

SENATE BILL NO. 1415

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

5969S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 115.353, 115.355, 115.365, 115.507, 115.511, 115.515, 115.517, 115.531, 115.555, 115.575, 115.603, 476.680, 478.010, 478.320, and 478.330, RSMo, and to enact in lieu thereof fourteen new sections relating to the election of judges, with an effective date.

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

Section A. Sections 115.353, 115.355, 115.365, 115.507,
2 115.511, 115.515, 115.517, 115.531, 115.555, 115.575, 115.603,
3 476.680, 478.010, 478.320, and 478.330, RSMo, are repealed and
4 fourteen new sections enacted in lieu thereof, to be known as
5 sections 115.353, 115.355, 115.365, 115.507, 115.511, 115.515,
6 115.517, 115.531, 115.555, 115.575, 115.603, 478.010, 478.320,
7 and 478.330, to read as follows:

115.353. All declarations of candidacy shall be filed
2 as follows:

3 (1) For presidential elector, United States senator,
4 representative in Congress, statewide office, circuit judge
5 [not subject to the provisions of Article V, Section 25 of
6 the Missouri Constitution], state senator, and state
7 representative, in the office of the secretary of state;

8 (2) For all county offices which for the purpose of
9 election procedures shall include associate circuit judges
10 [not subject to the provisions of Article V, Section 25 of

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

11 the Missouri Constitution], in the office of the county
12 election authority;

13 (3) For all county offices, in the office of the
14 county election authority. In any county in which there are
15 two boards of election commissioners, the county clerk shall
16 be deemed to be the election authority for purposes of this
17 section.

115.355. 1. Except as provided in subsections 2 and 5
2 of this section and in section 115.377, each declaration of
3 candidacy for nomination in a primary election shall be
4 filed by the candidate in person in the office of the
5 appropriate election official.

6 2. A candidate may file his declaration of candidacy
7 by certified mail if he is:

8 (1) Unable to appear in person because of physical
9 disability, and the declaration is accompanied by a sworn
10 statement of a licensed physician so stating; or

11 (2) A member of the Armed Forces of the United States
12 on active duty, and the declaration is accompanied by a
13 sworn statement of the candidate's commanding officer so
14 stating.

15 3. Except as provided in section 115.377, no election
16 official shall accept for filing any declaration of
17 candidacy for nomination in a primary election not presented
18 to him by the candidate in person or which, if sent by
19 certified mail pursuant to subsection 2 of this section, is
20 not accompanied by the statement required in the same
21 subsection.

22 4. Election officials shall require proof of identity
23 of persons when filing declarations of candidacy in person
24 and when filing by mail as provided in subsection 2 or 5 of
25 this section.

26 [5. Any judge seeking retention under Sections 25(a)
27 to 25(g) of Article V of the Missouri Constitution may file
28 his declaration of candidacy for election to succeed himself
29 by certified mail.]

 115.365. 1. The nominating committee authorized to
2 select a candidate for nomination or election to office
3 pursuant to section 115.363 shall be one of the following:

4 (1) To select a candidate for county office, the
5 nominating committee shall be the county committee of the
6 party;

7 (2) To select a candidate for state representative,
8 the nominating committee shall be the legislative district
9 committee of the party;

10 (3) To select a candidate for state senator, the
11 nominating committee shall be the senatorial district
12 committee of the party;

13 (4) To select a candidate for circuit court judge [not
14 subject to the provisions of Article V, Section 25 of the
15 State Constitution], the nominating committee shall be the
16 judicial district committee of the party;

17 (5) To select a candidate for representative in
18 Congress, the nominating committee shall be the
19 congressional district committee of the party;

20 (6) To select a candidate for statewide office, the
21 nominating committee shall be the state committee of the
22 party.

23 2. After any decennial redistricting, the nominating
24 committee shall be composed from the new districts, and the
25 new district lines shall be used in the selection of a
26 candidate; provided, however, that members of nominating
27 committees for candidates for special elections to fill

28 vacancies conducted pursuant to section 21.130 shall be from
29 the old districts.

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

16 2. The verification board shall prepare the returns by
17 drawing an abstract of the votes cast for each candidate and
18 on each question submitted to a vote of people in its
19 jurisdiction by the state and by each political subdivision
20 and special district at the election. The abstract of votes
21 drawn by the verification board shall be the official
22 returns of the election.

23 3. Any home rule city with more than four hundred
24 thousand inhabitants and located in more than one county may
25 by ordinance designate one of the election authorities
26 situated partially or wholly within that home rule city to
27 be the verification board that shall certify the returns of
28 such city submitting a candidate or question at any election
29 and shall notify each verification board within the city of
30 that designation by providing each with a copy of such duly

31 adopted ordinance. Not later than the second Tuesday after
32 any election in any city making such a designation, each
33 verification board within the city shall certify the returns
34 of such city submitting a candidate or question at the
35 election to the election authority so designated by the city
36 to be its verification board, and such election authority
37 shall announce the results of the election and certify the
38 cumulative returns to the city in conformance with
39 subsections 1 and 2 of this section not later than ten days
40 thereafter.

