

SECOND REGULAR SESSION

SENATE BILL NO. 738

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLAY.

Read 1st time January 15, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3254.011

AN ACT

To repeal sections 115.277, 115.279 and 115.283, RSMo Supp. 1997, relating to early voting procedures, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 115.277, 115.279 and 115.283, RSMo Supp. 1997, are repealed and four new sections enacted in lieu thereof, to be known as sections 115.274, 115.277, 115.279 and 115.283, to read as follows:

115.274. 1. Any election authority may establish an advance voting period when eligible registered voters may vote before an election at the office of the election authority or another polling place designated by and under the control of the election authority. The permissible advance voting period may extend from twenty days to five days before the day of the election.

2. Any election authority establishing an advance voting period shall establish the hours, dates and locations for advance voting and shall post the hours, dates and locations for advance voting at his or her office and in such other locations as the election authority may select. Any election authority establishing an advance voting period may do so in lieu of absentee voting conducted pursuant to subdivision (1) of subsection 1 of section 115.277.

3. Except as provided in this section, advance voting procedures shall be conducted in accordance with sections 115.407 to 115.445.

4. Before the precinct registers are delivered to the polling places for an election, the election authority shall record in the precinct registers the names of all

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

voters who have submitted an advance voting ballot. The election judge shall not allow any person who has voted an advance voting ballot in the election to vote at the polls on election day. If it is determined that any voter submitted an advance voting ballot and voted at the polls on election day, the election authority shall certify the fact and the name of the voter to the verification board. Such certificate shall be included with the abstracts drawn by the verification board.

115.277. 1. Except as provided in subsections 3, 4 [and], 5 **and 6** of this section, any registered voter of this state may vote by absentee ballot for all candidates and issues for which such voter would be eligible to vote at the polling place. **The following shall be the methods of voting by absentee ballot:**

(1) A voter casting an absentee ballot at the office of the election authority or another place designated by and under the control of the election authority on or prior to the fifth day before the election need not offer a reason for requesting an absentee ballot; or

(2) If a voter is to cast an absentee ballot under any other circumstance, such voter may vote by absentee ballot if such voter expects to be prevented from going to the polls to vote on election day due to:

[1] **(a)** Absence on election day from the jurisdiction of the election authority in which such voter is registered to vote;

[2] **(b)** Incapacity or confinement due to illness or physical disability;

[3] **(c)** Religious belief or practice;

[4] **(d)** Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place; **or**

[5] **(e)** Incarceration, provided all qualifications for voting are retained.

2. Any person in federal service, as defined in section 115.275, who is eligible to register and vote in any election in this state may vote in the election even if the person is not registered. Each person in federal service may vote by absentee ballot or, upon submitting an affidavit that the person is qualified to vote in the election, may vote at the person's polling place.

3. Any interstate former resident, as defined in section 115.275, may vote by absentee ballot for presidential and vice presidential electors.

4. Any intrastate new resident, as defined in section 115.275, may vote by absentee ballot at the election for presidential and vice presidential electors, United States senator, representative in Congress, statewide elected officials and statewide questions, propositions and amendments from such resident's new jurisdiction of residence after registering to vote in such resident's new jurisdiction of residence.

5. Any overseas voter as defined in section 115.275 may vote by absentee ballot at the election for presidential and vice presidential electors, United States senator,

representative in congress, statewide elected officials and statewide questions, propositions and amendments.

[5.] **6.** Any new resident, as defined in section 115.275, may vote by absentee ballot for presidential and vice presidential electors after registering to vote in such resident's new jurisdiction of residence.

115.279. 1. Application for an absentee ballot may be made by the applicant in person, or by mail, or for the applicant, in person, by his or her guardian or a relative within the second degree by consanguinity or affinity. The election authority may accept applications by facsimile transmission at its discretion and within the limits of its telecommunications capacity.

2. Each application shall be made to the election authority of the jurisdiction in which the person is or would be registered. Each application shall be in writing and shall state the applicant's name, address at which he or she is or would be registered, his or her reason for voting an absentee ballot **except as provided in subdivision (1) of subsection 1 of section 155.277** and the address to which the ballot is to be mailed, if mailing is requested. Each application to vote in a primary election shall also state which ballot the applicant wishes to receive. If any application fails to designate a ballot, the election authority shall, within three working days after receiving the application, notify the applicant by mail that it will be unable to deliver an absentee ballot until the applicant designates which political party ballot he or she wishes to receive. If the applicant does not respond to the request for political party designation, the election authority is authorized to provide the voter with that part of the ballot for which no political party designation is required.

3. All applications for absentee ballots received prior to the sixth Tuesday before an election shall be stored at the office of the election authority until such time as the applications are processed in accordance with section 115.281. No application for an absentee ballot received in the office of the election authority by mail, by facsimile transmission or by a guardian or relative after 5:00 p.m. on the Wednesday immediately prior to the election shall be accepted by any election authority. No application for an absentee ballot submitted by the applicant in person after 5:00 p.m. on the day before the election shall be accepted by any election authority, except as provided in subsections 6, 8 and 9 of this section.

