

SECOND REGULAR SESSION

SENATE BILL NO. 437

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4294S.011

AN ACT

To repeal sections 26.220, 26.225, 115.237, 115.239, 115.307, 115.507, 115.511, 115.512, 115.515, 115.517, and 115.555, RSMo, and to enact in lieu thereof fourteen new sections relating to the joint election of governor and lieutenant governor, with a contingent effective date.

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

Section A. Sections 26.220, 26.225, 115.237, 115.239, 115.307, 115.507, 115.511, 115.512, 115.515, 115.517, and 115.555, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 26.220, 26.225, 115.237, 115.239, 115.307, 115.507, 115.511, 115.512, 115.515, 115.517, 115.555, 115.900, 115.903, and 115.905 to read as follows:

26.220. The transition period shall begin on the fifteenth day of November following the election of a governor [or] **and** lieutenant governor who [is not an incumbent] **are not incumbents** and shall end when that governor-elect [or] **and** lieutenant governor-elect [has] **have** taken the oath of office.

26.225. 1. The commissioner of administration shall provide office space and equipment for the governor-elect and the lieutenant governor-elect and their staff during the transition period. The facilities provided shall be located at the seat of government and shall be suitable for the purpose and capable of adequately housing the transition staff of the governor-elect and the lieutenant governor-elect. [The facilities provided for the staffs of the governor-elect and the lieutenant governor-elect shall be separate facilities.]

2. The commissioner of administration shall furnish the transition facilities with adequate telephone service, office furniture and office machines including but not limited to typewriters, adding machines and duplicating

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

11 equipment.

12 3. The transition period office space may be located in state-owned
13 buildings or in leased property. All salaries, expenses, rentals and equipment
14 purchase and repairs shall be made only from funds appropriated for the purpose
15 of these transitions.

 115.237. 1. Each ballot printed or designed for use with an electronic
2 voting system for any election pursuant to this chapter shall contain all questions
3 and the names of all offices and candidates certified or filed pursuant to this
4 chapter and no other. As far as practicable, all questions and the names of all
5 offices and candidates for which each voter is entitled to vote shall be printed on
6 one page except for the ballot for political party committee persons in polling
7 places not utilizing an electronic voting system which may be printed separately
8 and in conformity with the requirements contained in this section. As far as
9 practicable, ballots containing only questions and the names of nonpartisan
10 offices and candidates shall be printed in accordance with the provisions of this
11 section, except that the ballot information may be listed in vertical or horizontal
12 rows. The names of candidates for each office shall be listed in the order in
13 which they are filed.

14 2. Except as provided in subsection 5 of this section, each ballot shall
15 have:

16 (1) Each party name printed in capital letters not less than eighteen point
17 in size;

18 (2) The name of each office printed in capital letters not less than eight
19 point in size;

20 (3) The name of each candidate printed in capital letters not less than ten
21 point in size;

22 (4) A small square, the sides of which shall not be less than one-fourth
23 inch in length, printed directly to the left of each candidate's name and on the
24 same line as the candidate's name. When write-in votes are authorized and no
25 candidate's name is to be printed under the name of an office in a party or
26 nonpartisan column, under the name of the office in the column shall be printed
27 a square. Directly to the right of the square shall be printed a horizontal line on
28 which the voter may vote for a person whose name does not appear on the
29 ballot. When more than one position is to be filled for an office, and the number
30 of candidates' names under the office in a column is less than the number of
31 positions to be filled, the number of squares and write-in lines printed in the
32 column shall equal the difference between the number of candidates' names and
33 the number of positions to be filled;

34 (5) The list of candidates of each party and all nonpartisan candidates
 35 placed in separate columns with a heavy vertical line between each list;

36 (6) A horizontal line extending across the ballot three-eighths of an inch
 37 below the last name or write-in line under each office in such a manner that the
 38 names of all candidates and all write-in lines for the same office appear between
 39 the same horizontal lines. If write-in votes are not authorized, the horizontal line
 40 shall extend across the ballot three-eighths of an inch below the name of the last
 41 candidate under each office;

