

SECOND REGULAR SESSION

# HOUSE BILL NO. 1059

## 96TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE DUGGER.

4342L.011

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To repeal section 115.601, RSMo, and to enact in lieu thereof one new section relating to recounts of votes.

---

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

Section A. Section 115.601, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.601, to read as follows:

115.601. 1. Any contestant in a primary or other election contest who was defeated by less than **one-half of** one percent of the votes cast for the office and any contestant who received the second highest number of votes cast for that office if two or more are to be elected and who was defeated by less than one percent of the votes cast, or any person whose position on a question was defeated by less than **one-half of** one percent of the votes cast on the question, shall have the right to a recount of the votes cast for the office or on the question.

2. In cases where the candidate filed or the ballot question was originally filed with an election authority as defined in section 115.015, such recount shall be requested in accordance with the provisions of section 115.531 or 115.577 and conducted under the direction of the court or the commissioner representing the court trying the contest according to the provisions of this subchapter.

3. In cases where the candidate filed or the ballot question was originally filed with the secretary of state, the defeated candidate or the person whose position on a question was defeated by less than **one-half of** one percent of the votes cast on the question shall be allowed a recount pursuant to this section by filing with the secretary of state a request for a recount stating that the person or the person's position on a question was defeated by less than **one-half of** one percent of the votes cast. Such request shall be filed not later than seven days after certification of the

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 election. The secretary of state shall notify all concerned parties of the filing of the request for  
19 a recount. The secretary of state shall authorize the election authorities to conduct a recount  
20 pursuant to this section if the requesting party or his position on a question was defeated by less  
21 than **one-half of** one percent of the votes cast. The secretary of state shall conduct and certify  
22 the results of the recount as the official results in the election within twenty days of receipt of the  
23 aforementioned notice of recount.

24 4. Whenever a recount is requested pursuant to subsection 3 of this section, the secretary  
25 of state shall determine the number of persons necessary to assist with the recount and shall  
26 appoint such persons equally from lists submitted by the contestant and the opponent who  
27 received more votes or a person whose position on a question received more votes than the  
28 contestant's position on that question. Each person appointed pursuant to this section shall be  
29 a disinterested person and a registered voter of the area in which the contested election was held.  
30 Each person so appointed shall take the oath prescribed for and receive the same pay as an  
31 election judge in the jurisdiction where the person is registered. After being sworn not to  
32 disclose any facts uncovered by the recount, except those which are contained in the report, the  
33 contestant and the opponent who received more votes or a person whose position on a question  
34 received more votes than the contestant's position on that question shall be permitted to be  
35 present in person or represented by an attorney at the recount and to observe the recount. Each  
36 recount shall be completed under the supervision of the secretary of state with the assistance of  
37 the election authorities involved, and the persons appointed to assist with the recount shall  
38 perform such duties as the secretary of state directs. Upon completion of any duties prescribed  
39 by the secretary of state the persons appointed to assist with the recount shall make a written and  
40 signed report of their findings. The findings of the persons appointed to assist with the recount  
41 shall be prima facie evidence of the facts stated therein, but any person present at the  
42 examination of the votes may be a witness to contradict the findings. No one other than the  
43 secretary of state, the election authorities involved, the contestant and the other witnesses  
44 described in this subsection, their attorneys, and those specifically appointed by the secretary of  
45 state to assist with the recount shall be present during any recount conducted pursuant to this  
46 section.

47 5. For purposes of this section, "recount" means one additional counting of all votes  
48 counted for the office or on the question with respect to which the recount is requested.

✓