

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 29**  
92ND GENERAL ASSEMBLY

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Reported from the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, February 17, 2003, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0346S.02C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 115.359 and 115.363, RSMo, and to enact in lieu thereof two new sections relating to deadlines for elections.

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

Section A. Sections 115.359 and 115.363, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 115.359 and 115.363, to read as follows:

115.359. 1. Any person who has filed a declaration of candidacy for nomination and who wishes to withdraw as a candidate shall, not later than the eleventh Tuesday prior to the primary election, file a written, sworn statement of withdrawal in the office of the official who accepted such candidate's declaration of candidacy. Any person nominated for an office who wishes to withdraw as a candidate shall, not later than the eleventh Tuesday prior to the general election, file a written, sworn statement of withdrawal in the office of the official who accepted such candidate's declaration of candidacy. In addition, any person who has filed a declaration of candidacy for nomination or who is nominated for an office who wishes to withdraw as a candidate due to being named as the party candidate for a different office by a party nominating committee pursuant to sections 115.363 to 115.377 may withdraw as a candidate no later than 5:00 p.m. on the fifth day after being named as the party candidate for a different office by the party nominating committee.

2. Except as provided for in section 115.247, if there is no additional cost for the printing or reprinting of ballots, or if the candidate agrees to pay any printing or reprinting costs, a candidate who has filed or is nominated for an office may, at any time after the time limits set forth in subsection 1 of this section but no later than 5:00 p.m. on the sixth Tuesday before the election, withdraw as a candidate pursuant to a court order, which, except for good cause shown

by the election authority in opposition thereto, shall be freely given upon application by the candidate to the circuit court in the county of such candidate's residence. No withdrawal pursuant to this subsection shall be effective until such candidate files a copy of the court's order in the office of the official who accepted such candidate's declaration of candidacy.

3. The name of a person who has properly filed a declaration of candidacy, or of a person nominated for office, who has not given notice of withdrawal as provided in subsection 1 or 2 of this section shall, except in case of death or disqualification, be printed on the official primary or general election ballot, as the case may be.

**4. The time limits provided for in this section shall not be altered, set aside, nor ignored by any court of competent jurisdiction in this state. The intent of the legislature is that there shall be no reason for these time limits to not be enforced.**

115.363. 1. Except as provided in section 115.361, a party nominating committee of a political party may select a party candidate for nomination to an office on the primary election ballot in the following cases:

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

(2) If there are no candidates for nomination as the party candidate due to withdrawal after 5:00 p.m. on the last day in which a person may file as a candidate for nomination and at or before 5:00 p.m. on whatever day may be fixed by law as the final date for withdrawing as a candidate for the office;

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

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

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

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

3. A party nominating committee may select a party candidate for election to an office

on the general election ballot in the following cases:

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

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

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

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

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

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

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

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

**6. The time limits provided for in this section shall not be altered, set aside, nor ignored by any court of competent jurisdiction in this state. The intent of the legislature is that there shall be no reason for these time limits to not be enforced.**