42 (7) In a separate column or beneath a heavy horizontal line under all
 43 names and write-in lines, all questions;

44 (8) At least three-eighths of an inch below all other matter on the ballot,
 45 printed in ten-point Gothic type, the words "Instructions to Voters" followed by
 46 directions to the voter on marking the ballot as provided in section 115.439;

47 (9) Printed at the top on the face of the ballot the words "Official Ballot"
 48 followed by the date of the election and the statement "Instruction to Voters:
 49 Place an X in the square opposite the name of the person for whom you wish to
 50 vote.".

51 3. As nearly as practicable, each ballot shall be in substantially the
 52 following form:

53 OFFICIAL BALLOT DATE

54	REPUBLICAN	DEMOCRATIC	THIRD PARTY	INDEPENDENT
55				
56	For President	For President	For President	For President
57	and	and	and	and
58	Vice President	Vice President	Vice President	Vice President
59	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
60	For	For	For	For
61	United States	United States	United States	United States
62	Senator	Senator	Senator	Senator
63	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
64	For Governor	For Governor	For Governor	For Governor
65	and Lieutenant	and Lieutenant	and Lieutenant	and Lieutenant
66	Governor	Governor	Governor	Governor
67	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
68	[For Lieutenant	For Lieutenant	For Lieutenant	For Lieutenant
69	Governor	Governor	Governor	Governor
70	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>]

71	For Secretary of State	For Secretary of State	For Secretary of State	For Secretary of State
72				
73	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
74	For Treasurer	For Treasurer	For Treasurer	For Treasurer
75	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
76	For Attorney General	For Attorney General	For Attorney General	For Attorney General
77				
78	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
79	For	For	For	For
80	United States	United States	United States	United States
81	Representative	Representative	Representative	Representative
82	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
83	For State Senator	For State Senator	For State Senator	For State Senator
84				
85	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
86	For State	For State	For State	For State
87	Representative	Representative	Representative	Representative
88	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
89	For Circuit	For Circuit	For Circuit	For Circuit
90	Judge	Judge	Judge	Judge
91	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

92 4. No ballot printed or designed for use with an electronic voting system
 93 for any partisan election held under this chapter shall allow a person to vote a
 94 straight political party ticket. For purposes of this subsection, a "straight
 95 political party ticket" means voting for all of the candidates for elective office who
 96 are on the ballot representing a single political party by a single selection on the
 97 ballot.

98 5. The secretary of state shall promulgate rules that specify uniform
 99 standards for ballot layout for each electronic or computerized ballot counting
 100 system approved under the provisions of section 115.225 so that the ballot used
 101 with any counting system is, where possible, consistent with the intent of this
 102 section. Nothing in this section shall be construed to require the format specified
 103 in this section if it does not meet the requirements of the ballot counting system
 104 used by the election authority.

105 6. Any rule or portion of a rule, as that term is defined in section 536.010,
 106 that is created under the authority delegated in this section shall become effective
 107 only if it complies with and is subject to all of the provisions of chapter 536 and,
 108 if applicable, section 536.028. This section and chapter 536 are nonseverable and

109 if any of the powers vested with the general assembly pursuant to chapter 536 to
110 review, to delay the effective date or to disapprove and annul a rule are
111 subsequently held unconstitutional, then the grant of rulemaking authority and
112 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.239. 1. The party casting the highest number of votes for governor
2 **and lieutenant governor** at the last gubernatorial election shall be placed in
3 the first or left-hand column on the ballot. The party casting the next highest
4 number of votes for the same [office] **offices** shall be placed in the next column
5 to the right, and so on until all established parties have been placed. In order of
6 the date their petitions were filed, new parties shall then be placed in columns
7 to the right of the established party receiving the smallest vote for governor **and**
8 **lieutenant governor**. If there is no more than one independent candidate for
9 any office, all independent candidates shall be placed in one column to the right
10 of the new party filing the latest petition. If there is more than one independent
11 candidate for any office, the candidate filing the earliest petition shall be placed
12 in the column to the right of the new party filing the latest petition. The
13 independent candidate filing the next earliest petition shall be placed in the next
14 column to the right, and so on until all independent candidates for the office have
15 been placed.

