

FIRST REGULAR SESSION

# SENATE BILL NO. 375

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NIEVES.

Read 1st time February 25, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1818S.011

## AN ACT

To repeal sections 115.225, 115.237, and 115.493, RSMo, and to enact in lieu thereof four new sections relating to elections.

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

Section A. Sections 115.225, 115.237, and 115.493, RSMo, are repealed  
2 and four new sections enacted in lieu thereof, to be known as sections 115.225,  
3 115.237, 115.506, and 115.493, to read as follows:

115.225. 1. Before use by election authorities in this state, the secretary  
2 of state shall approve the marking devices and the automatic tabulating  
3 equipment used in electronic voting systems and may promulgate rules and  
4 regulations to implement the intent of sections 115.225 to 115.235.

5 2. No electronic voting system shall be approved unless it:

6 (1) Permits voting in absolute secrecy;

7 (2) Permits each voter to vote for as many candidates for each office as a  
8 voter is lawfully entitled to vote for;

9 (3) Permits each voter to vote for or against as many questions as a voter  
10 is lawfully entitled to vote on, and no more;

11 (4) Provides facilities for each voter to cast as many write-in votes for  
12 each office as a voter is lawfully entitled to cast;

13 (5) Permits each voter in a primary election to vote for the candidates of  
14 only one party announced by the voter in advance;

15 (6) Permits each voter at a presidential election to vote by use of a single  
16 punch or mark for the candidates of one party or group of petitioners for  
17 president, vice president and their presidential electors;

18 (7) Accurately counts all proper votes cast for each candidate and for and

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

19 against each question;

20 (8) Is set to reject all votes, except write-in votes, for any office and on any  
21 question when the number of votes exceeds the number a voter is lawfully  
22 entitled to cast;

23 (9) Permits each voter, while voting, to clearly see the ballot label;

24 (10) **Produces the election results from paper ballots that voters**  
25 **have marked by hand or, in the case of disabled voters who need**  
26 **assistance, from paper ballots that have been marked by paper ballot**  
27 **marking devices designed to assist disabled voters;**

28 (11) Has been tested and is certified by an independent authority that  
29 meets the voting system standards developed by the Federal Election Commission  
30 or its successor agency. The provisions of this subdivision shall not be required  
31 for any system purchased prior to August 28, 2002.

32 **3. If any election authority uses any direct-record electronic**  
33 **touch-screen, vote-counting machine to accommodate disabled voters,**  
34 **the election authority may continue to use such machine solely for**  
35 **disabled voters who desire to use it. Upon the removal of such voting**  
36 **machine from the election authority's inventory because of mechanical**  
37 **malfunction, wear and tear, or any other reason, the machine shall not**  
38 **be replaced and no additional direct-record electronic voting machine**  
39 **shall be added to the election authority's inventory. Replacement of**  
40 **equipment for use by disabled voters shall be with paper ballot**  
41 **marking devices designed to assist the disabled.**

42 4. The secretary of state shall promulgate rules and regulations to allow  
43 the use of a computerized voting system. The procedures shall provide for the use  
44 of a computerized voting system with the ability to provide a paper audit  
45 trail. Notwithstanding any provisions of this chapter to the contrary, such a  
46 system may allow for the storage of processed ballot materials in an electronic  
47 form.

48 [4.] 5. Any rule or portion of a rule, as that term is defined in section  
49 536.010, that is created under the authority delegated in this section shall  
50 become effective only if it complies with and is subject to all of the provisions of  
51 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
52 nonseverable and if any of the powers vested with the general assembly pursuant  
53 to chapter 536 to review, to delay the effective date or to disapprove and annul  
54 a rule are subsequently held unconstitutional, then the grant of rulemaking

55 authority and any rule proposed or adopted after August 28, 2002, shall be  
56 invalid and void.

115.237. 1. **The official ballot shall be a paper ballot that is hand-  
2 marked by the voter, or in the case of disabled voters who need  
3 assistance, by a paper ballot-marking device designed to assist the  
4 disabled, except as provided in subsection 3 of section 115.225.**

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

18       [2.] 3. Except as provided in subsection [5] 6 of this section, each ballot  
19 shall have:

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

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

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

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

35 positions to be filled, the number of squares and write-in lines printed in the  
36 column shall equal the difference between the number of candidates' names and  
37 the number of positions to be filled;

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

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

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

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

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

55 [3.] 4. As nearly as practicable, each ballot shall be in substantially the  
56 following form:

57 OFFICIAL BALLOT DATE .....

58	REPUBLICAN	DEMOCRATIC	THIRD PARTY	INDEPENDENT
59				
60	For President	For President	For President	For President
61	and	and	and	and
62	Vice President	Vice President	Vice President	Vice President
63	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
64	For	For	For	For
65	United States	United States	United States	United States
66	Senator	Senator	Senator	Senator
67	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
68	For Governor	For Governor	For Governor	For Governor
69	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....