4. Each application for an absentee ballot shall be signed by the applicant or, if the application is made by a guardian or relative pursuant to the provisions of this section, the application shall be signed by the guardian or relative, who shall note on the application his or her relationship to the applicant. If an applicant, guardian or relative is blind, unable to read or write the English language or physically incapable of signing the application, he or she shall sign by mark, witnessed by the signature of an election official or person of his or her own choosing. Any person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be guilty of a class one election offense.

5. Notwithstanding any law to the contrary, any resident of the state of Missouri who resides outside the boundaries of the United States or who is on active duty with the armed forces of the United States or members of their immediate family living with them may request an absentee ballot for both the primary and subsequent general election with one application.

6. An application for an absentee ballot by a new resident, as defined in section 115.275, shall be submitted in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or any authorized officer of the election authority, and in substantially the following form:

"STATE OF

COUNTY OF ss.

I,, do solemnly swear that:

(1) Before becoming a resident of this state, I resided at (residence address) in (town, township, village or city) of County in the state of

(2) I moved to this state after the last day to register to vote in such general presidential election and I am now residing in the county of, state of Missouri;

(3) I believe I am entitled pursuant to the laws of this state to vote in the presidential election to be held November, (year);

(4) I hereby make application for a presidential and vice presidential ballot. I have not voted and shall not vote other than by this ballot at such election.

Signed

(Applicant)

.....

(Residence Address)

Subscribed and sworn to before me this day of,

Signed

(Title and name of officer authorized to administer oaths)"

7. The election authority in whose office an application is filed pursuant to subsection 6 of this section shall immediately send a duplicate of such application to the appropriate official of the state in which the new resident applicant last resided and shall file the original of such application in its office.

8. An application for an absentee ballot by an intrastate new resident, as defined in section 115.275, shall be made in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or an

authorized officer of the election authority, and in substantially the following form:

"STATE OF

COUNTY OF, ss.

I,, do solemnly swear that:

(1) Before becoming a resident of this election jurisdiction, I resided at (residence address) in (town, township, village or city) of county in the state of

(2) I moved to this election jurisdiction after the last day to register to vote in such election;

(3) I believe I am entitled pursuant to the laws of this state to vote in the election to be held (date);

(4) I hereby make application for an absentee ballot for candidates and issues on which I am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other than by this ballot at such election.

Signed

(Applicant)

.....

(Residence Address)

Subscribed and sworn to before me this day of,

Signed

(Title and name of officer authorized to administer oaths)"

9. An application for an absentee ballot by an interstate former resident, as defined in section 115.275, shall be received in the office of the election authority where the applicant was formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the application is made in person by the applicant in the office of the election authority, in which case, such application shall be made no later than 7:00 p.m. on the day of the election.

115.283. 1. Each ballot envelope shall bear a statement on which the voter shall state the voter's name, the voter's voting address, the voter's mailing address and the voter's reason for voting an absentee ballot **except as provided in subdivision (1) of subsection 1 of section 115.277**. On the form, the voter shall also state, under penalties of perjury that the voter is qualified to vote in the election, that the voter has not previously voted and will not vote again in the election, that the voter has personally marked the voter's ballot in secret or supervised the marking of the voter's ballot if the voter is unable to mark it, that the ballot has been placed in the ballot envelope and sealed by the voter or under the voter's supervision if the voter is unable to seal it, and that all information contained in the statement is true. Persons authorized to vote only for federal and statewide officers shall also state their former Missouri residence.

2. The statement for [persons] **registered voters** voting absentee ballots [who are

registered voters] pursuant to subdivision (2) of subsection 1 of section 115.277 shall be in substantially the following form:

State of Missouri

County (City) of

I, (print name), a registered voter of County (City of St. Louis, Kansas City), declare under the penalties of perjury that I expect to be prevented from going to the polls on election day due to (check one):

..... absence on election day from the jurisdiction of the election authority in which I am registered;

..... incapacity or confinement due to illness or physical disability;

..... religious belief or practice;

..... employment as an election authority or by an election authority at a location other than my polling place;

..... incarceration, although I have retained all the necessary qualifications for voting.

I hereby state under penalties of perjury that I am qualified to vote at this election; I have not voted and will not vote other than by this ballot at this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

.....
Signature of Voter

.....
Signature of Person Assisting
Voter (if applicable)

.....
.....

Subscribed and sworn to
before me this day
of , [19].....

Address of Voter

.....
.....