41 4. Not later than the second Tuesday after each
42 election at which the name of a candidate for nomination or
43 election to the office of president of the United States,
44 United States senator, representative in Congress, governor,
45 lieutenant governor, state senator, state representative,
46 judge of the circuit court, secretary of state, attorney
47 general, state treasurer, or state auditor, or at which an
48 initiative, referendum, **or** constitutional amendment [or
49 question of retaining a judge subject to the provisions of
50 Article V, Sections 25(a) to 25(g) of the State
51 Constitution,] appears on the ballot in a jurisdiction, the
52 election authority of the jurisdiction shall mail or deliver
53 to the secretary of state the abstract of the votes given in
54 its jurisdiction, by polling place or precinct, for each
55 such office and on each such question. If mailed, the
56 abstract shall be enclosed in a strong, sealed envelope or
57 envelopes. On the outside of each envelope shall be
58 printed: "Returns of election held in the county of _____
59 (City of St. Louis, Kansas City) on the _____ day of
60 _____, _____," etc.

115.511. 1. The secretary of state shall convene the
2 board of state canvassers to total the abstracts of each

3 primary election and the board shall, not later than two
4 weeks after receiving all required abstracts from the
5 primary election, issue a statement announcing the results
6 of the primary election for federal officers, governor,
7 lieutenant governor, state senators and representatives,
8 circuit judges, secretary of state, attorney general, state
9 treasurer, and state auditor.

10 2. The secretary of state shall convene the board of
11 state canvassers to total the abstracts of each general
12 election and the board shall, not later than the second
13 Tuesday in December following the general election, issue a
14 statement announcing the results of the general election for
15 federal officers, governor, lieutenant governor, state
16 senators and representatives, circuit judges, [appellate and
17 circuit judges subject to the provisions of Article V,
18 Section 25 of the State Constitution], secretary of state,
19 attorney general, state treasurer, and state auditor.

20 3. The secretary of state shall convene the board of
21 state canvassers to total the abstracts of each special
22 election at which the name of a candidate for nomination or
23 election to the office of United States senator,
24 representative in Congress, governor, lieutenant governor,
25 state senator, state representative, circuit judge [not
26 subject to the provisions of Article V, Section 25 of the
27 State Constitution], secretary of state, attorney general,
28 state treasurer, or state auditor, or at which an
29 initiative, referendum, or constitutional amendment appears
30 on the ballot, and the board shall, not later than two weeks
31 after receiving all required abstracts from the election,
32 issue a statement announcing the results of the election for
33 such office or on such question.

115.515. 1. If two or more persons receive an equal number of votes for nomination as a party's candidate for any federal office, governor, lieutenant governor, secretary of state, attorney general, state treasurer, state auditor, circuit judge [not subject to the provisions of Article V, Sections 25(a) to 25(g) of the State Constitution], state senator, or state representative, and a higher number of votes than any other candidate for the same office on the same party ballot, the governor shall, immediately after the results of the election have been announced, issue a proclamation stating the fact and ordering a special primary election to determine the party's nominee for the office. The proclamation shall set the date of the election, which shall be not less than fourteen or more than thirty days after the proclamation is issued, and shall be sent by the governor to each election authority responsible for conducting the special primary election. In the proclamation, the governor shall specify the name of each candidate for the office to be voted on at the election, and the special primary election shall be conducted and the votes counted as in other primary elections.

2. If two or more persons receive an equal number of votes for nomination as a party's candidate for any other office, except party committeeman or committeewoman, and a higher number of votes than any other candidate for the same office on the same party ballot, the officer with whom such candidates filed their declarations of candidacy shall, immediately after the results of the election have been certified, issue a proclamation stating the fact and ordering a special primary election to determine the party's nominee for the office. The proclamation shall set the date of the election, which shall be not less than fourteen or

33 more than thirty days after the proclamation is issued, and
34 shall be sent by the officer to each election authority
35 responsible for conducting the special primary election. In
36 the proclamation, the officer shall specify the name of each
37 candidate for the office to be voted on at the election, and
38 the special primary election shall be conducted and the
39 votes counted as in other primary elections.

40 3. As an alternative to the procedure prescribed in
41 subsections 1 and 2 of this section, if the candidates who
42 received an equal number of votes in such election agree to
43 the procedure prescribed in this subsection, the officer
44 with whom such candidates filed their declarations of
45 candidacy may, after notification of the time and place of
46 such drawing given to each such candidate at least five days
47 before such drawing, determine the winner of such election
48 by lot. Any candidate who received an equal number of votes
49 may decline to have his or her name put into such drawing.

