

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 270
96TH GENERAL ASSEMBLY

1258L.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 28.190, 29.280, 30.060, 30.070, 30.080, 54.330, 105.030, 105.040, 105.050, 115.123, 115.241, and 115.293, RSMo, and to enact in lieu thereof thirteen new sections relating to elections.

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

Section A. Sections 28.190, 29.280, 30.060, 30.070, 30.080, 54.330, 105.030, 105.040, 105.050, 115.123, 115.241, and 115.293, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 26.016, 27.015, 28.190, 29.280, 30.060, 30.080, 54.330, 105.030, 105.040, 105.050, 115.123, 115.293, and 190.056, to read as follows:

26.016. In the case of any vacancy for any cause in the office of lieutenant governor, the governor shall immediately fill such vacancy by special election as provided in section 105.030 for the remainder of the term in which the vacancy occurred until a successor is elected and qualified at the next election scheduled for the lieutenant governor under section 17, article IV, Constitution of Missouri. The governor shall take charge of such office and superintend the business of the office until a successor is elected and qualified. In cases of impeachment as provided in chapter 106, the lieutenant governor shall be suspended until the impeachment is determined. If the lieutenant governor is acquitted, the lieutenant governor shall be reinstated to office. If the lieutenant governor is convicted, the vacancy shall be filled in the same manner as provided in this section.

27.015. In the case of any vacancy for any cause in the office of attorney general, the governor shall immediately appoint an acting attorney general to fill such vacancy until the vacancy is filled by special election as provided in section 105.030 for the remainder of the term in which the vacancy occurred until a successor is elected and qualified at the next

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.

5 election scheduled for the attorney general under section 17, article IV, Constitution of
6 Missouri. The acting attorney general shall take charge of such office and superintend the
7 business of the office until a successor is elected and qualified. In cases of impeachment
8 as provided in chapter 106, the attorney general shall be suspended until the impeachment
9 is determined. If the attorney general is acquitted, the attorney general shall be reinstated
10 to office. If the attorney general is convicted, the vacancy shall be filled in the same
11 manner as provided in this section.

28.190. In case of death, resignation, removal from office, impeachment, or vacancy
2 from any cause in the office of secretary of state, the governor shall immediately [appoint a
3 qualified person to] fill such vacancy **by special election as provided in section 105.030** for the
4 remainder of the term in which such vacancy occurred [and] until [his] a successor is elected
5 [or appointed, commissioned] and qualified[; and] **at the next election scheduled for the**
6 **secretary of state under section 17, article IV, Constitution of Missouri.** The governor shall
7 take charge of the office and superintend its business until such person is [appointed,
8 commissioned] **elected** and qualified[; except that] . In case of impeachment **as provided in**
9 **chapter 106,** the governor shall appoint a qualified person to serve only until such impeachment
10 is determined, when the suspended officer, if acquitted, shall be reinstated in office[, or] . If the
11 suspended officer is convicted, [a new appointment shall be made] **the vacancy shall be filled**
12 by the governor as [in the case of other vacancies] **provided in this section.**

29.280. When a vacancy occurs in the office of state auditor, the governor shall
2 immediately appoint an **acting** auditor to fill such vacancy **until the vacancy is filled by special**
3 **election as provided in section 105.030** for the residue of the term in which the vacancy
4 occurred[, and] until [his] a successor is elected [or appointed, commissioned] and qualified **at**
5 **the next election scheduled for the state auditor under section 17, article IV, Constitution**
6 **of Missouri.** The acting auditor shall take charge of such office and superintend the
7 business of the office until a successor is elected and qualified. In cases of impeachment
8 as provided in chapter 106, the auditor shall be suspended until the impeachment is
9 determined. If the auditor is acquitted, the auditor shall be reinstated to office. If the
10 auditor is convicted, the vacancy shall be filled in the same manner as provided in this
11 section.