Mailing addresses
(if different)

.....
Signature of notary or other
officer authorized to
administer oaths

3. The statement for registered voters voting absentee ballots at the office of the election authority or another place designated by and under the control of the election authority pursuant to subdivision (1) of subsection 1 of section 115.277 shall be in substantially the following form:

State of Missouri

County (City) of

I, (print name), a registered voter of County (City of St. Louis,

Kansas City), declare under the penalties of perjury that I am qualified to vote at this election; I have not voted and will not vote other than by this ballot at this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

.....
Signature of Voter

.....
**Signature of Person Assisting
Voter (if applicable)**

.....
.....
Address of Voter

**Subscribed and sworn to
before me this day
of ,**

.....
.....
**Mailing addresses
(if different)**

.....
**Signature of notary or other
officer authorized to
administer oaths**

[3.] **4.** The statement for persons voting absentee ballots pursuant to the provisions of subsection 2, 3 [or], 4 **or** 5 of section 115.277 [without being registered] shall be in substantially the following form:

State of Missouri
County (City) of

I, (print name), declare under the penalties of perjury that **I am** a citizen of the United States and eighteen years of age or older. I am not adjudged incapacitated by any court of law, and if I have been convicted of a felony or of a misdemeanor connected with the right of suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to law. I hereby state under penalties of perjury that I am qualified to vote at this election.

(1) I am a resident of the state of Missouri and (check one):

- am a member of the U.S. armed forces in active service;
 - am an active member of the U.S. merchant marine;
 - am a civilian employee of the U.S. government working outside the United States;
 - am an active member of a religious or welfare organization assisting servicemen;
 - have been honorably discharged or terminated my service in one of the groups mentioned above within sixty days of this election;
 - am a spouse or dependent of one of the above;
 - am a registered voter in County and moved from that county to County, Missouri, after the last day to register to vote in this election.
- OR (check if applicable)

(2) I am an interstate former resident of Missouri and authorized to vote for presidential and vice presidential electors. I further state under penalties of perjury that I have not voted and will not vote other than by this ballot at this election; I marked the enclosed ballot in secret or am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

OR (check if applicable)

(3) I am an overseas voter and am authorized to vote for presidential and vice presidential electors, United States senator, representative in congress, statewide elected officials and statewide questions, propositions and amendments.

..... Subscribed to and sworn before me this..... day of,

.....

.....

Address of Voter

.....

Signature of notary or other officer authorized to administer oaths

.....

.....

Mailing Address
(if different)

.....

Signature of Person
Assisting Voter
(if applicable)

.....

.....

Address of Last Missouri Residence
(for persons authorized to vote for federal officers by federal law)

[4.] 5. The statement for persons voting absentee ballots pursuant to subdivision (2) of subsection 1 of section 115.277 and who are entitled to vote at the election under the provisions of subsection 2 of section 115.137 shall be in substantially the following form:

State of Missouri

County (City) of

I, (print name), declare under the penalties of perjury that I expect to be prevented from going to the polls on election day due to (check one):

..... absence on election day from the jurisdiction of the election authority in which I am directed to vote;

..... incapacity or confinement due to illness or physical disability;
..... religious belief or practice;
..... employment as an election authority or by an election authority at a location other than my polling place;
..... incarceration, although I have retained all the necessary qualifications of voting.

I hereby state under penalties of perjury that I own property in the district and am qualified to vote at this election; I have not voted and will not vote other than by this ballot at this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable to read and write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

.....
Signature of Voter

Subscribed and sworn to
before me this
day of,

.....
.....
Address

.....
Signature of notary or
other officer authorized
to administer oaths

.....
Signature of Person
Assisting Voter
(if applicable)

6. The statement for persons voting absentee ballots pursuant to subdivision (1) of subsection 1 of section 115.277 and who are entitled to vote at the election under the provisions of subsection 2 of section 115.137 shall be in substantially the following form:

State of Missouri
County (City) of

I, (print name), declare under the penalties of perjury that I own property in the district and I am qualified to vote at this election; I have not voted and will not vote other than by this ballot at this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable to read and write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

.....
Signature of Voter

Subscribed to and sworn
before me this

day of,

.....
.....

Address of Voter

.....

**Signature of notary or
other officer authorized
to administer oaths**

.....

**Signature of Person
Assisting Voter
(if applicable)**

[5.] 7. Notwithstanding any other provision of this section, any resident of the state of Missouri who resides outside the boundaries of the United States or who is on active duty with the armed forces of the United States or members of their immediate family living with them or persons who are permanently disabled if they have filed a statement by a physician attesting to their permanent disability which would require the person to vote an absentee ballot with the election authority within the jurisdiction of their residence or if the person's name is entered on such election authority's list pursuant to section 115.284, otherwise entitled to vote, shall not be required to obtain a notary seal or signature on his absentee ballot.

[6.] 8. Notwithstanding any other provision of this section or section 115.291 to the contrary, the subscription, signature and seal of a notary or other officer authorized to administer oaths shall not be required on any ballot, ballot envelope, or statement required by this section if the reason for the voter voting absentee is due to illness or physical disability.

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