~~
 7 ~~constitutional amendment or a bill without an official summary statement,~~
 8 ~~which is to be referred to a vote of the people, within twenty days after receipt~~
 9 ~~of the resolution or bill, the secretary of state shall prepare and transmit to the~~
 10 ~~attorney general a summary statement of the measure as the proposed~~
 11 ~~summary statement. The secretary of state may seek the advice of the~~
 12 ~~legislator who introduced the constitutional amendment or bill and the speaker~~
 13 ~~of the house or the president pro tem of the legislative chamber that originated~~
~~the measure. The summary statement may be distinct from the legislative title~~

14 of the proposed constitutional amendment or bill. The attorney general shall
 15 within ten days approve the legal content and form of the proposed statement.

16 2. If the general assembly adopts a joint resolution proposing a
 17 constitutional amendment or statutory measure that includes an official
 18 summary statement, the statement shall appear on the ballot, unless it is
 19 challenged pursuant to section 116.190, in which case the provisions of that
 20 section shall apply.

21 3. The official summary statement shall contain no more than one
 22 hundred words, excluding articles. The title shall be a true and impartial
 23 statement of the purposes of the proposed measure in language neither
 24 intentionally argumentative nor likely to create prejudice either for or against
 25 the proposed measure.]

116.160. 1. If the general assembly adopts a joint resolution proposing a
 2 constitutional amendment or a bill without a fiscal note summary, which is to be referred to a
 3 vote of the people, after receipt of such resolution or bill the secretary of state shall promptly
 4 forward the resolution or bill to the state auditor. If the general assembly adopts a joint
 5 resolution proposing a constitutional amendment or a bill without an official summary
 6 statement, which is to be referred to a vote of the people, within twenty days after receipt of
 7 the resolution or bill, the secretary of state shall prepare and transmit to the attorney general a
 8 summary statement of the measure as the proposed summary statement. The secretary of
 9 state may seek the advice of the legislator who introduced the constitutional amendment or
 10 bill and the speaker of the house or the president pro tem of the legislative chamber that
 11 originated the measure. The summary statement may be distinct from the legislative title of
 12 the proposed constitutional amendment or bill. The attorney general shall within ten days
 13 approve the legal content and form of the proposed statement.

14 2. **If the general assembly adopts a joint resolution proposing a constitutional**
 15 **amendment or statutory measure that includes an official summary statement, the**
 16 **statement shall appear on the ballot, unless it is challenged pursuant to section 116.190,**
 17 **in which case the provisions of that section shall apply.**

18 3. The official summary statement shall contain no more than [fifty] **one hundred**
 19 words, excluding articles. The title shall be a true and impartial statement of the purposes of
 20 the proposed measure in language neither intentionally argumentative nor likely to create
 21 prejudice either for or against the proposed measure.

~~116.190. 1. Any citizen who wishes to challenge the official ballot
 2 title or the fiscal note prepared for a proposed constitutional amendment
 3 submitted by the general assembly, by initiative petition, or by constitutional
 4 convention, or for a statutory initiative or referendum measure, may bring an
 5 action in the circuit court of Cole County. The action shall be brought within
 6 ten days after the official ballot title is certified by the secretary of state in
 7 accordance with the provisions of this chapter, in the case of an initiative~~

8 petition and not later than the twenty-second Tuesday prior to the general
9 election at which the ballot measure will be submitted to the voters, in the case
10 of all other statewide ballot measures.

11 2. The secretary of state shall be named as a party defendant in any
12 action challenging the official ballot title prepared by the secretary of state.
13 When the action challenges the fiscal note or the fiscal note summary prepared
14 by the auditor, the state auditor shall also be named as a party defendant. The
15 president pro tem of the senate, the speaker of the house and the sponsor of the
16 measure and the secretary of state shall be the named party defendants in any
17 action challenging the official summary statement, fiscal note or fiscal note
18 summary prepared pursuant to section 116.155.

19 3. The petition shall state the reason or reasons why the summary
20 statement portion of the official ballot title is insufficient or unfair.
21 Alternatively, the petition shall state the reasons why the fiscal note or the
22 fiscal note summary portion of the official ballot title is insufficient or unfair
23 and shall request a different fiscal note or fiscal note summary portion of the
24 official ballot title.

