

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1060

96TH GENERAL ASSEMBLY

4222L.05P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 54.040, 78.090, 115.123, 115.124, 115.241, 115.293, 115.350, 115.637, and 115.761, RSMo, and to enact in lieu thereof eight new sections relating to elections, with penalty provisions.

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

Section A. Sections 54.040, 78.090, 115.123, 115.124, 115.241, 115.293, 115.350, 2 115.637, and 115.761, RSMo, are repealed and eight new sections enacted in lieu thereof, to be 3 known as sections 54.040, 78.090, 115.123, 115.124, 115.293, 115.350, 115.637, and 115.761, 4 to read as follows:

54.040. 1. A candidate for county treasurer shall be at least twenty-one years of age and 2 a resident of the state of Missouri and the county in which he or she is a candidate for at least one 3 year prior to the date of the general election for such office. The candidate shall also be a 4 registered voter and shall be current in the payment of all personal and real estate taxes. Upon 5 election to such office, the person shall continue to reside in that county during his or her tenure 6 in office.

7 2. No sheriff, marshal, clerk or collector, or the deputy of any such officer, shall [be 8 eligible to] **hold** the office of treasurer of any county.

78.090. **1.** Candidates to be voted for at all general municipal elections at which a mayor 2 and councilmen are to be elected under the provisions of sections 78.010 to [78.420] **78.400** shall 3 be nominated by a primary election, **except as provided in this section**, and no other names 4 shall be placed upon the general ballot except those selected in the manner herein prescribed. 5 The primary election for such nomination shall be held on the first Tuesday after the first 6 Monday in February preceding the municipal election.

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.

7 **2. (1) In lieu of conducting a primary election under this section, any city organized**
8 **under sections 78.010 to 78.400 may, by order or ordinance, provide for the elimination of**
9 **the primary election and the conduct of elections for mayor and councilman as provided**
10 **in this subsection.**

11 **(2) Any person desiring to become a candidate for mayor or councilman shall file**
12 **with the city clerk a signed statement of such candidacy, stating whether such person is a**
13 **resident of the city and a qualified voter of the city, that the person desires to be a**
14 **candidate for nomination to the office of mayor or councilman to be voted upon at the next**
15 **municipal election for such office, that the person is eligible for such office, that the person**
16 **requests to be placed on the ballot, and that such person will serve if elected. Such**
17 **statement shall be sworn to or affirmed before the city clerk.**

18 **(3) Under the requirements of section 115.023, the city clerk shall notify the**
19 **requisite election authority who shall cause the official ballots to be printed, and the names**
20 **of the candidates shall appear on the ballots in the order that their statements of candidacy**
21 **were filed with the city clerk. Above the names of the candidates shall appear the words**
22 **"Vote for (number to be elected)". The ballot shall also include a warning that voting for**
23 **more than the total number of candidates to be elected to any office invalidates the ballot.**

115.123. 1. All public elections shall be held on Tuesday. Except as provided in
2 subsections 2[, 3,] and [4] 3 of this section, and section 247.180, all public elections shall be held
3 on the general election day, the primary election day, the general municipal election day, the first
4 Tuesday after the first Monday in February or November, or on another day expressly provided
5 by city or county charter, [the first Tuesday after the first Monday in June] and in nonprimary
6 years on the first Tuesday after the first Monday in August.

7 2. Notwithstanding the provisions of subsection 1 of this section, an election for a
8 presidential primary held pursuant to sections 115.755 to 115.785 shall be held on the first
9 Tuesday after the first Monday in March of each presidential election year.

10 3. The following elections shall be exempt from the provisions of subsection 1 of this
11 section:

12 (1) Bond elections necessitated by fire, vandalism or natural disaster;

13 (2) Elections for which ownership of real property is required by law for voting; and

14 (3) Special elections to fill vacancies and to decide tie votes or election contests.

15 4. No city or county shall adopt a charter or charter amendment which calls for elections
16 to be held on dates other than those established in subsection 1 of this section.

17 5. Nothing in this section prohibits a charter city or county from having its primary
18 election in March if the charter provided for a March primary before August 28, 1999.

