

FIRST REGULAR SESSION

# SENATE BILL NO. 117

98TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BROWN.

Pre-filed December 3, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0650S.011

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## AN ACT

To repeal sections 115.125, 115.127, 115.317, 115.341, 115.363, 115.367, 115.373, and 115.381, RSMo, and to enact in lieu thereof seven new sections relating to special elections.

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

Section A. Sections 115.125, 115.127, 115.317, 115.341, 115.363, 115.367, 2 115.373, and 115.381, RSMo, are repealed and seven new sections enacted in lieu 3 thereof, to be known as sections 115.125, 115.127, 115.317, 115.341, 115.363, 4 115.367, and 115.373, to read as follows:

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

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

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

25         2. Except as provided for in sections 115.247 and 115.359, if there is no  
26 additional cost for the printing or reprinting of ballots or if the political  
27 subdivision or special district calling for the election agrees to pay any printing  
28 or reprinting costs, a political subdivision or special district may, at any time  
29 after certification required in subsection 1 of this section, but no later than 5:00  
30 p.m. on the sixth Tuesday before the election, be permitted to make late  
31 notification to the election authority pursuant to court order, which, except for  
32 good cause shown by the election authority in opposition thereto, shall be freely  
33 given upon application by the political subdivision or special district to the circuit  
34 court of the area of such subdivision or district. No court shall have the authority  
35 to order an individual or issue be placed on the ballot less than six weeks before  
36 the date of the election, except as provided in sections 115.361 and 115.379.

115.127. 1. Except as provided in subsection 4 of this section, upon  
2 receipt of notice of a special election to fill a vacancy submitted pursuant to  
3 section 115.125, the election authority shall cause legal notice of the **primary**  
4 **election for the special election and the** special election to be published in  
5 a newspaper of general circulation in its jurisdiction. The notice shall include the  
6 name of the officer or agency calling the **special** election, the date and time of  
7 the **primary election for the special election and the special** election, the  
8 name of the office to be filled and the date by which candidates must be [selected  
9 or] filed for the office. Within one week prior to each **primary election for a**  
10 **special election and the** special election to fill a vacancy held in its  
11 jurisdiction, the election authority shall cause legal notice of the  
12 [election] **elections** to be published in two newspapers of different political faith  
13 and general circulation in the jurisdiction. The legal notice shall include the date  
14 and time of the [election] **elections**, the name of the officer or agency calling the  
15 [election] **elections** and a sample ballot. If there is only one newspaper of  
16 general circulation in the jurisdiction, the notice shall be published in the

17 newspaper within one week prior to [the] **each** election. If there are two or more  
18 newspapers of general circulation in the jurisdiction, but no two of opposite  
19 political faith, the notice shall be published in any two of the newspapers within  
20 one week prior to [the] **each** election.

21         2. Except as provided in subsections 1 and 4 of this section and in sections  
22 115.521, 115.549 and 115.593, the election authority shall cause legal notice of  
23 each election held in its jurisdiction to be published. The notice shall be  
24 published in two newspapers of different political faith and qualified pursuant to  
25 chapter 493 which are published within the bounds of the area holding the  
26 election. If there is only one so qualified newspaper, then notice shall be  
27 published in only one newspaper. If there is no newspaper published within the  
28 bounds of the election area, then the notice shall be published in two qualified  
29 newspapers of different political faith serving the area. Notice shall be published  
30 twice, the first publication occurring in the second week prior to the election, and  
31 the second publication occurring within one week prior to the election. Each such  
32 legal notice shall include the date and time of the election, the name of the officer  
33 or agency calling the election and a sample ballot; and, unless notice has been  
34 given as provided by section 115.129, the second publication of notice of the  
35 election shall include the location of polling places. The election authority may  
36 provide any additional notice of the election it deems desirable.

37         3. The election authority shall print the official ballot as the same appears  
38 on the sample ballot, and no candidate's name or ballot issue which appears on  
39 the sample ballot or official printed ballot shall be stricken or removed from the  
40 ballot except on death of a candidate or by court order.

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

49         5. If the opening date for filing a declaration of candidacy for any office  
50 in a political subdivision or special district is not required by law or charter, the  
51 opening filing date shall be 8:00 a.m., the sixteenth Tuesday prior to the election,  
52 except that for any home rule city with more than four hundred thousand

53 inhabitants and located in more than one county and any political subdivision or  
54 special district located in such city, the opening filing date shall be 8:00 a.m., the  
55 fifteenth Tuesday prior to the election. If the closing date for filing a declaration  
56 of candidacy for any office in a political subdivision or special district is not  
57 required by law or charter, the closing filing date shall be 5:00 p.m., the eleventh  
58 Tuesday prior to the election. The political subdivision or special district calling  
59 an election shall, before the sixteenth Tuesday, or the fifteenth Tuesday for any  
60 home rule city with more than four hundred thousand inhabitants and located in  
61 more than one county or any political subdivision or special district located in  
62 such city, prior to any election at which offices are to be filled, notify the general  
63 public of the opening filing date, the office or offices to be filled, the proper place  
64 for filing and the closing filing date of the election. Such notification may be  
65 accomplished by legal notice published in at least one newspaper of general  
66 circulation in the political subdivision or special district.

