

FIRST REGULAR SESSION

HOUSE BILL NO. 121

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DUGGER (Sponsor) AND ENTLICHER (Co-sponsor).

0095L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 51.050, 115.127, 115.241, 115.601, and 115.637, RSMo, and to enact in lieu thereof four new sections relating to elections, with existing penalty provisions.

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

Section A. Sections 51.050, 115.127, 115.241, 115.601, and 115.637, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections 51.050, 115.127,
3 115.601, and 115.637, to read as follows:

51.050. No person shall be elected or appointed clerk of the county commission unless
2 [he] **such person** be a citizen of the United States, over the age of twenty-one years, and shall
3 have resided within the state one whole year, and within the county for which [he] **the person**
4 is elected [six months] **one year** just prior to [his] **such person's** election; and every clerk shall
5 after [his] **the** election continue to reside within the county for which [he] **such person** is clerk.

115.127. 1. Except as provided in subsection 4 of this section, upon receipt of notice of
2 a special election to fill a vacancy submitted pursuant to section 115.125, the election authority
3 shall cause legal notice of the special election to be published in a newspaper of general
4 circulation in its jurisdiction. The notice shall include the name of the officer or agency calling
5 the election, the date and time of the election, the name of the office to be filled and the date by
6 which candidates must be selected or filed for the office. Within one week prior to each special
7 election to fill a vacancy held in its jurisdiction, the election authority shall cause legal notice of
8 the election to be published in two newspapers of different political faith and general circulation
9 in the jurisdiction. The legal notice shall include the date and time of the election, the name of
10 the officer or agency calling the election and a sample ballot. If there is only one newspaper of
11 general circulation in the jurisdiction, the notice shall be published in the newspaper within one

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 week prior to the election. If there are two or more newspapers of general circulation in the
13 jurisdiction, but no two of opposite political faith, the notice shall be published in any two of the
14 newspapers within one week prior to the election.

15 2. Except as provided in subsections 1 and 4 of this section and in sections 115.521,
16 115.549 and 115.593, the election authority shall cause legal notice of each election held in its
17 jurisdiction to be published. The notice shall be published in two newspapers of different
18 political faith and qualified pursuant to chapter 493 which are published within the bounds of
19 the area holding the election. If there is only one so qualified newspaper, then notice shall be
20 published in only one newspaper. If there is no newspaper published within the bounds of the
21 election area, then the notice shall be published in two qualified newspapers of different political
22 faith serving the area. Notice shall be published twice, the first publication occurring in the
23 second week prior to the election, and the second publication occurring within one week prior
24 to the election. Each such legal notice shall include the date and time of the election, the name
25 of the officer or agency calling the election and a sample ballot; and, unless notice has been
26 given as provided by section 115.129, the second publication of notice of the election shall
27 include the location of polling places. The election authority may provide any additional notice
28 of the election it deems desirable.

29 3. The election authority shall print the official ballot as the same appears on the sample
30 ballot, and no candidate's name or ballot issue which appears on the sample ballot or official
31 printed ballot shall be stricken or removed from the ballot except on death of a candidate or by
32 court order.

33 4. In lieu of causing legal notice to be published in accordance with any of the provisions
34 of this chapter, the election authority in jurisdictions which have less than seven hundred fifty
35 registered voters and in which no newspaper qualified pursuant to chapter 493 is published, may
36 cause legal notice to be mailed during the second week prior to the election, by first class mail,
37 to each registered voter at the voter's voting address. All such legal notices shall include the date
38 and time of the election, the location of the polling place, the name of the officer or agency
39 calling the election and a sample ballot.

40 5. **(1) Except for filing for office filled by election on the general municipal election**
41 **day as provided in subdivision (2) of this subsection,** if the opening date for filing a
42 declaration of candidacy for any office in a political subdivision or special district is not required
43 by law or charter, the opening filing date shall be 8:00 a.m., the sixteenth Tuesday prior to the
44 election, except that for any home rule city with more than four hundred thousand inhabitants
45 and located in more than one county and any political subdivision or special district located in
46 such city, the opening filing date shall be 8:00 a.m., the fifteenth Tuesday prior to the election.
47 **Except for filing for office filled by election on the general municipal election day as**

48 **provided in subdivision (2) of this subsection**, if the closing date for filing a declaration of
49 candidacy for any office in a political subdivision or special district is not required by law or
50 charter, the closing filing date shall be 5:00 p.m., the eleventh Tuesday prior to the election. The
51 political subdivision or special district calling an election shall, before the sixteenth Tuesday, or
52 the fifteenth Tuesday for any home rule city with more than four hundred thousand inhabitants
53 and located in more than one county or any political subdivision or special district located in
54 such city, prior to any election at which offices are to be filled, notify the general public of the
55 opening filing date, the office or offices to be filled, the proper place for filing and the closing
56 filing date of the election. Such notification may be accomplished by legal notice published in
57 at least one newspaper of general circulation in the political subdivision or special district.

