

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2208

99TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Elections, May 9, 2018, with recommendation that the Senate Committee Substitute do pass.

6029S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 115.225, 115.235, 115.237, 115.287, and 115.497, RSMo, and to enact in lieu thereof five new sections relating to elections, with a delayed effective date.

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

Section A. Sections 115.225, 115.235, 115.237, 115.287, and 115.497, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 115.225, 115.235, 115.237, 115.287, and 115.497, to read as follows:

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

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

(1) Permits voting in absolute secrecy;

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

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

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

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

(6) Permits each voter at a presidential election to vote by use of a single punch or mark for the candidates of one party or group of petitioners for

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

17 president, vice president and their presidential electors;

18 (7) Accurately counts all proper votes cast for each candidate and for and
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) **Produces the election results from paper ballots that voters**
24 **mark with ballot marking devices or electronically assisted ballot**
25 **marking devices;**

26 (10) Permits each voter, while voting, to clearly see the ballot label;

27 [(10)] (11) Has been tested and is certified by an independent authority
28 that meets the voting system standards developed by the Federal Election
29 Commission or its successor agency. The provisions of this subdivision shall not
30 be required for any system purchased prior to August 28, 2002; **and**

31 (12) **Records electronically only from human readable ballot**
32 **selections that can be verified by the voter.**

33 3. **Upon the removal of any direct recording electronic voting**
34 **machine from an election authority's inventory because of mechanical**
35 **malfunction, wear and tear, or any other reason, the machine shall not**
36 **be replaced with another direct recording electronic voting machine**
37 **and no additional direct recording electronic voting machine shall be**
38 **added to an election authority's inventory. Replacement of equipment**
39 **designed for use by disabled voters shall be with electronically assisted**
40 **ballot marking devices.**

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

47 [4.] 5. Any rule or portion of a rule, as that term is defined in section
48 536.010, that is created under the authority delegated in this section shall
49 become effective only if it complies with and is subject to all of the provisions of
50 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
51 nonseverable and if any of the powers vested with the general assembly pursuant
52 to chapter 536 to review, to delay the effective date or to disapprove and annul

53 a rule are subsequently held unconstitutional, then the grant of rulemaking
54 authority and any rule proposed or adopted after August 28, 2002, shall be
55 invalid and void.

115.235. 1. In jurisdictions where electronic voting systems are used, the
2 election authority shall cause the marking devices to be put in order, set,
3 adjusted and made ready for voting, before they are delivered to polling places on
4 election day.

5 **2. On each election day, a non-removable sign, placed in clear**
6 **view of the voter and no smaller than four by six inches shall be affixed**
7 **at each voting station used in the election. The sign shall, in large and**
8 **legible font, contain the following language: "Be sure to check that**
9 **your ballot selections are printed correctly on the ballot before placing**
10 **it into the optical scanner or ballot box."**

115.237. 1. **The official ballot shall be a paper ballot that is**
2 **marked by the voter using a paper ballot marking device or an**
3 **electronically assisted ballot marking device, except for equipment not**
4 **yet replaced 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.** In polling places using electronic voting systems, the ballot
19 information may be arranged in vertical or horizontal rows or on a number of
20 separate pages or screens. In any event, the name of each candidate, the
21 candidate's party, the office for which he or she is a candidate, and each question
22 shall be indicated clearly on the ballot.

23 **[3.] 4.** Nothing in this subchapter shall be construed as prohibiting the

24 use of a separate paper ballot for questions or for the presidential preference
25 primary in any polling place using an electronic voting system.

26 [4.] 5. Where electronic voting systems are used and when write-in votes
27 are authorized by law, a write-in ballot, which may be in the form of a separate
28 paper ballot, card, or envelope, may be provided by the election authority to
29 permit each voter to write in the names of persons whose names do not appear
30 on the ballot.

31 [5.] 6. No ballot printed or designed for use with an electronic voting
32 system for any partisan election held under this chapter shall allow a person to
33 vote a straight political party ticket. For purposes of this subsection, a "straight
34 political party ticket" means voting for all of the candidates for elective office who
35 are on the ballot representing a single political party by a single selection on the
36 ballot.

37 [6.] 7. The secretary of state shall promulgate rules that specify uniform
38 standards for ballot layout for each electronic or computerized ballot counting
39 system approved under the provisions of section 115.225 so that the ballot used
40 with any counting system is, where possible, consistent with the intent of this
41 section. Nothing in this section shall be construed to require the format specified
42 in this section if it does not meet the requirements of the ballot counting system
43 used by the election authority.