25 4. (1) The action shall be placed at the top of the civil docket.

26 (2) (a) Insofar as the action challenges the summary statement portion
27 of the official ballot title, the court shall consider the petition, hear arguments,
28 and in its decision certify the summary statement portion of the official ballot
29 title to the secretary of state as originally written if the court finds the summary
30 statement to be sufficient and fair. If the court finds the summary statement to
31 be insufficient or unfair, the court may offer suggested revisions for the
32 summary statement to remedy the legal flaws, but it shall, in its decision, order
33 the secretary of state to write a first revised summary statement that is
34 sufficient and fair.

35 (b) The secretary of state shall submit a first revised summary
36 statement to the court within seven days. If, after submission to the court of a
37 first revised summary statement by the secretary of state, the court finds the
38 first revised summary statement to be sufficient and fair, the court shall certify
39 to the secretary of state that statement and order it to appear on the ballot. If
40 the court finds the first revised summary statement to be insufficient or unfair,
41 the court may offer suggested revisions for the statement to remedy the legal
42 flaws, but it shall, in its decision, order the secretary of state to write a second
43 revised summary statement that is sufficient and fair.

44 (c) The secretary of state shall submit a second revised summary
45 statement to the court within five days. If, after submission to the court of a
46 second revised summary statement by the secretary of state, the court finds the
47 second revised summary statement to be sufficient and fair, the court shall
48 certify to the secretary of state that statement and order it to appear on the
49 ballot. If the court finds the second revised summary statement to be
50 insufficient or unfair, the court may offer suggested revisions for the statement
51 to remedy the legal flaws, but it shall, in its decision, order the secretary of
52 state to write a third revised summary statement that is sufficient and fair.

53 (d) The secretary of state shall submit a third revised summary
54 statement to the court within three days. If, after submission to the court of a
55 third revised summary statement by the secretary of state, the court finds the

56 ~~third revised summary statement to be sufficient and fair, the court shall certify~~
 57 ~~to the secretary of state that statement and order it to appear on the ballot. If~~
 58 ~~the court finds the third revised summary statement to be insufficient or unfair,~~
 59 ~~or if the secretary of state neglects or refuses to submit any of the revised~~
 60 ~~summary statements within the times mandated by this subdivision when so~~
 61 ~~ordered, the court shall revise the summary statement in a manner that is~~
 62 ~~sufficient and fair and order the secretary of state to place that summary~~
 63 ~~statement on the ballot with the measure.~~

64 ~~(e) During all revisions as provided in this subdivision, the case shall~~
 65 ~~remain open.~~

66 ~~(f) Any nonprevailing party may make appeals as provided by law~~
 67 ~~only following:~~

68 ~~a. The finding of the circuit court that a summary statement was~~
 69 ~~sufficient and fair; or~~

70 ~~b. The circuit court ordering its own summary statement to be placed~~
 71 ~~on the ballot pursuant to paragraph (d) of this subdivision.~~

72 ~~(g) Any action brought pursuant to this section challenging a statewide~~
 73 ~~ballot measure appearing on the ballot at an election called by the governor~~
 74 ~~pursuant to Article XII, Section 2(b), Missouri Constitution, whether at the~~
 75 ~~primary election or at a special election, or at a special election for a~~
 76 ~~referendum petition measure called by the general assembly pursuant to~~
 77 ~~Article III, Section 52(b), Missouri Constitution, shall be expedited by the~~
 78 ~~court to bring a resolution of the matter prior to the printing of ballots. The~~
 79 ~~court may shorten any timeframe under this section to achieve this purpose.~~

80 ~~(3) Insofar as the action challenges the fiscal note or the fiscal note~~
 81 ~~summary portion of the official ballot title, the court shall consider the~~
 82 ~~petition, hear arguments, and in its decision, either certify the fiscal note or the~~
 83 ~~fiscal note summary portion of the official ballot title to the secretary of state~~
 84 ~~or remand the fiscal note or the fiscal note summary to the auditor for~~
 85 ~~preparation of a new fiscal note or fiscal note summary pursuant to the~~
 86 ~~procedures set forth in section 116.175. Any party to the suit may appeal to~~
 87 ~~the supreme court within ten days after a circuit court decision pursuant to this~~
 88 ~~subdivision.~~