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

13 2. If two or more persons receive an equal number of
14 votes for election to federal office, state senator, state
15 representative or circuit judge [not subject to the

provisions of Article V, Section 25 of the State Constitution], and a higher number of votes than any other candidate for the same office, the governor shall, immediately after the results of the election have been announced, issue a proclamation stating the fact and ordering a special election to determine which candidate is elected to the office. The proclamation shall set the date of the election and shall be sent by the governor to each election authority responsible for conducting the special election. In his proclamation, the governor shall specify the name of each candidate for the office to be voted on at the election, and the special election shall be conducted and the votes counted as in other elections.

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

4. As an alternative to the procedure prescribed in subsections 1, 2, and 3 of this section, if the candidates who received an equal number of votes in such election agree

48 to the procedure prescribed in this subsection, the officer
49 with whom such candidates filed their declarations of
50 candidacy may, after notification of the time and place of
51 such drawing given to each such candidate at least five days
52 before such drawing, determine the winner of such election
53 by lot. Any candidate who received an equal number of votes
54 may decline to have his name put into such drawing.

115.531. 1. Not later than five days after the
2 official announcement of the results of a primary election
3 is issued by the election authority or the secretary of
4 state, as the case may be, any candidate desiring to contest
5 the primary election shall file a verified petition in the
6 office of the clerk of the circuit court of any circuit in
7 which part of the election was held and in which any alleged
8 irregularity occurred, unless the office involved in the
9 contest is that of a circuit or associate circuit judge [not
10 subject to Section 25, Article V, Constitution of Missouri],
11 in which case the verified petition shall be filed, heard,
12 and determined by an adjoining circuit court selected by the
13 contestant as specified in section 115.575. The contestant
14 shall only be required to file one petition with the circuit
15 court for each election contest regardless of the number of
16 counties within the court's jurisdiction. The petition
17 shall set forth the points on which the contestant wishes to
18 contest the election and the facts the contestant will prove
19 in support of such points, and shall pray leave to produce
20 such proof. The judge of the court shall immediately note
21 on the petition the date it was filed and shall immediately
22 set a date, not later than five days after the petition is
23 filed, for a preliminary hearing. If the petition is filed
24 in vacation, the judge of the circuit court shall
25 immediately convene the court in special session for the

26 purpose of hearing the contest. If no regular judge of the
27 court is available the supreme court shall immediately
28 assign another judge. The circuit court in which the
29 petition is filed shall have exclusive jurisdiction over all
30 matters relating to the contest and may issue appropriate
31 orders to all election authorities in the area in which the
32 contested election was held.

33 2. If a petition contesting a primary election is
34 filed in an incorrect circuit, the court in which it is
35 filed shall have jurisdiction and shall promptly transfer
36 the suit to the correct circuit court.

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

115.575. 1. Notwithstanding any provision of this
2 chapter to the contrary, all contested elections for the
3 office of circuit or associate circuit judge [not subject to
4 the provisions of Article V, Section 25 of the State
5 Constitution], whether contested on the basis of
6 qualification, irregularity, or other cause, or for recount
7 other than the automatic recount provided for in section
8 115.601, and whether in a primary or general election, shall
9 be filed in and heard and determined by an adjoining circuit
10 court selected by the contestant.

11 2. All contested elections on any office or question
12 other than those provided for in sections 115.555, 115.563,
13 and subsection 1 of this section shall be heard and
14 determined by the circuit court of any circuit, selected by
15 the contestant, in which all or any part of the election was
16 held and in which any alleged irregularity occurred. The
17 contestant shall only be required to file one petition with
18 the circuit court for each election contest regardless of
19 the number of counties within the court's jurisdiction.

20 3. If a petition contesting any election is filed in
21 an incorrect circuit, the court in which it is filed shall
22 have jurisdiction and shall promptly transfer the suit to
23 the correct circuit court.

 115.603. Each established political party shall have a
2 state committee, a congressional district committee for each
3 congressional district in the state, a judicial district
4 committee for each circuit judge district in the state [not
5 subject to the provisions of Article V, Section 25 of the
6 state Constitution], a senatorial district committee for
7 each senatorial district in the state, a legislative
8 district committee for each legislative district in the
9 state, and a county committee for each county in the state,
10 except any city not within a county which shall have a city
11 committee in lieu of a county committee.

 478.010. 1. [Except as provided in Section 25 of
2 Article V of the Constitution of Missouri,] The circuit
3 judges of the various judicial circuits shall be elected at
4 the general elections as herein provided and at the general
5 election every six years thereafter, and shall enter upon
6 the duties of their office on the first day in January next
7 following their election; provided, however, that any terms

8 commencing in 1981 and 1983 shall commence on the first
9 Monday in January.