19 6. Nothing in this section shall prohibit elections held pursuant to section 65.600, but no
20 other issues shall be on the March ballot except pursuant to this chapter.

 115.124. 1. Notwithstanding any other law to the contrary, in a nonpartisan election in
2 any political subdivision or special district except for municipal elections **in any city, town, or**
3 **village with more than six thousand inhabitants or any city, town, or village with three**
4 **thousand or fewer inhabitants**, if the notice provided for in subsection 5 of section 115.127
5 has been published in at least one newspaper of general circulation in the district, and if the
6 number of candidates who have filed for a particular office is equal to the number of positions
7 in that office to be filled by the election, no election shall be held for such office, and the
8 candidates shall assume the responsibilities of their offices at the same time and in the same
9 manner as if they had been elected. **If no election is held for such office as provided in this**
10 **section, the election authority shall publish a notice containing the names of the candidates**
11 **that will assume the responsibilities of office under this section. Such notice shall be**
12 **published by April first of each year, and shall be published in at least one newspaper of**
13 **general circulation in such political subdivision or district.** Notwithstanding any other
14 provision of law to the contrary, if at any election the number of candidates filing for a particular
15 office exceeds the number of positions to be filled at such election, the election authority shall
16 hold the election as scheduled, even if a sufficient number of candidates withdraw from such
17 contest for that office so that the number of candidates remaining after the filing deadline is equal
18 to the number of positions to be filled.

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

 3. **In any city, town, or village with three thousand or fewer inhabitants, candidates**
32 **may assume offices in nonpartisan elections as provided in subsection 1 of this section upon**
33 **the approval of the voters of the city, town, or village. The governing body of such city,**
34 **town, or village may submit to the voters at any election available for the city, town, or**

35 **village a proposal to adopt the provisions of subsection 1 of this section. If a majority of**
 36 **the votes cast on the question by the qualified voters voting thereon are in favor of the**
 37 **question, then the city, town, or village shall conduct nonpartisan elections as provided in**
 38 **subsection 1 of this section for all nonpartisan elections remaining in the year in which the**
 39 **proposal was adopted and for the twelve calendar years immediately following the**
 40 **approval of the proposal. If a majority of the votes cast on the question by the qualified**
 41 **voters voting thereon are opposed to the question, then the proposal shall not become**
 42 **effective unless and until the question is resubmitted under this section to the qualified**
 43 **voters and such question is approved by a majority of the qualified voters voting on the**
 44 **question. At the end of the twelve-year period in which nonpartisan elections are**
 45 **conducted as provided in subsection 1 of this section, each such city, town, or village shall**
 46 **submit to the voters a proposal to continue conducting nonpartisan elections as provided**
 47 **in subsection 1 of this section.**

115.293. [1.] All proper votes on each absentee ballot received by an election authority
 2 at or before the time fixed by law for the closing of the polls on election day shall be counted.
 3 No votes on any absentee ballot received by an election authority after the time fixed by law for
 4 the closing of the polls on election day shall be counted.

5 [2. If sufficient evidence is shown to an election authority that any absentee voter has
 6 died prior to the opening of the polls on election day, the ballot of the deceased voter shall be
 7 rejected. Any ballot so rejected, still sealed in its ballot envelope, shall be sealed with the
 8 application and any other papers connected therewith in an envelope marked "Rejected ballot of
 9, an absentee voter of voting district". The reason for rejection
 10 shall be noted on the envelope, which shall be kept by the election authority with the other
 11 ballots from the election until the ballots are destroyed according to law.]

115.350. 1. No person shall qualify as a candidate for elective public office in the state
 2 of Missouri who has been convicted of or found guilty of or pled guilty to a felony under the
 3 laws of this state.