89 ~~5. Any action brought under this section that is not fully and finally~~
 90 ~~adjudicated within one hundred eighty days of filing, and more than seventy~~
 91 ~~days prior to election in which the measure is to appear, including all appeals,~~
 92 ~~shall be extinguished, unless a court extends such period upon a finding of~~
 93 ~~good cause for such extension. Such good cause shall consist only of court-~~
 94 ~~related scheduling issues and shall not include requests for continuance by the~~
 95 ~~parties.]~~

116.190. 1. Any citizen who wishes to challenge the official ballot title or the fiscal
 2 note prepared for a proposed constitutional amendment submitted by the general assembly, by
 3 initiative petition, or by constitutional convention, or for a statutory initiative or referendum
 4 measure, may bring an action in the circuit court of Cole County. The action ~~[must]~~ **shall** be
 5 brought within ten days after the official ballot title is certified by the secretary of state in
 6 accordance with the provisions of this chapter **in the case of an initiative petition, and not**

7 **later than the twenty-second Tuesday prior to the general election at which the ballot**
8 **measure will be submitted to the voters, in the case of all other statewide ballot**
9 **measures.**

10 2. The secretary of state shall be named as a party defendant in any action challenging
11 the official ballot title prepared by the secretary of state. When the action challenges the
12 fiscal note or the fiscal note summary prepared by the auditor, the state auditor shall also be
13 named as a party defendant. The president pro tem of the senate, the speaker of the house and
14 the sponsor of the measure and the secretary of state shall be the named party defendants in
15 any action challenging the official summary statement, fiscal note or fiscal note summary
16 prepared pursuant to section 116.155.

17 3. The petition shall state the reason or reasons why the summary statement portion of
18 the official ballot title is insufficient or unfair [~~and shall request a different summary~~
19 ~~statement portion of the official ballot title~~]. Alternatively, the petition shall state the reasons
20 why the fiscal note or the fiscal note summary portion of the official ballot title is insufficient
21 or unfair and shall request a different fiscal note or fiscal note summary portion of the official
22 ballot title.

23 4. (1) The action shall be placed at the top of the civil docket.

24 (2) (a) Insofar as the action challenges the summary statement portion of the official
25 ballot title, the court shall consider the petition, hear arguments, and in its decision certify the
26 summary statement portion of the official ballot title to the secretary of state **as originally**
27 **written if the court finds the summary statement to be sufficient and fair. If the court**
28 **finds the summary statement to be insufficient or unfair, the court may offer suggested**
29 **revisions for the summary statement to remedy the legal flaws, but it shall, in its**
30 **decision, order the secretary of state to write a first revised summary statement that is**
31 **sufficient and fair.**

32 (b) The secretary of state shall submit a first revised summary statement to the
33 court within seven days if the action was originated in a year ending in an odd number,
34 but within three days if the action was originated in a year ending with an even number.
35 **If, after submission to the court of a first revised summary statement by the secretary of**
36 **state, the court finds the first revised summary statement to be sufficient and fair, the**
37 **court shall certify to the secretary of state that statement and order it to appear on the**
38 **ballot. If the court finds the first revised summary statement to be insufficient or unfair,**
39 **the court may offer suggested revisions for the statement to remedy the legal flaws, but**
40 **it shall, in its decision, order the secretary of state to write a second revised summary**
41 **statement that is sufficient and fair.**

42 (c) The secretary of state shall submit a second revised summary statement to
43 the court within five days if the action was originated in a year ending in an odd

44 number, but within two days if the action was originated in a year ending with an even
45 number. If, after submission to the court of a second revised summary statement by the
46 secretary of state, the court finds the second revised summary statement to be sufficient
47 and fair, the court shall certify to the secretary of state that statement and order it to
48 appear on the ballot. If the court finds the second revised summary statement to be
49 insufficient or unfair, the court may offer suggested revisions for the statement to
50 remedy the legal flaws, but it shall, in its decision, order the secretary of state to write a
51 third revised summary statement that is sufficient and fair.