10 2. The circuit judge of judicial circuit number one
11 shall be elected in 1980.

12 3. The circuit judge of judicial circuit number thirty-
13 six shall be elected in 1984.

14 4. The circuit judges of the remaining judicial
15 circuits, except those covered by sections 478.370 through
16 478.715, shall be elected in 1982.

478.320. 1. In counties having a population of thirty
2 thousand or less, there shall be one associate circuit
3 judge. In counties having a population of more than thirty
4 thousand and less than one hundred thousand, there shall be
5 two associate circuit judges. In counties having a
6 population of one hundred thousand or more, there shall be
7 three associate circuit judges and one additional associate
8 circuit judge for each additional one hundred thousand
9 inhabitants.

10 2. For purposes of this section, notwithstanding the
11 provisions of section 1.100, population of a county shall be
12 determined on the basis of the last previous decennial
13 census of the United States; and, beginning after
14 certification of the year 2000 decennial census, on the
15 basis of annual population estimates prepared by the United
16 States Bureau of the Census, provided that the number of
17 associate circuit judge positions in a county shall be
18 adjusted only after population estimates for three
19 consecutive years indicate population change in the county
20 to a level provided by subsection 1 of this section.

21 3. [Except in circuits where associate circuit judges
22 are selected under the provisions of Sections 25(a) to (g)
23 of Article V of the constitution,] The election of associate

24 circuit judges shall in all respects be conducted as other
25 elections and the returns made as for other officers.

26 4. [In counties not subject to Sections 25(a) to (g)
27 of Article V of the constitution,] Associate circuit judges
28 shall be elected by the county at large.

29 5. No associate circuit judge shall practice law, or
30 do a law business, nor shall he or she accept, during his or
31 her term of office, any public appointment for which he or
32 she receives compensation for his or her services.

33 6. No person shall be elected as an associate circuit
34 judge unless he or she has resided in the county for which
35 he or she is to be elected at least one year prior to the
36 date of his or her election; provided that, a person who is
37 appointed by the governor to fill a vacancy may file for
38 election and be elected notwithstanding the provisions of
39 this subsection.

478.330. 1. When an annual judicial performance
2 report submitted pursuant to section 477.405 indicates for
3 three consecutive calendar years the need for two or more
4 full-time judicial positions in any judicial circuit there
5 shall be one additional circuit judge position authorized in
6 such circuit, subject to an initial appropriation made for
7 that purpose. The clerk of the supreme court shall notify
8 the Missouri revisor of statutes of any new circuit
9 judgeships authorized under this section, and the Missouri
10 revisor of statutes shall publish a footnote to this section
11 listing the authorized judgeships and corresponding judicial
12 circuits.

13 2. [Except in circuits where circuit judges are
14 selected under the provisions of Sections 25(a) to 25(g) of
15 Article V of the Missouri Constitution or] Except as
16 otherwise provided by law, a circuit judge authorized under

17 subsection 1 of this section shall be elected at the next
18 general election after the authorization, and every six
19 years thereafter. Such judicial position shall not be
20 considered vacant or filled by appointment until January
21 first next following the authorization. [Except in circuits
22 where circuit judges are selected under the provisions of
23 Sections 25(a) to 25(g) of Article V of the Missouri
24 Constitution,] The election of circuit judges authorized by
25 this section shall be conducted in accordance with chapter
26 115.

[476.680. 1. The votes on the question
2 shall be counted, canvassed and returned by the
3 regular boards of judges, clerks and officers as
4 votes for candidates are counted, canvassed and
5 returned, and the abstract made by the officials
6 in general charge of elections in each such
7 county shall be returned to the secretary of
8 state on separate abstract sheets, in the manner
9 provided for abstract of votes for state and
10 county officers.]

11 2. The secretary of state, in the presence
12 of the governor, sixty days after the election,
13 shall proceed to canvass the votes on the
14 question; and the governor shall forthwith issue
15 his proclamation, giving the whole number of
16 votes cast in each such judicial circuit for and
17 against the question, and if the question is
18 approved by a majority of those voting thereon,
19 declaring the nonpartisan selection of the
20 circuit and associate circuit judges to be in
21 full force and effect in each such judicial
22 circuit as provided for in Article V, Section 29
23 of the Constitution of 1945.]

Section B. Section A of this act shall become
2 effective only upon approval by the voters of an amendment
3 to article V of the Constitution of Missouri that repeals
4 the appointment of judges of the supreme court and of the
5 court of appeals by the governor from nominees selected by a

6 nonpartisan commission and establishes the appointment of
7 all judges of the supreme court and of the court of appeals
8 by the governor with the advice and consent of the senate,
9 and for the election of all circuit and associate judges.

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