67         6. Except as provided for in sections 115.247 and 115.359, if there is no  
68 additional cost for the printing or reprinting of ballots or if the candidate agrees  
69 to pay any printing or reprinting costs, a candidate who has filed for an office or  
70 who has been duly nominated for an office may, at any time after the certification  
71 required in section 115.125 but no later than 5:00 p.m. on the sixth Tuesday  
72 before the election, withdraw as a candidate pursuant to a court order, which,  
73 except for good cause shown by the election authority in opposition thereto, shall  
74 be freely given upon application by the candidate to the circuit court of the area  
75 of such candidate's residence.

115.317. 1. The filing of a valid statewide petition shall constitute the  
2 political group a new party for the purpose of placing its name and the names of  
3 its statewide and district and county candidates which are submitted pursuant  
4 to section 115.327 on the ballot at the next general election or [the special  
5 election if the petition nominates a candidate to fill a vacancy which is to be filled  
6 at a] special election. The filing of a valid countywide or district wide petition  
7 shall constitute the political party a new party for the purpose of placing its name  
8 and the names of its county and district candidates on the ballot at the next  
9 general election or [the special election if the petition nominates a candidate to  
10 fill a vacancy which is to be filled at a] special election. If presidential electors  
11 are nominated by the petition, the names of the candidates for elector shall not  
12 be placed on the official ballot, but the name of their candidate for president and  
13 the name of their candidate for vice president shall be placed on the official ballot

14 at the next presidential election.

15           2. If, at an election in which the new party's candidates first appear, any  
16 of its candidates for a statewide office receives more than two percent of all votes  
17 cast for the office, the new party shall become an established political party for  
18 the state. If, at the election in which the new party's candidates first appear, any  
19 of its candidates for an office receives more than two percent of the votes cast for  
20 the office in any district or county, the new party shall become an established  
21 political party only for the district or county.

22           3. If, after becoming an established political party for the state, at any  
23 two consecutive elections a party fails to have a statewide candidate or fails to  
24 poll for a candidate for any statewide office more than two percent of the entire  
25 vote cast for the office, a party shall no longer be deemed an established political  
26 party. If, after becoming an established political party for a district or county, at  
27 any two consecutive elections a party fails to have a candidate in the district or  
28 county, as the case may be, or fails to poll more than two percent of the entire  
29 vote cast at either of the last two elections in which the district or political  
30 subdivision voted as a unit for the election of officers or representatives to serve  
31 its areas, the party shall no longer be deemed an established political party.

115.341. 1. For the nomination of candidates to be elected at the next  
2 general election, a primary election shall be held on the first Tuesday after the  
3 first Monday in August of even-numbered years.

4           **2. For the nomination of candidates to be elected at a special**  
5 **election called to fill a vacancy in office, a primary election shall be**  
6 **held on a Tuesday at least forty-five days prior to the date of the**  
7 **special election. Filing for the office shall be as provided for in**  
8 **sections 115.305 to 115.359.**

115.363. 1. Except as provided in section 115.361, a party nominating  
2 committee of a political party may select a party candidate for nomination to an  
3 office on the primary election ballot **preceding either a general election or**  
4 **special election called to fill a vacancy in office** in the following cases:

5           (1) If there are no candidates for nomination as the party candidate due  
6 to death of all the party's candidates after 5:00 p.m. on the last day in which a  
7 person may file as a candidate for nomination and at or before 5:00 p.m. on the  
8 fourth Tuesday prior to the primary election;

9           (2) If there are no candidates for nomination as the party candidate due  
10 to withdrawal after 5:00 p.m. on the last day in which a person may file as a

11 candidate for nomination and at or before 5:00 p.m. on whatever day may be fixed  
12 by law as the final date for withdrawing as a candidate for the office;

13 (3) If there are no candidates for nomination as the party candidate due  
14 to death or disqualification of all candidates within seven days prior to the filing  
15 deadline and if no person has filed for the party nomination within that time;

16 (4) If there are no candidates for nomination as the party candidate due  
17 to disqualification of all party candidates after 5:00 p.m. on the last day on which  
18 a person may file as a candidate for nomination, and at or before 5:00 p.m. on the  
19 sixth Tuesday prior to the primary election; or

20 (5) If a candidate for the position of political party committeeman or  
21 committeewoman dies or withdraws as provided in subsection 1 or 2 of section  
22 115.359 after the eighth Tuesday prior to the primary election, leaving no  
23 candidate.

24 2. Any established political party may select a candidate for nomination,  
25 if a candidate who is the incumbent or only candidate dies, is disqualified or  
26 withdraws pursuant to subsection 1 or 2 of section 115.359 after 5:00 p.m. on the  
27 eighth Tuesday prior to the primary election, and at or before 5:00 p.m. on  
28 whatever day is fixed by law as the final date for withdrawing as a candidate for  
29 the office.