16 2. The name of each candidate shall be placed in the appropriate column
17 by the election authority.

115.307. Political parties and groups of voters may nominate candidates
2 in the manner provided by this subchapter and in no other manner, **except as**
3 **provided in sections 115.900 to 115.905.**

115.507. 1. Not later than the second Tuesday after the election, the
2 verification board shall issue a statement announcing the results of each election
3 held within its jurisdiction and shall certify the returns to each political
4 subdivision and special district submitting a candidate or question at the
5 election. The statement shall include a categorization of the number of regular
6 and absentee votes cast in the election, and how those votes were cast; provided
7 however, that absentee votes shall not be reported separately where such
8 reporting would disclose how any single voter cast his or her vote. When
9 absentee votes are not reported separately the statement shall include the reason
10 why such reporting did not occur. Nothing in this section shall be construed to
11 require the election authority to tabulate absentee ballots by precinct on election
12 night.

13 2. The verification board shall prepare the returns by drawing an abstract
14 of the votes cast for each candidate and on each question submitted to a vote of

15 people in its jurisdiction by the state and by each political subdivision and special
16 district at the election. The abstract of votes drawn by the verification board
17 shall be the official returns of the election.

18 3. Any home rule city with more than four hundred thousand inhabitants
19 and located in more than one county may by ordinance designate one of the
20 election authorities situated partially or wholly within that home rule city to be
21 the verification board that shall certify the returns of such city submitting a
22 candidate or question at any election and shall notify each verification board
23 within the city of that designation by providing each with a copy of such duly
24 adopted ordinance. Not later than the second Tuesday after any election in any
25 city making such a designation, each verification board within the city shall
26 certify the returns of such city submitting a candidate or question at the election
27 to the election authority so designated by the city to be its verification board, and
28 such election authority shall announce the results of the election and certify the
29 cumulative returns to the city in conformance with subsections 1 and 2 of this
30 section not later than ten days thereafter.

31 4. Not later than the second Tuesday after each election at which the
32 name of a candidate for nomination or election to the office of president of the
33 United States, United States senator, representative in Congress, governor[,] **and**
34 lieutenant governor, state senator, state representative, judge of the circuit court,
35 secretary of state, attorney general, state treasurer, or state auditor, or at which
36 an initiative, referendum, constitutional amendment or question of retaining a
37 judge subject to the provisions of article V, section 29 of the state constitution,
38 appears on the ballot in a jurisdiction, the election authority of the jurisdiction
39 shall mail or deliver to the secretary of state the abstract of the votes given in its
40 jurisdiction, by polling place or precinct, for each such office and on each such
41 question. If mailed, the abstract shall be enclosed in a strong, sealed envelope
42 or envelopes. On the outside of each envelope shall be printed: "Returns of
43 election held in the county of (City of St. Louis, Kansas City) on the
44 day of,,", etc.

 115.511. 1. The secretary of state shall convene the board of state
2 canvassers to total the abstracts of each primary election and the board shall, not
3 later than two weeks after receiving all required abstracts from the primary
4 election, issue a statement announcing the results of the primary election for
5 federal officers, governor[,] **and** lieutenant governor, state senators and
6 representatives, circuit judges, secretary of state, attorney general, state
7 treasurer and state auditor.

