

SECOND REGULAR SESSION

SENATE BILL NO. 808

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time February 16, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5129S.011

AN ACT

To repeal section 115.363, RSMo, and to enact in lieu thereof two new sections relating to recall elections for United States senators.

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

Section A. Section 115.363, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 115.363 and 115.800, to read as
3 follows:

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 in the following cases:

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

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

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

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

19 (5) If a candidate for the position of political party committeeman or
20 committeewoman dies or withdraws as provided in subsection 1 or 2 of section

21 115.359 after the eighth Tuesday prior to the primary election, leaving no
22 candidate.

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

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

31 (1) If the person nominated as the party candidate shall die at or before
32 5:00 p.m. on the fourth Tuesday prior to the general election;

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

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

38 (4) If a candidate for nomination to an office in which the person is the
39 party's only candidate dies after 5:00 p.m. on the fourth Tuesday prior to any
40 primary election, withdraws as provided in subsection 1 of section 115.359 after
41 5:00 p.m. on the fourth Tuesday prior to any primary election, or is disqualified
42 after 5:00 p.m. on the sixth Tuesday before any primary election.

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

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

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

53 (2) For an election held pursuant to the provisions of section 105.030 to
54 fill an unexpired term resulting from a vacancy in an office that occurs within
55 fourteen days prior to the filing deadline for the primary election and not later
56 than the eighth Tuesday prior to the general election. If such vacancy occurs
57 prior to the fourteenth day before the filing deadline for a primary election, filing

58 for the office shall be as provided for in sections 115.305 to 115.359;

59 **(3) For a recall election held pursuant to section 115.800.**

115.800. 1. Legal voters of the state may petition for the recall
2 of any incumbent United States senator, after the first year of the term
3 for which the incumbent was elected, by filing a petition with the
4 secretary of state demanding the recall of the incumbent.

5 2. The recall petition shall be signed by electors equaling at least
6 eight percent in each of three-fourths of the congressional districts in
7 the state. The total number of votes cast for the incumbent at the last
8 preceding election in which the incumbent was elected shall be used to
9 determine the number of legal voters necessary to sign the petition.

10 3. The recall election shall be held on the next date available for
11 holding elections, pursuant to sections 115.123 and 115.755, that occurs
12 at least ten weeks after the secretary of state verifies that an adequate
13 number of signatures have been collected.

14 4. The incumbent shall continue to perform the duties of the
15 office until the recall election results are officially declared.

16 5. Unless the incumbent declines within ten days after the filing
17 of the petition, the incumbent shall without filing be deemed to have
18 filed for the recall election. Opposing candidates shall be nominated
19 pursuant to section 115.363.

20 6. The person who receives the highest number of votes in the
21 recall election shall be elected for the remainder of the term.

22 7. After one such petition and recall election, no further recall
23 petition shall be filed against the same officer during the term for
24 which he or she was elected.

25 8. The conduct of the recall election shall be held in accordance
26 with this chapter with all costs being borne by the state. The manner
27 in which the secretary of state shall verify the sufficiency of form and
28 compliance of the submitted petitions shall comply with chapter 116,
29 unless otherwise stated in this section. Petition circulators shall
30 adhere to the requirements for circulators pursuant to chapter
31 116. The secretary of state shall, by rule, adopt a form of petition to be
32 used to gather recall signatures.

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