

FIRST REGULAR SESSION

HOUSE BILL NO. 709

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NICHOLS (Sponsor), TAYLOR AND OXFORD (Co-sponsors).

1147L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.124 and 115.453, 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Section A. Sections 115.124 and 115.453, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 115.124 and 115.453, to read as follows: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 [except for municipal elections], if the notice provided for in subsection 5 of section 115.127 has been published in at least one newspaper of general circulation 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. 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 so that the number of candidates remaining after the filing deadline is equal to the number of positions to be filled.

2. The election authority or political subdivision responsible for the oversight of the filing of candidates in any nonpartisan election in any political subdivision or special district shall clearly designate where candidates shall form a line to effectuate such filings and determine the order of such filings; except that, in the case of candidates who file a declaration of candidacy with the election authority or political subdivision prior to 5:00 p.m. on the first day for filing,

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.

18 the election authority or political subdivision may determine by random drawing the order in
19 which such candidates' names shall appear on the ballot. If a drawing is conducted pursuant to
20 this subsection, it shall be conducted so that each candidate may draw a number at random at the
21 time of filing. If such drawing is conducted, the election authority or political subdivision shall
22 record the number drawn with the candidate's declaration of candidacy. If such drawing is
23 conducted, the names of candidates filing on the first day of filing for each office on each ballot
24 shall be listed in ascending order of the numbers so drawn.

115.453. Election judges shall count votes for all candidates in the following manner:

2 (1) No candidate shall be counted as voted for, except a candidate before whose name
3 a cross (X) mark appears in the square preceding the name and a cross (X) mark does not appear
4 in the square preceding the name of any candidate for the same office in another column. Except
5 as provided in this subdivision and subdivision (2) of this section, each candidate with a cross
6 (X) mark in the square preceding his or her name shall be counted as voted for;

7 (2) If cross (X) marks appear next to the names of more candidates for an office than are
8 entitled to fill the office, no candidate for the office shall be counted as voted for. If more than
9 one candidate is to be nominated or elected to an office, and any voter has voted for the same
10 candidate more than once for the same office at the same election, no votes cast by the voter for
11 the candidate shall be counted;

12 (3) No vote shall be counted for any candidate that is not marked substantially in
13 accordance with the provisions of this section. The judges shall count votes marked substantially
14 in accordance with this section and section 115.456 when the intent of the voter seems clear.
15 Regulations promulgated by the secretary of state shall be used by the judges to determine voter
16 intent. No ballot containing any proper votes shall be rejected for containing fewer marks than
17 are authorized by law;

18 (4) Write-in votes shall be counted only for candidates for election to **any** office who
19 have filed a declaration of intent to be a write-in candidate for election to office with the proper
20 election authority **before 5:00 p.m. on the eleventh Tuesday before the election**, who shall
21 then notify the proper filing officer of the write-in candidate prior to 5:00 p.m. on the second
22 Friday immediately preceding the election day[; except that, write-in votes shall be counted only
23 for candidates for election to state or federal office who have filed a declaration of intent to be
24 a write-in candidate for election to state or federal office with the secretary of state pursuant to
25 section 115.353 prior to 5:00 p.m. on the second Friday immediately preceding the election day].
26 No person who filed as a party or independent candidate for nomination or election to an office
27 may, without withdrawing as provided by law, file as a write-in candidate for election to the
28 same office for the same term. No candidate who files for nomination to an office and is not
29 nominated at a primary election may file a declaration of intent to be a write-in candidate for the

30 same office at the general election. When declarations are properly filed with the secretary of
31 state, the secretary of state shall promptly transmit copies of all such declarations to the proper
32 election authorities for further action pursuant to this section. The election authority shall furnish
33 a list to the election judges and counting teams prior to election day of all write-in candidates
34 who have filed such declaration. This subdivision shall not apply to elections wherein candidates
35 are being elected to an office for which no candidate has filed. No person shall file a declaration
36 of intent to be a write-in candidate for election to any municipal office unless such person is
37 qualified to be certified as a candidate under section 115.346;

38 (5) Write-in votes shall be cast and counted for a candidate without party designation.
39 Write-in votes for a person cast with a party designation shall not be counted. Except for
40 candidates for political party committees, no candidate shall be elected as a write-in candidate
41 unless such candidate receives a separate plurality of the votes without party designation
42 regardless of whether or not the total write-in votes for such candidate under all party and
43 without party designations totals a majority of the votes cast;

44 (6) When submitted to the election authority, each declaration of intent to be a write-in
45 candidate for the office of United States president shall include the name of a candidate for vice
46 president and the name of nominees for presidential elector equal to the number to which the
47 state is entitled. At least one qualified resident of each congressional district shall be nominated
48 as presidential elector. Each such declaration of intent to be a write-in candidate shall be
49 accompanied by a declaration of candidacy for each presidential elector in substantially the form
50 set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of
51 presidential elector shall be subscribed and sworn to by the candidate before the election official
52 receiving the declaration of intent to be a write-in, notary public or other officer authorized by
53 law to administer oaths.