

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 741**  
**95TH GENERAL ASSEMBLY**

4346L.03C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 28.190, 29.280, 30.060, 30.070, 30.080, 105.030, 105.040, 105.050, and 115.124, RSMo, and to enact in lieu thereof eleven new sections relating to qualifications for public office.

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*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Section A. Sections 28.190, 29.280, 30.060, 30.070, 30.080, 105.030, 105.040, 105.050, 2 and 115.124, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known 3 as sections 26.016, 27.015, 28.190, 29.280, 30.060, 30.080, 105.030, 105.040, 105.050, 115.124, 4 and 190.056, to read as follows:

**26.016. In the case of any vacancy for any cause in the office of lieutenant governor, 2 the governor shall immediately fill such vacancy by special election as provided in section 3 105.030 for the remainder of the term in which the vacancy occurred until a successor is 4 elected and qualified at the next election scheduled for the lieutenant governor under 5 section 17, article IV, Constitution of Missouri. The governor shall take charge of such 6 office and superintend the business of the office until a successor is elected and qualified. 7 In cases of impeachment as provided in chapter 106, the lieutenant governor shall be 8 suspended until the impeachment is determined. If the lieutenant governor is acquitted, 9 the lieutenant governor shall be reinstated to office. If the lieutenant governor is convicted, 10 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, 2 the governor shall immediately appoint an acting attorney general to fill such vacancy until 3 the vacancy is filled by special election as provided in section 105.030 for the remainder of 4 the term in which the vacancy occurred until a successor is elected and qualified at the next 5 election scheduled for the attorney general under section 17, article IV, Constitution of**

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.

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 [or  
5 appointed, commissioned] and qualified[; and] **at the next election scheduled for the secretary**  
6 **of state under section 17, article IV, Constitution of Missouri.** The governor shall take charge  
7 of the office and superintend its business until such person is [appointed, commissioned] **elected**  
8 and qualified[; except that] . In case of impeachment **as provided in chapter 106**, the governor  
9 shall appoint a qualified person to serve only until such impeachment is determined, when the  
10 suspended officer, if acquitted, shall be reinstated in office[, or] . If the suspended officer is  
11 convicted, [a new appointment shall be made] **the vacancy shall be filled** by the governor as [in  
12 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.

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.

**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.

115.124. 1. Notwithstanding any other law to the contrary, in a nonpartisan election in  
2 any political subdivision or special district, except for municipal elections **in cities with a**  
3 **population greater than seven thousand five hundred**, if the notice provided for in subsection  
4 5 of section 115.127 has been published in at least one newspaper of general circulation in the  
5 district, and if the number of candidates who have filed for a particular office is equal to the  
6 number of positions in that office to be filled by the election, no election shall be held for such  
7 office, and the candidates shall assume the responsibilities of their offices at the same time and  
8 in the same manner as if they had been elected. Notwithstanding any other provision of law to  
9 the contrary, if at any election the number of candidates filing for a particular office exceeds the  
10 number of positions to be filled at such election, the election authority shall hold the election as  
11 scheduled, even if a sufficient number of candidates withdraw from such contest for that office  
12 so that the number of candidates remaining after the filing deadline is equal to the number of  
13 positions to be filled.

14 2. The election authority or political subdivision responsible for the oversight of the  
15 filing of candidates in any nonpartisan election in any political subdivision or special district  
16 shall clearly designate where candidates shall form a line to effectuate such filings and determine  
17 the order of such filings; except that, in the case of candidates who file a declaration of candidacy  
18 with the election authority or political subdivision prior to 5:00 p.m. on the first day for filing,  
19 the election authority or political subdivision may determine by random drawing the order in  
20 which such candidates' names shall appear on the ballot. If a drawing is conducted pursuant to  
21 this subsection, it shall be conducted so that each candidate may draw a number at random at the

22 time of filing. If such drawing is conducted, the election authority or political subdivision shall  
23 record the number drawn with the candidate's declaration of candidacy. If such drawing is  
24 conducted, the names of candidates filing on the first day of filing for each office on each ballot  
25 shall be listed in ascending order of the numbers so drawn.

**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 he  
3 or she was elected. Proceedings may be commenced for the recall of any such member by  
4 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 his or her current term for a period of more than one  
8 hundred eighty days; or**

**9 (2) Has one hundred eighty days or less remaining in his or her term; or**

**10 (3) Has had a recall election determined in his or her favor within the current term  
11 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 may 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 his or her 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 or not 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 or not 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 the**  
68 **supplementary petition sections, if any, to be sufficient, it shall submit its certificate as to**

69 the 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 his or her resignation. If his or her resignation is offered, the recall  
83 question shall be removed from the ballot and the office declared vacant. The member  
84 who resigned shall not fill the vacancy, which shall be filled as otherwise provided by law.

85 15. The provisions of chapter 115 governing the conduct of elections shall apply,  
86 where appropriate, to recall elections held under this section. The costs of the election shall  
87 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  
elected or appointed, commissioned and qualified.]

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