70	For Lieutenant Governor	For Lieutenant Governor	For Lieutenant Governor	For Lieutenant Governor
71				
72	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
73	For Secretary of State	For Secretary of State	For Secretary of State	For Secretary of State
74				
75	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
76	For Treasurer	For Treasurer	For Treasurer	For Treasurer
77				
	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
78	For Attorney General	For Attorney General	For Attorney General	For Attorney General
79				
80	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
81	For United States Representative	For United States Representative	For United States Representative	For United States Representative
82				
83				
84	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
85	For State Senator	For State Senator	For State Senator	For State Senator
86				
87	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
88	For State Representative	For State Representative	For State Representative	For State Representative
89				
90	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....
91	For Circuit Judge	For Circuit Judge	For Circuit Judge	For Circuit Judge
92				
93	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....	<input type="checkbox"/> .....

94 [4.] 5. No ballot printed or designed for use with an electronic voting  
 95 system for any partisan election held under this chapter shall allow a person to  
 96 vote a straight political party ticket. For purposes of this subsection, a "straight  
 97 political party ticket" means voting for all of the candidates for elective office who  
 98 are on the ballot representing a single political party by a single selection on the  
 99 ballot.

100 [5.] 6. The secretary of state shall promulgate rules that specify uniform  
 101 standards for ballot layout for each electronic or computerized ballot counting  
 102 system approved under the provisions of section 115.225 so that the ballot used  
 103 with any counting system is, where possible, consistent with the intent of this  
 104 section. Nothing in this section shall be construed to require the format specified  
 105 in this section if it does not meet the requirements of the ballot counting system  
 106 used by the election authority.

107 [6.] 7. Any rule or portion of a rule, as that term is defined in section  
108 536.010, that is created under the authority delegated in this section shall  
109 become effective only if it complies with and is subject to all of the provisions of  
110 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
111 nonseverable and if any of the powers vested with the general assembly pursuant  
112 to chapter 536 to review, to delay the effective date or to disapprove and annul  
113 a rule are subsequently held unconstitutional, then the grant of rulemaking  
114 authority and any rule proposed or adopted after August 28, 2002, shall be  
115 invalid and void.

115.506. 1. **No election shall be certified until an audit shall have  
2 been completed on the election returns. In order to certify an election  
3 the audit shall have the following characteristics:**

4 (1) **The audit shall demonstrate to the election authority that the  
5 vote counts accurately reflected the will of the voters;**

6 (2) **No fewer than five percent of the precincts within the  
7 election district shall be audited;**

8 (3) **Selecting the precincts to audit shall be based on a random  
9 sample selection process; and**

10 (4) **All audit counts shall be hand-counted.**

11 2. **The entire process shall be open to the public and both audio  
12 and video recording will be allowed.**

115.493. The election authority shall keep all voted ballots, ballot cards,  
2 processed ballot materials in electronic form and write-in forms, and all  
3 applications, statements, certificates, affidavits and computer programs relating  
4 to each election for [twelve] **twenty-two** months after the date of the  
5 election. During the time that voted ballots, ballot cards, processed ballot  
6 materials in electronic form and write-in forms are kept by the election authority,  
7 it shall [not open or inspect them or allow anyone else to do so, except upon order  
8 of a legislative body trying an election contest, a court or a grand jury] **make  
9 available all records of the election for the purpose of review by any  
10 citizen's group that makes such a request in writing with the review to  
11 be conducted only on the election authority's premises with observers  
12 from the election authority present at all times. Ballot and other  
13 physical records of the election shall not be removed from the premises  
14 at any time. Copies of electronic election records shall be provided  
15 upon request.** After [twelve] **twenty-two** months, the ballots, ballot cards,

16 processed ballot materials in electronic form, write-in forms, applications,  
17 statements, certificates, affidavits and computer programs relating to each  
18 election may be destroyed. If an election contest, grand jury investigation or civil  
19 or criminal case relating to the election is pending at the time, however, the  
20 materials shall not be destroyed until the contest, investigation or case is finally  
21 determined.

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