52 (d) The secretary of state shall submit a third revised summary statement to the
53 court within three days if the action was originated in a year ending in an odd number,
54 but within one day if the action was originated in a year ending in an even number. If,
55 after submission to the court of a third revised summary statement by the secretary of
56 state, the court finds the third revised summary statement to be sufficient and fair, the
57 court shall certify to the secretary of state that statement and order it to appear on the
58 ballot. If the court finds the third revised summary statement to be insufficient or
59 unfair, or if the secretary of state neglects or refuses to submit any of the revised
60 summary statements within the times mandated by this subdivision when so ordered,
61 the court shall revise the summary statement in a manner that is sufficient and fair and
62 order the secretary of state to place that summary statement on the ballot with the
63 measure.

64 (e) During all revisions as provided in this subdivision, the case shall remain
65 open.

66 (f) Any nonprevailing party may make appeals as provided by law only
67 following:

68 a. The finding of the circuit court that a summary statement was sufficient and
69 fair; or

70 b. The circuit court ordering its own summary statement to be placed on the
71 ballot pursuant to paragraph (d) of this subdivision.

72 (g) a. In any appeal of any decision of a circuit court finding a summary
73 statement to be sufficient and fair pursuant to this subdivision, if the appellate court
74 concludes that the summary statement was in fact insufficient or unfair, the appellate
75 court shall remand the summary statement to the circuit for further proceedings
76 consistent with this subdivision. If the appellate court finds the summary statement
77 insufficient or unfair, the court may offer suggested revisions for the summary
78 statement to remedy the legal flaws, but the appellate court shall not have authority to
79 itself modify or rewrite the summary statement. No other relief shall issue from an
80 appellate court on a challenge to a circuit court's decision that a summary statement is

81 **insufficient and unfair besides remanding the judgment to the circuit court for further**
82 **proceedings consistent with this section.**

83 **b. Notwithstanding subparagraph a. of this paragraph to the contrary, if an**
84 **action brought under this section has not been fully and finally adjudicated within one**
85 **hundred fifty-two days of filing, or if there are less than ninety-eight days until the**
86 **election at which the measure is to appear, the provisions of subparagraph a. of this**
87 **paragraph requiring the appellate court to remand the summary statement to the**
88 **circuit court shall not apply and an appeal to the supreme court shall be permitted. If,**
89 **upon such appeal, the supreme court finds the summary statement insufficient or unfair,**
90 **the court may offer suggested revisions for the summary statement to remedy the legal**
91 **flaws, but the supreme court shall not have authority to itself modify or rewrite the**
92 **summary statement. No other relief shall issue from the supreme court on a challenge to**
93 **a circuit court's decision that a summary statement is sufficient and fair besides**
94 **remanding the judgment to the circuit court for further proceedings consistent with this**
95 **section.**

96 **(h) Any action brought pursuant to this section challenging a statewide ballot**
97 **measure appearing on the ballot at an election called by the governor pursuant to**
98 **Article XII, Section 2(b), Missouri Constitution, whether at the primary election or at a**
99 **special election, or at a special election for a referendum petition measure called by the**
100 **general assembly pursuant to Article III, Section 52(b), Missouri Constitution, shall be**
101 **expedited by the court to bring a resolution of the matter prior to the printing of ballots.**
102 **The court may shorten any timeframe under this section to achieve this purpose.**

103 **(3) Insofar as the action challenges the fiscal note or the fiscal note summary portion**
104 **of the official ballot title, the court shall consider the petition, hear arguments, and in its**
105 **decision, either certify the fiscal note or the fiscal note summary portion of the official ballot**
106 **title to the secretary of state or remand the fiscal note or the fiscal note summary to the auditor**
107 **for preparation of a new fiscal note or fiscal note summary pursuant to the procedures set**
108 **forth in section 116.175. Any party to the suit may appeal to the supreme court within ten**
109 **days after a circuit court decision pursuant to this subdivision. [In making the legal notice**
110 **to election authorities under section 116.240, and for the purposes of section 116.180, the**
111 **secretary of state shall certify the language which the court certifies to him.]**