30.060. In case of death, resignation, removal from office, impeachment, or vacancy
2 from any cause[,] in the office of the state treasurer, the governor shall **immediately fill such**
3 **vacancy by special election as provided in section 105.030 for the remainder of the term in**
4 **which such vacancy occurred until a successor is elected and qualified at the next election**
5 **scheduled for the state treasurer under section 17, article IV, Constitution of Missouri.**
6 **The governor shall** take charge of such office and superintend the business thereof until a

7 successor is [appointed, commissioned] **elected** and qualified [except] . In case of impeachment
8 **as provided in chapter 106**, when no [appointment] **election** shall be made until a
9 determination of the matter is had, when, in the event of an acquittal, the suspended officer shall
10 be reinstated in office. **If the treasurer is convicted, the vacancy shall be filled in the same**
11 **manner as provided in this section.**

30.080. Immediately after the [appointment] **election** and qualification of a state
2 treasurer, made to fill any vacancy occurring in said office, or the resumption of [his] duties by
3 said officer, after the removal of any disability or temporary suspension therefrom the general
4 assembly if in session, or, if such assembly be not in session, then the governor, shall cause a
5 settlement to be made of the accounts of the former state treasurer, or any such office ad interim,
6 remaining unsettled, and ascertain what balance, if any, is due the state or such officer, as the
7 case may be.

54.330. 1. **A candidate for county collector-treasurer shall be at least twenty-one**
2 **years of age and a resident of the county in which he or she is a candidate for at least one**
3 **year prior to the date of filing for the office. The candidate shall also be a registered voter**
4 **and shall be current in the payment of all state income taxes and personal and real**
5 **property taxes. The candidate shall present to the election authority a copy of a signed**
6 **affidavit from a surety company authorized to do business in this state, indicating that the**
7 **candidate meets the statutory bond requirements for the office for which the candidate is**
8 **filing. A collector-treasurer shall reside in the county throughout his or her term in office**
9 **and shall remain in office until a successor is duly elected and qualified.**

2. County collector-treasurers in a county having township organization, shall be
11 required to give bonds as other county collectors under the general revenue law, **and shall have**
12 **the sole authority to appoint deputies under section 52.300.**

[2.] 3. Before entering upon the duties for which they are employed, deputies and
14 assistants employed in the office of any collector-treasurer shall give bond and security to the
15 satisfaction of the collector-treasurer. The bond for each individual deputy or assistant shall not
16 exceed one-half of the amount of the maximum bond required for any collector-treasurer. The
17 official bond required pursuant to this section shall be a surety bond with a surety company
18 authorized to do business in this state. The premium of the bond shall be paid by the county or
19 city being protected.

105.030. 1. Whenever any vacancy, caused in any manner or by any means whatsoever,
2 occurs or exists in any state or county office originally filled by election of the people, other than
3 in the offices of lieutenant governor, **attorney general, secretary of state, state auditor, state**
4 **treasurer**, state senator or representative, sheriff, or recorder of deeds in the city of St. Louis,
5 the vacancy shall be filled by appointment by the governor except that when a vacancy occurs

6 in the office of county assessor after a general election at which a person other than the
7 incumbent has been elected, the person so elected shall be appointed to fill the remainder of the
8 unexpired term; and the person appointed after duly qualifying and entering upon the discharge
9 of [his] **the** duties under the appointment shall continue in office until the first Monday in
10 January next following the first ensuing general election, at which general election a person shall
11 be elected to fill the unexpired portion of the term, or for the ensuing regular term, as the case
12 may be, and the person so elected shall enter upon the discharge of the duties of the office the
13 first Monday in January next following his election, except that when the term to be filled begins
14 on any day other than the first Monday in January, the appointee of the governor shall be entitled
15 to hold the office until such other date. This section shall not apply to vacancies in county
16 offices in any county which has adopted a charter for its own government under section 18,
17 article VI of the constitution. Any vacancy in the office of recorder of deeds in the city of St.
18 Louis shall be filled by appointment by the mayor of that city.

19 **2. Any vacancy occurring in the offices of lieutenant governor, attorney general,**
20 **secretary of state, state auditor, or state treasurer, except for vacancies occurring under**
21 **section 106.060, shall be filled by a special election called by the governor for that purpose.**
22 **Upon receiving the notice of vacancies occurring under this subsection, the governor shall**
23 **without delay issue a writ of election to fill the vacancy. The secretary of state shall**
24 **conduct the special election as provided in chapter 115.**

105.040. Whenever a vacancy in the office of senator of the United States from this state
2 exists, the governor[, unless otherwise provided by law,] shall appoint a person to fill such
3 vacancy, who shall continue in office until a successor shall have been duly elected and qualified
4 [according to law] **by a special election called by the governor for that purpose. Upon**
5 **receiving the notice of a vacancy occurring in the office, the governor shall without delay**
6 **appoint a person to fill the vacancy and issue a writ of election to fill the vacancy. The**
7 **secretary of state shall conduct the special election as provided in chapter 115.**

