

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1060
96TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, May 17, 2012, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4222S.06C

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Section A. Sections 54.040, 78.090, 115.123, 115.124, 115.241, 115.293, 2 115.350, 115.637, and 115.761, RSMo, are repealed and eight new sections 3 enacted in lieu thereof, to be known as sections 54.040, 78.090, 115.123, 115.124, 4 115.293, 115.350, 115.637, and 115.761, to read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

54.040. 1. A candidate for county treasurer shall be at least twenty-one 2 years of age and a resident of the state of Missouri and the county in which he 3 or she is a candidate for at least one year prior to the date of the general election 4 for such office. The candidate shall also be a registered voter and shall be 5 current in the payment of all personal and real estate taxes. Upon election to 6 such office, the person shall continue to reside in that county during his or her 7 tenure in office.

8 2. No sheriff, marshal, clerk or collector, or the deputy of any such officer, 9 shall [be eligible to] **hold** the office of treasurer of any county.

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

6 primary election for such nomination shall be held on the first Tuesday after the
7 first Monday in February preceding the municipal election.

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

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

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

 115.123. 1. All public elections shall be held on Tuesday. Except as
2 provided in subsections 2[, 3,] and [4] **3** of this section, and section 247.180, all
3 public elections shall be held on the general election day, the primary election
4 day, the general municipal election day, the first Tuesday after the first Monday
5 in [February or] November, or on another day expressly provided by city or
6 county charter, [the first Tuesday after the first Monday in June] and in
7 nonprimary years on the first Tuesday after the first Monday in August. **Bond**
8 **elections may be held on the first Tuesday after the first Monday in**
9 **February but no other issue shall be included on the ballot for such**
10 **election.**

11 2. Notwithstanding the provisions of subsection 1 of this section, an
12 election for a presidential primary held pursuant to sections 115.755 to 115.785
13 shall be held on the first Tuesday after the first Monday in [March] **February**

14 of each presidential election year.

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

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

18 (2) Elections for which ownership of real property is required by law for
19 voting; [and]

20 (3) Special elections to fill vacancies and to decide tie votes or election
21 contests; **and**

22 **(4) Tax elections necessitated by a financial hardship due to a**
23 **five percent or greater decline in per-pupil state revenue to a school**
24 **district from the previous year.**

25 4. [No city or county shall adopt a charter or charter amendment which
26 calls for elections to be held on dates other than those established in subsection
27 1 of this section.

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

31 [6.] 5. Nothing in this section shall prohibit elections held pursuant to
32 section 65.600, but no other issues shall be on the March ballot except pursuant
33 to this chapter.

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

17 filing for a particular office exceeds the number of positions to be filled at such
18 election, the election authority shall hold the election as scheduled, even if a
19 sufficient number of candidates withdraw from such contest for that office so that
20 the number of candidates remaining after the filing deadline is equal to the
21 number of positions to be filled.

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

36 **3. In any city, town, or village with three thousand or fewer**
37 **inhabitants, candidates may assume offices in nonpartisan elections as**
38 **provided in subsection 1 of this section upon the approval of the voters**
39 **of the city, town, or village. The governing body of such city, town, or**
40 **village may submit to the voters at any election available for the city,**
41 **town, or village a proposal to adopt the provisions of subsection 1 of**
42 **this section. If a majority of the votes cast on the question by the**
43 **qualified voters voting thereon are in favor of the question, then the**
44 **city, town, or village shall conduct nonpartisan elections as provided**
45 **in subsection 1 of this section for all nonpartisan elections remaining**
46 **in the year in which the proposal was adopted and for the six calendar**
47 **years immediately following the approval of the proposal. If a majority**
48 **of the votes cast on the question by the qualified voters voting thereon**
49 **are opposed to the question, then the proposal shall not become**
50 **effective unless and until the question is resubmitted under this section**
51 **to the qualified voters and such question is approved by a majority of**
52 **the qualified voters voting on the question. At the end of the six-year**

53 **period in which nonpartisan elections are conducted as provided in**
 54 **subsection 1 of this section, each such city, town, or village shall submit**
 55 **to the voters a proposal to continue conducting nonpartisan elections**
 56 **as provided in subsection 1 of this section.**

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

6 [2. If sufficient evidence is shown to an election authority that any
 7 absentee voter has died prior to the opening of the polls on election day, the ballot
 8 of the deceased voter shall be rejected. Any ballot so rejected, still sealed in its
 9 ballot envelope, shall be sealed with the application and any other papers
 10 connected therewith in an envelope marked "Rejected ballot of,
 11 an absentee voter of voting district". The reason for rejection shall
 12 be noted on the envelope, which shall be kept by the election authority with the
 13 other 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
 2 office in the state of Missouri who has been convicted of or found guilty of or pled
 3 guilty to a felony under the laws of this state.

