

FIRST REGULAR SESSION

HOUSE BILL NO. 543

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LOVASCO.

1125H.011

DANA RADEMAN MILLER, Chief Clerk

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.

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
2 repealed and five new sections enacted in lieu thereof, to be known as sections 115.225, 115.235,
3 115.237, 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
2 approve the marking devices and the automatic tabulating equipment used in electronic voting
3 systems and may promulgate rules and regulations to implement the intent of sections 115.225
4 to 115.235.

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

6 (1) Permits voting in absolute secrecy;

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

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

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

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

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.

15 (6) Permits each voter at a presidential election to vote by use of a single mark for the
16 candidates of one party or group of petitioners for president, vice president and their presidential
17 electors;

18 (7) Accurately counts all proper votes cast for each candidate and for and against each
19 question;

20 (8) Is set to reject all votes, except write-in votes, for any office and on any question
21 when the number of votes exceeds the number a voter is lawfully entitled to cast;

22 (9) **Produces the election results from paper ballots that voters mark with ballot**
23 **marking devices or electronically assisted ballot marking devices;**

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

25 [~~10~~] (11) Has been tested and is certified by an independent authority that meets the
26 voting system standards developed by the Federal Election Commission or its successor agency.
27 The provisions of this subdivision shall not be required for any system purchased prior to August
28 28, 2002; and

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

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

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

42 [4-] 5. Any rule or portion of a rule, as that term is defined in section 536.010, that is
43 created under the authority delegated in this section shall become effective only if it complies
44 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
45 This section and chapter 536 are nonseverable and if any of the powers vested with the general
46 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
47 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
48 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

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

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

115.237. 1. **The official ballot shall be a paper ballot that is marked by the voter using a paper ballot marking device or an electronically assisted ballot marking device, except for equipment not yet replaced as provided in subsection 3 of section 115.225.**

2. Each ballot printed or designed for use with an electronic voting system for any election pursuant to this chapter shall contain all questions and the names of all offices and candidates certified or filed pursuant to this chapter and no other. As far as practicable, all questions and the names of all offices and candidates for which each voter is entitled to vote shall be printed on one page except for the ballot for political party committee persons in polling places not utilizing an electronic voting system which may be printed separately and in conformity with the requirements contained in this section. As far as practicable, ballots containing only questions and the names of nonpartisan offices and candidates shall be printed in accordance with the provisions of this section, except that the ballot information may be listed in vertical or horizontal rows. The names of candidates for each office shall be listed in the order in which they are filed.

~~[2-]~~ 3. In polling places using electronic voting systems, the ballot information may be arranged in vertical or horizontal rows or on a number of separate pages or screens. In any event, the name of each candidate, the candidate's party, the office for which he or she is a candidate, and each question shall be indicated clearly on the ballot.

~~[3-]~~ 4. Nothing in this subchapter shall be construed as prohibiting the use of a separate paper ballot for questions or for the presidential preference primary in any polling place using an electronic voting system.

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

~~[5-]~~ 6. No ballot printed or designed for use with an electronic voting system for any partisan election held under this chapter shall allow a person to vote a straight political party ticket. For purposes of this subsection, a "straight political party ticket" means voting for all of

29 the candidates for elective office who are on the ballot representing a single political party by a
30 single selection on the ballot.

31 ~~[6-]~~ 7. The secretary of state shall promulgate rules that specify uniform standards for
32 ballot layout for each electronic or computerized ballot counting system approved under the
33 provisions of section 115.225 so that the ballot used with any counting system is, where possible,
34 consistent with the intent of this section. Nothing in this section shall be construed to require
35 the format specified in this section if it does not meet the requirements of the ballot counting
36 system used by the election authority.

37 ~~[7-]~~ 8. Any rule or portion of a rule, as that term is defined in section 536.010, that is
38 created under the authority delegated in this section shall become effective only if it complies
39 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
40 This section and chapter 536 are nonseverable and if any of the powers vested with the general
41 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
42 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
43 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.287. 1. Upon receipt of a signed application for an absentee ballot and if satisfied
2 the applicant is entitled to vote by absentee ballot, the election authority shall, within three
3 working days after receiving the application, or if absentee ballots are not available at the time
4 the application is received, within five working days after they become available, deliver to the
5 voter an absentee ballot, ballot envelope and such instructions as are necessary for the applicant
6 to vote. Delivery shall be made to the voter personally in the office of the election authority or
7 by bipartisan teams appointed by the election authority, or by first class, registered, or certified
8 mail at the discretion of the election authority, or in the case of a covered voter as defined in
9 section 115.902, the method of transmission prescribed in section 115.914. Where the election
10 authority is a county clerk, the members of bipartisan teams representing the political party other
11 than that of county clerk shall be selected from a list of persons submitted to the county clerk by
12 the county chairman of that party. If no list is provided by the time that absentee ballots are to
13 be made available, the county clerk may select a person or persons from lists provided in
14 accordance with section 115.087. If the election authority is not satisfied that any applicant is
15 entitled to vote by absentee ballot, it shall not deliver an absentee ballot to the applicant. Within
16 three working days of receiving such an application, the election authority shall notify the
17 applicant and state the reason he or she is not entitled to vote by absentee ballot. The applicant
18 may file a complaint with the elections division of the secretary of state's office under and
19 pursuant to section 115.219.

20 2. If, after 5:00 p.m. on the second Wednesday before an election, any voter from the
21 jurisdiction has become hospitalized, becomes confined due to illness or injury, or is confined

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

37 3. On the mailing and ballot envelopes for each covered voter, the election authority
38 shall stamp prominently in black the words "FEDERAL BALLOT, STATE OF MISSOURI" and
39 "U.S. Postage Paid, 39 U.S.C. Section 3406".

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

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

3 **2. Prior to the certification of the election results, the election authority shall**
4 **randomly select not less than five percent of all election precincts through the use of a**
5 **random drawing, in order to conduct a manual recount of selected contested races and**
6 **ballot issues in the selected precincts. The secretary of state shall promulgate rules setting**
7 **forth the manner in which the randomly selected precincts shall be conducted. Any rule**
8 **or portion of a rule, as that term is defined in section 536.010 that is created under the**
9 **authority delegated in this section shall become effective only if it complies with and is**
10 **subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This**
11 **section and chapter 536 are nonseverable and if any of the powers vested with the general**
12 **assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove**
13 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
14 **authority and any rule proposed or adopted after August 28, 2019, shall be invalid and**
15 **void.**

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