8 2. The secretary of state shall convene the board of state canvassers to

9 total the abstracts of each general election and the board shall, not later than the
10 second Tuesday in December following the general election, issue a statement
11 announcing the results of the general election for federal officers, governor[,] **and**
12 lieutenant governor, state senators and representatives, circuit judges, appellate
13 and circuit judges subject to the provisions of article V, section 25 of the state
14 constitution, secretary of state, attorney general, state treasurer and state
15 auditor.

16 3. The secretary of state shall convene the board of state canvassers to
17 total the abstracts of each special election at which the name of a candidate for
18 nomination or election to the office of United States senator, representative in
19 Congress, governor[,] **and** lieutenant governor, state senator, state
20 representative, circuit judge not subject to the provisions of article V, section 25
21 of the state constitution, secretary of state, attorney general, state treasurer or
22 state auditor, or at which an initiative, referendum or constitutional amendment
23 appears on the ballot, and the board shall, not later than two weeks after
24 receiving all required abstracts from the election, issue a statement announcing
25 the results of the election for such office or on such question.

115.512. Each election authority shall report the vote for each candidate
2 for governor **and lieutenant governor** by committee district for each
3 congressional district, senatorial district, and legislative district wholly or
4 partially contained within the jurisdiction of the election authority to the
5 chairman of the county committee of each established political party and to the
6 secretary of state.

115.515. 1. If two or more persons receive an equal number of votes for
2 nomination as a party's candidate for any federal office, governor[,] **and**
3 lieutenant governor, secretary of state, attorney general, state treasurer, state
4 auditor, circuit judge not subject to the provisions of article V, section 29 of the
5 state constitution, state senator or state representative, and a higher number of
6 votes than any other candidate for the same office on the same party ballot, the
7 governor shall, immediately after the results of the election have been announced,
8 issue a proclamation stating the fact and ordering a special primary election to
9 determine the party's nominee for the office. The proclamation shall set the date
10 of the election, which shall be not less than fourteen or more than thirty days
11 after the proclamation is issued, and shall be sent by the governor to each
12 election authority responsible for conducting the special primary election. In his
13 proclamation, the governor shall specify the name of each candidate for the office
14 to be voted on at the election, and the special primary election shall be conducted
15 and the votes counted as in other primary elections.

16 2. If two or more persons receive an equal number of votes for nomination
17 as a party's candidate for any other office, except party committeeman or
18 committeewoman, and a higher number of votes than any other candidate for the
19 same office on the same party ballot, the officer with whom such candidates filed
20 their declarations of candidacy shall, immediately after the results of the election
21 have been certified, issue a proclamation stating the fact and ordering a special
22 primary election to determine the party's nominee for the office. The
23 proclamation shall set the date of the election, which shall be not less than
24 fourteen or more than thirty days after the proclamation is issued, and shall be
25 sent by the officer to each election authority responsible for conducting the special
26 primary election. In his proclamation, the officer shall specify the name of each
27 candidate for the office to be voted on at the election, and the special primary
28 election shall be conducted and the votes counted as in other primary elections.

29 3. As an alternative to the procedure prescribed in subsections 1 and 2 of
30 this section, if the candidates who received an equal number of votes in such
31 election agree to the procedure prescribed in this subsection, the officer with
32 whom such candidates filed their declarations of candidacy may, after notification
33 of the time and place of such drawing given to each such candidate at least five
34 days before such drawing, determine the winner of such election by lot. Any
35 candidate who received an equal number of votes may decline to have his name
36 put into such drawing.

115.517. 1. If two or more persons receive an equal number of votes for
2 election to the office of governor[,] **and** lieutenant governor, secretary of state,
3 state auditor, state treasurer or attorney general, and a higher number of votes
4 than any other candidate for the same office, the secretary of state shall,
5 immediately after the results of the election have been announced, issue a
6 proclamation stating the fact, and the general assembly shall, by joint vote and
7 without delay at its next regular session, choose one of such persons for the
8 office. The speaker of the house shall file a certificate declaring which person has
9 been elected to the office with the secretary of state.