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

12 **"AFFIRMATION OF COMPLIANCE WITH FELONY CONVICTION**
 13 **RESTRICTIONS ON QUALIFYING FOR PUBLIC OFFICE:**

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

18 **Candidate's signature**

19 **Printed Name of Candidate"**

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

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

115.637. The following offenses, and any others specifically so described
2 by law, shall be class four election offenses and are deemed misdemeanors not
3 connected with the exercise of the right of suffrage. Conviction for any of these
4 offenses shall be punished by imprisonment of not more than one year or by a fine
5 of not more than two thousand five hundred dollars or by both such imprisonment
6 and fine:

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

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

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

19 (4) On the part of any candidate for election to any office of honor, trust,

20 or profit, offering or promising to discharge the duties of such office for a less sum
21 than the salary, fees, or emoluments as fixed by law or promising to pay back or
22 donate to any public or private interest any portion of such salary, fees, or
23 emolument as an inducement to voters;

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

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

37 (7) On the part of any person authorized or employed to print official
38 ballots, or any person employed in printing ballots, giving, delivering, or
39 knowingly permitting to be taken any ballot to or by any person other than the
40 official under whose direction the ballots are being printed, any ballot in any form
41 other than that prescribed by law, or with unauthorized names, with names
42 misspelled, or with the names of candidates arranged in any way other than that
43 authorized by law;

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

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

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

53 (11) On the part of any election judge, willfully absenting himself from the
54 polls on election day without good cause or willfully detaining any election
55 material or equipment and not causing it to be produced at the voting place at the

56 opening of the polls or within fifteen minutes thereafter;

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

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

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

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

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

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

76 (18) Exit polling, surveying, sampling, electioneering, distributing election
77 literature, posting signs or placing vehicles bearing signs with respect to any
78 candidate or question to be voted on at an election on election day inside the
79 building in which a polling place is located or within twenty-five feet of the
80 building's outer door closest to the polling place, or, on the part of any person,
81 refusing to remove or permit removal from property owned or controlled by him,
82 any such election sign or literature located within such distance on such day after
83 request for removal by any person;

84 (19) Stealing or willfully defacing, mutilating, or destroying any campaign
85 yard sign on private property, except that this subdivision shall not be construed
86 to interfere with the right of any private property owner to take any action with
87 regard to campaign yard signs on the owner's property and this subdivision shall
88 not be construed to interfere with the right of any candidate, or the candidate's
89 designee, to remove the candidate's campaign yard sign from the owner's private
90 property after the election day;

91 (20) On the part of any election authority or political

92 **subdivision, or an employee thereof who is responsible for the**
93 **oversight of the filing of candidates, discouraging, hampering,**
94 **pressuring, or attempting to prevent another person from filing for**
95 **public office for the purpose of eliminating the requirement to hold an**
96 **election because the number of candidates filing is the same as the**
97 **number of positions to be filled under section 115.124.**

115.761. 1. The official list of presidential candidates for each established
2 political party shall include the names of all constitutionally qualified candidates
3 for whom, on or after 8:00 a.m. on the fifteenth Tuesday prior to the presidential
4 primary, and on or before 5:00 p.m., on the eleventh Tuesday prior to the
5 presidential primary, a written request to be included on the presidential primary
6 ballot is filed with the secretary of state along with:

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

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

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

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

27 3. Any candidate or such candidate's authorized representative may have
28 such candidate's name stricken from the presidential primary ballot by filing with
29 the secretary of state on or before 5:00 p.m. on the eleventh Tuesday prior to the
30 presidential primary election a written statement, sworn to before an officer

31 authorized by law to administer oaths, requesting that such candidate's name not
32 be printed on the official primary ballot. Thereafter, the secretary of state shall
33 not include the name of that candidate in the official list announced pursuant to
34 section 115.758 or in the certified list of candidates transmitted pursuant to
35 section 115.765.

36 4. The filing times set out in this section shall only apply to presidential
37 preference 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.]

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