44 [7.] 8. Any rule or portion of a rule, as that term is defined in section
45 536.010, that is created under the authority delegated in this section shall
46 become effective only if it complies with and is subject to all of the provisions of
47 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
48 nonseverable and if any of the powers vested with the general assembly pursuant
49 to chapter 536 to review, to delay the effective date or to disapprove and annul
50 a rule are subsequently held unconstitutional, then the grant of rulemaking
51 authority and any rule proposed or adopted after August 28, 2002, shall be
52 invalid and void.

115.287. 1. Upon receipt of a signed application for an absentee ballot
2 and if satisfied the applicant is entitled to vote by absentee ballot, the election
3 authority shall, within three working days after receiving the application, or if
4 absentee ballots are not available at the time the application is received, within
5 five working days after they become available, deliver to the voter an absentee
6 ballot, ballot envelope and such instructions as are necessary for the applicant
7 to vote. Delivery shall be made to the voter personally in the office of the election

8 authority or by bipartisan teams appointed by the election authority, or by first
9 class, registered, or certified mail at the discretion of the election authority, or in
10 the case of a covered voter as defined in section 115.902, the method of
11 transmission prescribed in section 115.914. Where the election authority is a
12 county clerk, the members of bipartisan teams representing the political party
13 other than that of county clerk shall be selected from a list of persons submitted
14 to the county clerk by the county chairman of that party. If no list is provided by
15 the time that absentee ballots are to be made available, the county clerk may
16 select a person or persons from lists provided in accordance with section 115.087.
17 If the election authority is not satisfied that any applicant is entitled to vote by
18 absentee ballot, it shall not deliver an absentee ballot to the applicant. Within
19 three working days of receiving such an application, the election authority shall
20 notify the applicant and state the reason he or she is not entitled to vote by
21 absentee ballot. The applicant may appeal the decision of the election authority
22 to the circuit court in the manner provided in section 115.223.

23 2. If, after 5:00 p.m. on the Wednesday before an election, any voter from
24 the jurisdiction has become hospitalized, becomes confined due to illness or
25 injury, or is confined in an adult boarding facility, intermediate care facility,
26 residential care facility, or skilled nursing facility, as defined in section 198.006,
27 in the county in which the jurisdiction is located or in the jurisdiction or an
28 adjacent election authority within the same county, the election authority shall
29 appoint a team to deliver, witness the signing of and return the voter's
30 application and deliver, witness the voting of and return the voter's absentee
31 ballot. In counties with a charter form of government and in cities not within a
32 county, and in each city which has over three hundred thousand inhabitants, and
33 is situated in more than one county, if the election authority receives ten or more
34 applications **from such voters** for absentee ballots from the same address it
35 may appoint a team to deliver and witness the voting and return of absentee
36 ballots by voters residing at that address[, except when such addresses are for an
37 apartment building or other structure wherein individual living units are located,
38 each of which has its own separate cooking facilities]. Each team appointed
39 pursuant to this subsection shall consist of two registered voters, one from each
40 major political party. Both members of any team appointed pursuant to this
41 subsection shall be present during the delivery, signing or voting and return of
42 any application or absentee ballot signed or voted pursuant to this subsection.

43 3. On the mailing and ballot envelopes for each covered voter, the election

44 authority shall stamp prominently in black the words "FEDERAL BALLOT,
45 STATE OF MISSOURI" and "U.S. Postage Paid, 39 U.S.C. Section 3406".

46 4. No information which encourages a vote for or against a candidate or
47 issue shall be provided to any voter with an absentee ballot.

115.497. 1. As soon as practicable after each election, the election
2 authority shall convene a verification board to verify the count and certify the
3 results of the election.

4 **2. Prior to the certification of the election results, the election**
5 **authority shall randomly select not less than five percent of all election**
6 **precincts through the use of a random drawing, in order to conduct a**
7 **manual recount of selected contested races and ballot issues in the**
8 **selected precincts. The secretary of state shall promulgate rules setting**
9 **forth the manner in which the randomly selected precincts shall be**
10 **conducted. Any rule or portion of a rule, as that term is defined in**
11 **section 536.010 that is created under the authority delegated in this**
12 **section shall become effective only if it complies with and is subject to**
13 **all of the provisions of chapter 536, and, if applicable, section**
14 **536.028. This section and chapter 536 are nonseverable and if any of**
15 **the powers vested with the general assembly pursuant to chapter 536,**
16 **to review, to delay the effective date, or to disapprove and annul a rule**
17 **are subsequently held unconstitutional, then the grant of rulemaking**
18 **authority and any rule proposed or adopted after August 28, 2018, shall**
19 **be invalid and void.**

Section B. Section A of this act shall become effective on January 1, 2019.

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