30 3. A party nominating committee may select a party candidate for election  
31 to an office on the general election **or special election** ballot in the following  
32 cases:

33 (1) If the person nominated as the party candidate shall die at or before  
34 5:00 p.m. on the fourth Tuesday prior to the general election **or special**  
35 **election**;

36 (2) If the person nominated as the party candidate **from the primary**  
37 **election** is disqualified at or before 5:00 p.m. on the sixth Tuesday prior to the  
38 general election **or special election**;

39 (3) If the person nominated as the party candidate shall withdraw at or  
40 before 5:00 p.m. on whatever day may be fixed by law as the final date for  
41 withdrawing as a candidate for the office;

42 (4) If a candidate for nomination to an office in which the person is the  
43 party's only candidate dies after 5:00 p.m. on the fourth Tuesday prior to any  
44 primary election, withdraws as provided in subsection 1 of section 115.359 after  
45 5:00 p.m. on the fourth Tuesday prior to any primary election, or is disqualified  
46 after 5:00 p.m. on the sixth Tuesday before any primary election.

47 4. If a person nominated as a party's candidate **from the primary**  
48 **election** who is unopposed shall die at or before 5:00 p.m. on the fourth Tuesday  
49 prior to the general election **or special election**, is disqualified at or before 5:00  
50 p.m. on the sixth Tuesday prior to the general election **or special election**, or  
51 shall withdraw at or before 5:00 p.m. on whatever day may be fixed by law as the  
52 final date for withdrawing as a candidate for the office, the party nominating  
53 committee for any established political party may select a party candidate.

54 [5. A party nominating committee may select a party candidate for  
55 election to an office in the following cases:

56 (1) For an election called to fill a vacancy in an office;

57 (2) for an election held pursuant to the provisions of section 105.030 to fill  
58 an unexpired term resulting from a vacancy in an office that occurs within  
59 fourteen days prior to the filing deadline for the primary election and not later  
60 than the eighth Tuesday prior to the general election. If such vacancy occurs  
61 prior to the fourteenth day before the filing deadline for a primary election, filing  
62 for the office shall be as provided for in sections 115.305 to 115.359.]

115.367. 1. In the event that the boundaries of a district have been  
2 altered, or a new district established for a candidate to be selected by a party  
3 committee since the last election in which a party candidate ran for such office,  
4 the members of the nominating committee shall be the members of the various  
5 nominating committees for that office, as provided in section 115.365 who reside  
6 within the altered or new district; provided, however, that members of  
7 nominating committees for candidates for special elections **only in**  
8 **circumstances permitted under section 115.363** to fill vacancies conducted  
9 pursuant to section 21.130 shall be from the old districts. The chairman of the  
10 nominating committee shall be the committee chairman of the county which  
11 polled the highest vote for the party candidate for governor within the area to be  
12 represented at the last gubernatorial election.

13 2. In the event that a candidate is to be selected by a party committee of  
14 a new political party which has not yet elected committeemen and  
15 committeewomen in the manner provided by law, the chairman of the nominating  
16 committee shall be the provisional chairman of the party for the state, or if the  
17 political party is formed for a district or political subdivision less than the state,  
18 the chairman of the nominating committee shall be the provisional chairman of  
19 the party for such district or political subdivision. The chairman of the  
20 nominating committee shall appoint additional members of the nominating

21 committee, not less than four in number.

22           3. In the event that a candidate is to be selected for nomination or  
23 election to an office by a new political party which has elected committeemen and  
24 committeewomen in the manner provided for established political parties, the  
25 members of the nominating committee shall be the same as provided in section  
26 115.365.

115.373. 1. The name of a candidate selected by a party nominating  
2 committee for a primary [or], general, **or special** election to fill a vacancy  
3 created by death, withdrawal or disqualification shall be filed with the secretary  
4 of state or proper election authority no later than 5:00 p.m. on the twenty-eighth  
5 day after the vacancy occurs or no later than 5:00 p.m. on the fourth Friday prior  
6 to the election, whichever occurs sooner. The name of a person selected by a  
7 party nominating committee as a candidate to fill an unexpired term shall be filed  
8 with the secretary of state or proper election authority no later than 5:00 p.m. on  
9 the day which is midway between the day the election is called and election day.

10           2. If the candidate selected by a party nominating committee for a  
11 primary, general, or special election ballot dies prior to the election, the vacancy  
12 created by such death may be filled in the manner provided for filling vacancies  
13 created by death on the primary [and], general, **and special** election ballots.

[115.381. Whenever the selections are properly certified to  
2 the secretary of state by the chair or acting chair of the party  
3 nominating committees for a special election or after the secretary  
4 of state has certified the names of candidates pursuant to section  
5 115.387 or 115.401, the secretary of state shall notify all  
6 appropriate election authorities of the selections  
7 in a timely fashion.]

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