105.050. If any vacancy shall happen from any cause in the office of the [attorney
2 general,] circuit attorney, prosecuting attorney or assistant prosecuting attorney, the governor,
3 upon being satisfied that such vacancy exists, shall appoint some competent person to fill the
4 same until the next regular election for [attorney general,] prosecuting attorney or assistant
5 prosecuting attorney, as the case may be; provided, in the case of a vacancy in the office of
6 prosecuting attorney, if there is no qualified person in the county who can or will accept such
7 appointment, then the governor may appoint any person who possesses all the qualifications set
8 forth in section 56.010, RSMo, except the qualification as to residence.

115.123. 1. All public elections shall be held on Tuesday. Except as provided in
2 subsections 2[, and 3[, and 4] of this section, and section 247.180, all public elections shall be

3 held on the general election day, the primary election day, the general municipal election day,
4 the first Tuesday after the first Monday in February or November, or on another day expressly
5 provided by city or county charter, [the first Tuesday after the first Monday in June] and in
6 nonprimary years on the first Tuesday after the first Monday in August.

7 2. Notwithstanding the provisions of subsection 1 of this section, an election for a
8 presidential primary held pursuant to sections 115.755 to 115.785 shall be held on the first
9 Tuesday after the first Monday in March of each presidential election year.

10 3. The following elections shall be exempt from the provisions of subsection 1 of this
11 section:

- 12 (1) Bond elections necessitated by fire, vandalism or natural disaster;
- 13 (2) Elections for which ownership of real property is required by law for voting; and
- 14 (3) Special elections to fill vacancies and to decide tie votes or election contests.

15 4. No city or county shall adopt a charter or charter amendment which calls for elections
16 to be held on dates other than those established in subsection 1 of this section.

17 5. Nothing in this section prohibits a charter city or county from having its primary
18 election in March if the charter provided for a March primary before August 28, 1999.

19 6. Nothing in this section shall prohibit elections held pursuant to section 65.600, but no
20 other issues shall be on the March ballot except pursuant to this chapter.

115.293. [1.] All proper votes on each absentee ballot received by an election authority
2 at or before the time fixed by law for the closing of the polls on election day shall be counted.
3 No votes on any absentee ballot received by an election authority after the time fixed by law for
4 the closing of the polls on election day shall be counted.

5 [2. If sufficient evidence is shown to an election authority that any absentee voter has
6 died prior to the opening of the polls on election day, the ballot of the deceased voter shall be
7 rejected. Any ballot so rejected, still sealed in its ballot envelope, shall be sealed with the
8 application and any other papers connected therewith in an envelope marked "Rejected ballot of
9, an absentee voter of voting district". The reason for
10 rejection shall be noted on the envelope, which shall be kept by the election authority with the
11 other ballots from the election until the ballots are destroyed according to law.]

**190.056. 1. Each member of an ambulance district board of directors shall be
2 subject to recall from office by the registered voters of the election district from which the
3 member was elected. Proceedings may be commenced for the recall of any such member
4 by the filing of a notice of intention to circulate a recall petition under this section.**

**5 2. Proceedings may not be commenced against any member if, at the time of
6 commencement, such member:**

7 (1) Has not held office during the member's current term for a period of more than
8 one hundred eighty days; or

9 (2) Has one hundred eighty days or less remaining in the member's term; or

10 (3) Has had a recall election determined in the member's favor within the current
11 term of office.

12 3. The notice of intention to circulate a recall petition shall be served personally,
13 or by certified mail, on the board member sought to be recalled. A copy thereof shall be
14 filed, along with an affidavit of the time and manner of service, with the election authority,
15 as defined in chapter 115. A separate notice shall be filed for each board member sought
16 to be recalled and shall contain all of the following:

17 (1) The name of the board member sought to be recalled;

18 (2) A statement, not exceeding two hundred words in length, of the reasons for the
19 proposed recall; and

20 (3) The names and business or residential addresses of at least one but not more
21 than five proponents of the recall.

