

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1059
96TH GENERAL ASSEMBLY

4342L.02C

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Section A. Section 115.601, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.601, to read as follows: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 election. The secretary of state shall notify all concerned parties of the filing of the request for

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.

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. Notwithstanding the provisions of subsections 1 to 3 of this section, the right to**
25 **a recount of the votes cast for an office or on a ballot question shall also apply to any**
26 **primary election, election contest, or ballot question in which the candidate or ballot**
27 **question was defeated by two votes or less. The recount procedures of sections 1 to 3 of this**
28 **section shall apply to recounts conducted pursuant to this subsection.**

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

52 [5.] **6.** For purposes of this section, "recount" means one additional counting of all votes
53 counted for the office or on the question with respect to which the recount is requested.

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