10 2. If two or more persons receive an equal number of votes for election to
11 federal office, state senator, state representative or circuit judge not subject to the
12 provisions of article V, section 25 of the state constitution, and a higher number
13 of votes than any other candidate for the same office, the governor shall,
14 immediately after the results of the election have been announced, issue a
15 proclamation stating the fact and ordering a special election to determine which
16 candidate is elected to the office. The proclamation shall set the date of the
17 election and shall be sent by the governor to each election authority responsible

18 for conducting the special election. In his proclamation, the governor shall
19 specify the name of each candidate for the office to be voted on at the election,
20 and the special election shall be conducted and the votes counted as in other
21 elections.

22 3. If two or more persons receive an equal number of votes for nomination
23 or election to any office not otherwise provided for in section 115.515 or this
24 section, and a higher number of votes than any other candidate for nomination
25 or election to the same office, the officer with whom such candidates filed their
26 declarations of candidacy shall, immediately after the results of the election have
27 been certified, issue a proclamation stating the fact and ordering a special
28 election to determine which candidate is elected to the office. The proclamation
29 shall set the date of the election and shall be sent by the officer to each election
30 authority responsible for conducting the special election. In his proclamation, the
31 officer shall specify the name of each candidate for the office to be voted on at the
32 election, and the special election shall be conducted and the votes counted as in
33 other elections.

34 4. As an alternative to the procedure prescribed in subsections 1, 2, and
35 3 of this section, if the candidates who received an equal number of votes in such
36 election agree to the procedure prescribed in this subsection, the officer with
37 whom such candidates filed their declarations of candidacy may, after notification
38 of the time and place of such drawing given to each such candidate at least five
39 days before such drawing, determine the winner of such election by lot. Any
40 candidate who received an equal number of votes may decline to have his name
41 put into such drawing.

115.555. All contested elections for the office of governor[,] and lieutenant
2 governor, secretary of state, attorney general, state treasurer and state auditor
3 shall be heard and determined by the supreme court. Likewise, all contests to
4 the results of elections on constitutional amendments, on state statutes submitted
5 or referred to the voters, and on questions relating to the retention of appellate
6 and circuit judges subject to article V, section 25 of the state constitution shall
7 be heard and determined by the supreme court.

**115.900. Notwithstanding any provision of law to the contrary,
2 the candidates for governor and lieutenant governor shall be
3 nominated and elected jointly as provided in sections 115.903 and
4 115.905. All other provisions of this chapter that are consistent with
5 sections 115.903 to 115.905 shall apply to the nomination and election
6 of candidates for governor and lieutenant governor.**

115.903. For purposes of a primary election under sections

2 115.339 to 115.405, a candidate for governor and lieutenant governor
3 shall be considered one candidate and both names shall be listed on the
4 primary election ballot. If a candidate for governor dies, withdraws, or
5 is disqualified after the primary election, the provisions of sections
6 115.339 to 115.405 shall operate to fill such vacancy on the ballot and
7 the candidate for lieutenant governor for such disqualified
8 gubernatorial candidate shall not be listed as the party's candidate for
9 governor unless chosen through the processes contained in sections
10 115.339 to 115.405.

115.905. For purposes of sections 115.001 to 115.641, the
2 candidates for governor and lieutenant governor from any political
3 party or group of petitioners shall be considered one candidate in the
4 general election. The names of the candidates for governor and
5 lieutenant governor from each political party or group of petitioners
6 shall be enclosed in a brace directly to the left of the names in the
7 appropriate column of the official ballot. Directly to the left of each
8 brace shall be printed one square, the sides of which are not less than
9 one-fourth inch in length.

Section B. Section A of this act shall become effective only upon approval
2 by the voters of an amendment to section 17 of Article IV, Constitution of
3 Missouri, mandating the joint nomination and election of governor and lieutenant
4 governor.

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