58 **(2) The opening filing date for any office filled by election on the general municipal**
59 **election day as established under section 115.121 shall be December first of the immediately**
60 **preceding year, and the closing filing date shall be January first of the year in which the**
61 **election is held. This subdivision shall not apply to any election in a political subdivision**
62 **or special district in any county with a charter form of government.**

63 6. Except as provided for in sections 115.247 and 115.359, if there is no additional cost
64 for the printing or reprinting of ballots or if the candidate agrees to pay any printing or reprinting
65 costs, a candidate who has filed for an office or who has been duly nominated for an office may,
66 at any time after the certification required in section 115.125 but no later than 5:00 p.m. on the
67 sixth Tuesday before the election, withdraw as a candidate pursuant to a court order, which,
68 except for good cause shown by the election authority in opposition thereto, shall be freely given
69 upon application by the candidate to the circuit court of the area of such candidate's residence.

115.601. 1. Any contestant in a primary or other election contest who was defeated by
2 less than **one-half of** one percent of the votes cast for the office and any contestant who received
3 the second highest number of votes cast for that office if two or more are to be elected and who
4 was defeated by less than one percent of the votes cast, or any person whose position on a
5 question was defeated by less than **one-half of** one percent of the votes cast on the question, shall
6 have the right to a recount of the votes cast for the office or on the question.

7 2. In cases where the candidate filed or the ballot question was originally filed with an
8 election authority as defined in section 115.015, such recount shall be requested in accordance
9 with the provisions of section 115.531 or 115.577 and conducted under the direction of the court
10 or the commissioner representing the court trying the contest according to the provisions of this
11 subchapter.

12 3. In cases where the candidate filed or the ballot question was originally filed with the
13 secretary of state, the defeated candidate or the person whose position on a question was defeated
14 by less than **one-half of** one percent of the votes cast on the question shall be allowed a recount

15 pursuant to this section by filing with the secretary of state a request for a recount stating that the
16 person or the person's position on a question was defeated by less than **one-half of** one percent
17 of the votes cast. Such request shall be filed not later than seven days after certification of the
18 election. The secretary of state shall notify all concerned parties of the filing of the request for
19 a recount. The secretary of state shall authorize the election authorities to conduct a recount
20 pursuant to this section if the requesting party or his position on a question was defeated by less
21 than **one-half of** one percent of the votes cast. The secretary of state shall conduct and certify
22 the results of the recount as the official results in the election within twenty days of receipt of the
23 aforementioned notice of recount.

24 4. Whenever a recount is requested pursuant to subsection 3 of this section, the secretary
25 of state shall determine the number of persons necessary to assist with the recount and shall
26 appoint such persons equally from lists submitted by the contestant and the opponent who
27 received more votes or a person whose position on a question received more votes than the
28 contestant's position on that question. Each person appointed pursuant to this section shall be
29 a disinterested person and a registered voter of the area in which the contested election was held.
30 Each person so appointed shall take the oath prescribed for and receive the same pay as an
31 election judge in the jurisdiction where the person is registered. After being sworn not to disclose
32 any facts uncovered by the recount, except those which are contained in the report, the contestant
33 and the opponent who received more votes or a person whose position on a question received
34 more votes than the contestant's position on that question shall be permitted to be present in
35 person or represented by an attorney at the recount and to observe the recount. Each recount
36 shall be completed under the supervision of the secretary of state with the assistance of the
37 election authorities involved, and the persons appointed to assist with the recount shall perform
38 such duties as the secretary of state directs. Upon completion of any duties prescribed by the
39 secretary of state the persons appointed to assist with the recount shall make a written and signed
40 report of their findings. The findings of the persons appointed to assist with the recount shall be
41 prima facie evidence of the facts stated therein, but any person present at the examination of the
42 votes may be a witness to contradict the findings. No one other than the secretary of state, the
43 election authorities involved, the contestant and the other witnesses described in this subsection,
44 their attorneys, and those specifically appointed by the secretary of state to assist with the recount
45 shall be present during any recount conducted pursuant to this section.

46 5. For purposes of this section, "recount" means one additional counting of all votes
47 counted for the office or on the question with respect to which the recount is requested.

