

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 353
99TH GENERAL ASSEMBLY

1007H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.124 and 115.125, RSMo, and to enact in lieu thereof two new sections relating to elections.

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

Section A. Sections 115.124 and 115.125, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 115.124 and 115.125, to read as follows:

115.124. 1. Notwithstanding any other law to the contrary, in a nonpartisan election in any political subdivision or special district including municipal elections in any city, town, or village with ~~one~~ **two** thousand or fewer inhabitants that have adopted a proposal pursuant to subsection 3 of this section but excluding municipal elections in any city, town, or village with more than ~~one~~ **two** thousand inhabitants, if the notice provided for in subsection 5 of section 115.127 has been published in at least one newspaper of general circulation as defined in section 493.050 in the district, and if the number of candidates who have filed for a particular office is equal to the number of positions in that office to be filled by the election, no election shall be held for such office, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they had been elected. If no election is held for such office as provided in this section, the election authority shall publish a notice containing the names of the candidates that shall assume the responsibilities of office under this section. Such notice shall be published in at least one newspaper of general circulation as defined in section 493.050 in such political subdivision or district by the first of the month in which the election would have occurred, had it been contested. Notwithstanding any other provision of law to the contrary, if at any election the number of candidates filing for a particular office exceeds the number of positions to be filled at such election, the election authority shall hold the election as scheduled, even if a sufficient number of candidates withdraw from such contest for that office

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.

19 so that the number of candidates remaining after the filing deadline is equal to the number of
20 positions to be filled.

21 2. The election authority or political subdivision responsible for the oversight of the
22 filing of candidates in any nonpartisan election in any political subdivision or special district
23 shall clearly designate where candidates shall form a line to effectuate such filings and determine
24 the order of such filings; except that, in the case of candidates who file a declaration of candidacy
25 with the election authority or political subdivision prior to 5:00 p.m. on the first day for filing,
26 the election authority or political subdivision may determine by random drawing the order in
27 which such candidates' names shall appear on the ballot. If a drawing is conducted pursuant to
28 this subsection, it shall be conducted so that each candidate, or candidate's representative if the
29 candidate filed under subsection 2 of section 115.355, may draw a number at random at the time
30 of filing. If such drawing is conducted, the election authority or political subdivision shall record
31 the number drawn with the candidate's declaration of candidacy. If such drawing is conducted,
32 the names of candidates filing on the first day of filing for each office on each ballot shall be
33 listed in ascending order of the numbers so drawn.

34 3. The governing body of any city, town, or village with ~~[one]~~ **two** thousand or fewer
35 inhabitants may submit to the voters at any available election, a question to adopt the provisions
36 of subsection 1 of this section for municipal elections. If a majority of the votes cast by the
37 qualified voters voting thereon are in favor of the question, then the city, town, or village shall
38 conduct nonpartisan municipal elections as provided in subsection 1 of this section for all
39 nonpartisan elections remaining in the year in which the proposal was adopted and for the six
40 calendar years immediately following such approval. At the end of such six-year period, each
41 such city, town, or village shall be prohibited from conducting such elections in such a manner
42 unless such a question is again adopted by the majority of qualified voters as provided in this
43 subsection.

115.125. 1. Not later than 5:00 p.m. on the tenth Tuesday prior to any election, except
2 a special election to decide an election contest, tie vote or an election to elect seven members to
3 serve on a school board of a district pursuant to section 162.241, or a delay in notification
4 pursuant to subsection 2 of this section, or pursuant to the provisions of section 115.399, the
5 officer or agency calling the election shall notify the election authorities responsible for
6 conducting the election. The notice shall be in writing, shall specify the name of the officer or
7 agency calling the election and shall include a certified copy of the legal notice to be published
8 pursuant to subsection 2 of section 115.127. The notice and any other information required by
9 this section may, with the prior notification to the election authority receiving the notice, be
10 accepted by facsimile transmission prior to 5:00 p.m. on the tenth Tuesday prior to the election,
11 provided that the original copy of the notice and a certified copy of the legal notice to be

12 published shall be received in the office of the election authority within three business days from
13 the date of the facsimile transmission. In lieu of a certified copy of the legal notice to be
14 published pursuant to subsection 2 of section 115.127, each notice of a special election to fill a
15 vacancy shall include the name of the office to be filled, the date of the election and the date by
16 which candidates must be selected or filed for the office. Not later than the fourth Tuesday prior
17 to any special election to fill a vacancy called by a political subdivision or special district, the
18 officer or agency calling the election shall certify a sample ballot to the election authorities
19 responsible for conducting the election.

20 2. Except as provided for in sections 115.247 and 115.359, if there is no additional cost
21 for the printing or reprinting of ballots or if the political subdivision or special district calling for
22 the election agrees to pay any printing or reprinting costs **and the political subdivision or**
23 **special district offers to pay for all additional administrative costs**, a political subdivision
24 or special district may, at any time after certification required in subsection 1 of this section, but
25 no later than 5:00 p.m. on the sixth Tuesday before the election, be permitted to make late
26 notification to the election authority pursuant to court order, which, except for good cause shown
27 by the election authority in opposition thereto, shall be freely given upon application by the
28 political subdivision or special district to the circuit court of the area of such subdivision or
29 district. No court shall have the authority to order an individual or issue be placed on the ballot
30 less than six weeks before the date of the election, except as provided in sections 115.361 and
31 115.379.

32 **3. The payment of additional administrative costs under subsection 2 of this section**
33 **shall be due no later than the third Tuesday prior to an election and the amount of such**
34 **costs shall be determined in good faith by the election authority which shall give notice of**
35 **the additional administrative cost requirement to the political subdivision or special district**
36 **prior to the expiration of the deadline for late notification. If no payment is actually made,**
37 **then the election shall still be held with the requested, modified ballots, but the election**
38 **authority shall be entitled to punitive damages of three times the additional administrative**
39 **cost requirement in addition to restitution of the original administrative cost requirement**
40 **and all attorney fees and costs.**

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