112 **5. Any action brought under this section that is not fully and finally adjudicated**
113 **within one hundred eighty days of filing, and more than [fifty-six] seventy days prior to the**
114 **election in which the measure is to appear, including all appeals, shall be extinguished, unless**
115 **a court extends such period upon a finding of good cause for such extension. Such good**
116 **cause shall consist only of court-related scheduling issues and shall not include requests for**
117 **continuance by the parties.**

2 ~~[116.334. 1. If the petition form is approved, the secretary of state~~
 3 ~~shall make a copy of the sample petition available on the secretary of state's~~
 4 ~~website. For a period of fifteen days after the petition is approved as to form,~~
 5 ~~the secretary of state shall accept public comments regarding the proposed~~
 6 ~~measure and provide copies of such comments upon request. Within twenty-~~
 7 ~~three days of receipt of such approval, the secretary of state shall prepare and~~
 8 ~~transmit to the attorney general a summary statement of the measure which~~
 9 ~~shall be a concise statement not exceeding one hundred words. This statement~~
 10 ~~shall be in the form of a question using language neither intentionally~~
 11 ~~argumentative nor likely to create prejudice either for or against the proposed~~
 12 ~~measure. The attorney general shall within ten days approve the legal content~~
 13 ~~and form of the proposed statement.~~

14 ~~2. Signatures obtained prior to the date the official ballot title is~~
 15 ~~certified by the secretary of state shall not be counted. Once the secretary of~~
 16 ~~state certifies the official ballot title, signatures may be collected, even if the~~
 17 ~~ballot title is subject to an action in court challenging the sufficiency and~~
 18 ~~fairness of the ballot title. If a court orders a change that alters the content of~~
 19 ~~the official ballot title, then all signatures gathered before such change~~
 20 ~~occurred shall not be invalidated based upon the fact that one or more~~
 21 ~~signatures were gathered prior to the alteration of the official ballot title,~~
 22 ~~regardless of whether those signatures were gathered on petition pages that~~
 23 ~~displayed what was previously the official ballot title as certified by the~~
 24 ~~secretary of state. Nothing in this subsection shall prohibit the invalidation of a~~
 25 ~~signature for a reason otherwise allowed by this chapter.~~

26 ~~3. Signatures for statutory initiative petitions shall be filed not later~~
 27 ~~than six months prior to the general election during which the petition's ballot~~
 28 ~~measure is submitted for a vote, and shall also be collected not earlier than the~~
~~day after the day upon which the previous general election was held.]~~

116.334. 1. If the petition form is approved, the secretary of state shall make a copy
 2 of the sample petition available on the secretary of state's website. For a period of fifteen
 3 days after the petition is approved as to form, the secretary of state shall accept public
 4 comments regarding the proposed measure and provide copies of such comments upon
 5 request. Within twenty-three days of receipt of such approval, the secretary of state shall
 6 prepare and transmit to the attorney general a summary statement of the measure which shall
 7 be a concise statement not exceeding one hundred words. This statement shall be in the form
 8 of a question using language neither intentionally argumentative nor likely to create prejudice
 9 either for or against the proposed measure. The attorney general shall within ten days
 10 approve the legal content and form of the proposed statement.

2. Signatures obtained prior to the date the official ballot title is certified by the
 12 secretary of state shall not be counted. **Once the secretary of state certifies the official**
 13 **ballot title, signatures may be collected, even if the ballot title is subject to an action in**
 14 **court challenging the sufficiency and fairness of the ballot title. If a court orders a**
 15 **change that alters the content of the official ballot title, then all signatures gathered**

16 **before such change occurred shall not be invalidated based upon the fact that one or**
17 **more signatures were gathered prior to the alteration of the official ballot title,**
18 **regardless of whether those signatures were gathered on petition pages that displayed**
19 **what was previously the official ballot title as certified by the secretary of state. Nothing**
20 **in this subsection shall prohibit the invalidation of a signature for a reason otherwise**
21 **allowed by this chapter.**

22 3. Signatures for statutory initiative petitions shall be filed not later than six months
23 prior to the general election during which the petition's ballot measure is submitted for a vote,
24 and shall also be collected not earlier than the day after the day upon which the previous
25 general election was held.

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