115.637. The following offenses, and any others specifically so described by law, shall
2 be class four election offenses and are deemed misdemeanors not connected with the exercise
3 of the right of suffrage. Conviction for any of these offenses shall be punished by imprisonment

4 of not more than one year or by a fine of not more than two thousand five hundred dollars or by
5 both such imprisonment and fine:

6 (1) Stealing or willfully concealing, defacing, mutilating, or destroying any sample
7 ballots that may be furnished by an organization or individual at or near any voting place on
8 election day, except that this subdivision shall not be construed so as to interfere with the right
9 of an individual voter to erase or cause to be erased on a sample ballot the name of any candidate
10 and substituting the name of the person for whom he intends to vote; or to dispose of the
11 received sample ballot;

12 (2) Printing, circulating, or causing to be printed or circulated, any false and fraudulent
13 sample ballots which appear on their face to be designed as a fraud upon voters;

14 (3) Purposefully giving a printed or written sample ballot to any qualified voter which
15 is intended to mislead the voter;

16 (4) On the part of any candidate for election to any office of honor, trust, or profit,
17 offering or promising to discharge the duties of such office for a less sum than the salary, fees,
18 or emoluments as fixed by law or promising to pay back or donate to any public or private
19 interest any portion of such salary, fees, or emolument as an inducement to voters;

20 (5) On the part of any canvasser appointed to canvass any registration list, willfully
21 failing to appear, refusing to continue, or abandoning such canvass or willfully neglecting to
22 perform his duties in making such canvass or willfully neglecting any duties lawfully assigned
23 to him;

24 (6) On the part of any employer, making, enforcing, or attempting to enforce any order,
25 rule, or regulation or adopting any other device or method to prevent an employee from engaging
26 in political activities, accepting candidacy for nomination to, election to, or the holding of,
27 political office, holding a position as a member of a political committee, soliciting or receiving
28 funds for political purpose, acting as chairman or participating in a political convention,
29 assuming the conduct of any political campaign, signing, or subscribing his name to any
30 initiative, referendum, or recall petition, or any other petition circulated pursuant to law;

31 (7) On the part of any person authorized or employed to print official ballots, or any
32 person employed in printing ballots, giving, delivering, or knowingly permitting to be taken any
33 ballot to or by any person other than the official under whose direction the ballots are being
34 printed, any ballot in any form other than that prescribed by law, or with unauthorized names,
35 with names misspelled, or with the names of candidates arranged in any way other than that
36 authorized by law;

37 (8) On the part of any election authority or official charged by law with the duty of
38 distributing the printed ballots, or any person acting on his behalf, knowingly distributing or
39 causing to be distributed any ballot in any manner other than that prescribed by law;

40 (9) Any person having in his possession any official ballot, except in the performance
41 of his duty as an election authority or official, or in the act of exercising his individual voting
42 privilege;

43 (10) Willfully mutilating, defacing, or altering any ballot before it is delivered to a voter;

44 (11) On the part of any election judge, willfully absenting himself from the polls on
45 election day without good cause or willfully detaining any election material or equipment and
46 not causing it to be produced at the voting place at the opening of the polls or within fifteen
47 minutes thereafter;

48 (12) On the part of any election authority or official, willfully neglecting, refusing, or
49 omitting to perform any duty required of him by law with respect to holding and conducting an
50 election, receiving and counting out the ballots, or making proper returns;

51 (13) On the part of any election judge, or party watcher or challenger, furnishing any
52 information tending in any way to show the state of the count to any other person prior to the
53 closing of the polls;

54 (14) On the part of any voter, except as otherwise provided by law, allowing his ballot
55 to be seen by any person with the intent of letting it be known how he is about to vote or has
56 voted, or knowingly making a false statement as to his inability to mark his ballot;

57 (15) On the part of any election judge, disclosing to any person the name of any
58 candidate for whom a voter has voted;

59 (16) Interfering, or attempting to interfere, with any voter inside a polling place;

60 (17) On the part of any person at any registration site, polling place, counting location
61 or verification location, causing any breach of the peace or engaging in disorderly conduct,
62 violence, or threats of violence whereby such registration, election, count or verification is
63 impeded or interfered with;

64 (18) Exit polling, surveying, sampling, electioneering, distributing election literature,
65 posting signs or placing vehicles bearing signs with respect to any candidate or question to be
66 voted on at an election on election day inside the building in which a polling place is located or
67 within [twenty-five] **fifty** feet of the building's outer door closest to the polling place, or, on the
68 part of any person, refusing to remove or permit removal from property owned or controlled by
69 him, any such election sign or literature located within such distance on such day after request
70 for removal by any person;

71 (19) Stealing or willfully defacing, mutilating, or destroying any campaign yard sign on
72 private property, except that this subdivision shall not be construed to interfere with the right of
73 any private property owner to take any action with regard to campaign yard signs on the owner's
74 property and this subdivision shall not be construed to interfere with the right of any candidate,

75 or the candidate's designee, to remove the candidate's campaign yard sign from the owner's
76 private property after the election day.

2 [115.241. Each party emblem shall be printed on the ballot above the
party caption.]