22 4. Within seven days after the filing of the notice of intention, the board member
23 may file with the election authority a statement, not exceeding two hundred words in
24 length, in answer to the statement of the proponents. If an answer is filed, the board
25 member shall also serve a copy of it, personally or by certified mail, on one of the
26 proponents named in the notice of intention. The statement and answer are intended solely
27 to be used for the information of the voters. No insufficiency in form or substance of such
28 statements shall affect the validity of the election proceedings.

29 5. Before any signature shall be affixed to a recall petition, the petition is required
30 to bear all of the following:

31 (1) A request that an election be called to elect a successor to the board member;

32 (2) A copy of the notice of intention, including the statement of grounds for recall;

33 (3) The answer of the board member sought to be recalled, if any exists. If the
34 board member has not answered, the petition shall so state; and

35 (4) A place for each signer to affix the signer's signature, printed name, and
36 residential address, including any address in a city, town, village, or unincorporated
37 community.

38 6. Each section of the petition, when submitted to the election authority, shall have
39 attached to it an affidavit signed by the person circulating such section, setting forth all of
40 the following:

41 (1) The printed name of the affiant;

42 (2) The residential address of the affiant;

43 **(3) That the affiant circulated that section and saw the appended signatures be**
44 **written;**

45 **(4) That according to the best information and belief of the affiant, each signature**
46 **is the genuine signature of the person whose name it purports to be;**

47 **(5) That the affiant is a registered voter of the election district of the board member**
48 **sought to be recalled; and**

49 **(6) The dates between which all the signatures to the petition were obtained.**

50 **7. A recall petition shall be filed with the election authority not more than one**
51 **hundred eighty days after the filing of the notice of intention.**

52 **8. The number of qualified signatures required in order to recall a board member**
53 **shall be equal in number to at least twenty-five percent of the number of voters who voted**
54 **in the most recent gubernatorial election in such election district.**

55 **9. Within twenty days from the filing of the recall petition the election authority**
56 **shall determine whether the petition was signed by the required number of qualified**
57 **signatures. The election authority shall file with the petition a certificate showing the**
58 **results of the examination. The election authority shall give the proponents a copy of the**
59 **certificate upon their request.**

60 **10. If the election authority certifies the petition to be insufficient, it may be**
61 **supplemented within ten days of the date of certification by filing additional petition**
62 **sections containing all of the information required by this section. Within ten days after**
63 **the supplemental copies are filed, the election authority shall file with them a certificate**
64 **stating whether the petition as supplemented is sufficient.**

65 **11. If the certificate shows that the petition as supplemented is insufficient, no**
66 **action shall be taken on it; however, the petition shall remain on file.**

67 **12. If the election authority finds the signatures on the petition, together with any**
68 **supplementary petition sections, to be sufficient, it shall submit its certificate as to the**
69 **sufficiency of the petition to the ambulance district board of directors prior to its next**
70 **meeting. The certificate shall contain:**

71 **(1) The name of the member whose recall is sought;**

72 **(2) The number of signatures required by law;**

73 **(3) The total number of signatures on the petition; and**

74 **(4) The number of valid signatures on the petition.**

75 **13. Following the ambulance district board's receipt of the certificate, the election**
76 **authority shall order an election to be held on one of the election days specified in section**
77 **115.123. The election shall be held not less than forty-five days but not more than one**
78 **hundred twenty days from the date the ambulance district board receives the petition.**

79 **Nominations for board membership openings under this section shall be made by filing a**
80 **statement of candidacy with the election authority.**

81 **14. At any time prior to forty-two days before the election, the member sought to**
82 **be recalled may offer the member's resignation. If the member's resignation is offered, the**
83 **recall question shall be removed from the ballot and the office declared vacant. The**
84 **member who resigned shall not fill the vacancy, which shall be filled as otherwise provided**
85 **by law.**

86 **15. The provisions of chapter 115 governing the conduct of elections shall apply,**
87 **where appropriate, to recall elections held under this section. The costs of the election shall**
88 **be paid as provided in chapter 115.**

2 [30.070. When a vacancy occurs in the office of state treasurer, the
3 governor shall immediately appoint a state treasurer to fill such vacancy for the
4 residue of the term in which the vacancy occurred, and until his successor is
5 elected or appointed, commissioned and qualified.]

2 [115.241. Each party emblem shall be printed on the ballot above the
party caption.]

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