4 **2. (1) Each person seeking to qualify as a candidate for elective public office in this**
 5 **state shall file an affidavit with the appropriate election authority declaring that such**
 6 **person is in compliance with the prohibition on felons qualifying as a candidate for office**
 7 **under this section and section 115.348. Any violation of this subsection may result in**
 8 **removal from the ballot, removal from office, and a criminal charge of perjury under this**
 9 **subsection and section 575.040. The affidavit shall be in substantially the following form:**

10 **"AFFIRMATION OF COMPLIANCE WITH FELONY CONVICTION**
 11 **RESTRICTIONS ON QUALIFYING FOR PUBLIC OFFICE:**

12 **I hereby declare under the penalties of immediate forfeiture of office and perjury**
13 **that I have not been convicted of or found guilty of or pled guilty to a felony under the**
14 **federal laws of the United States or under the laws of this state.**

15 **Candidate's signature**

16 **Printed Name of Candidate"**

17 **(2) Any person may bring suit in a court of competent jurisdiction to enforce the**
18 **provisions of this subsection. The plaintiff in such a civil case shall prove by a**
19 **preponderance of the evidence that a candidate or a current office holder violated the**
20 **affidavit requirements of this subsection by falsely claiming that such person was without**
21 **a felony conviction under the laws of the United States or this state. Upon a showing of**
22 **such violation, the court shall issue an order removing the candidate from the ballot or, if**
23 **such candidate has taken office as an elected public official, issue a writ of quo warranto**
24 **removing the elected public official from office and declaring the office vacant. This**
25 **subdivision shall not apply to instances after an election has been held where an elected**
26 **public official holds an office with exclusive criteria of service defined by the Constitution**
27 **of Missouri.**

28 **(3) A prosecutor or other official authorized to bring criminal charges under**
29 **general law may bring a criminal charge of perjury under section 575.040 against any**
30 **candidate or elected public official who has violated the affidavit provisions of this**
31 **subsection.**

 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 feet of the building's outer door closest to the polling place, or, on the part of
68 any person, refusing to remove or permit removal from property owned or controlled by him, any
69 such election sign or literature located within such distance on such day after request for removal
70 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;

77 **(20) On the part of any election authority or political subdivision, or an employee**
78 **thereof who is responsible for the oversight of the filing of candidates, discouraging,**
79 **hampering, pressuring, or attempting to prevent another person from filing for public**
80 **office for the purpose of eliminating the requirement to hold an election because the**
81 **number of candidates filing is the same as the number of positions to be filled under section**
82 **115.124.**

115.761. 1. The official list of presidential candidates for each established political party
2 shall include the names of all constitutionally qualified candidates for whom, on or after 8:00
3 a.m. on the fifteenth Tuesday prior to the presidential primary, and on or before 5:00 p.m., on

4 the eleventh Tuesday prior to the presidential primary, a written request to be included on the
5 presidential primary ballot is filed with the secretary of state along with:

6 (1) Receipt of payment to the state committee of the established political party on whose
7 ballot the candidate wishes to appear of a filing fee of [one] **ten thousand dollars for any**
8 **election held after December 1, 2012;** or

9 (2) A written statement, sworn to before an officer authorized by law to administer oaths,
10 that the candidate is unable to pay the filing fee and does not have funds in a campaign fund or
11 committee to pay the filing fee and a petition signed by not less than five thousand registered
12 Missouri voters, as determined by the secretary of state, that the candidate's name be placed on
13 the ballot of the specified established political party for the presidential preference primary. The
14 request to be included on the presidential primary ballot shall include each signer's printed name,
15 registered address and signature and shall be in substantially the following form:

16 I (We) the undersigned, do hereby request that the name of be placed
17 upon the February,, presidential primary ballot as candidate for nomination as the
18 nominee for President of the United States on the party ticket.

19 2. The state or national party organization of an established political party that adopts
20 rules imposing signature requirements to be met before a candidate can be listed as an official
21 candidate shall notify the secretary of state by October first of the year preceding the presidential
22 primary.

23 3. Any candidate or such candidate's authorized representative may have such candidate's
24 name stricken from the presidential primary ballot by filing with the secretary of state on or
25 before 5:00 p.m. on the eleventh Tuesday prior to the presidential primary election a written
26 statement, sworn to before an officer authorized by law to administer oaths, requesting that such
27 candidate's name not be printed on the official primary ballot. Thereafter, the secretary of state
28 shall not include the name of that candidate in the official list announced pursuant to section
29 115.758 or in the certified list of candidates transmitted pursuant to section 115.765.

30 4. The filing times set out in this section shall only apply to presidential preference
31 primaries, and are in lieu of those established in section 115.349.

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

