

SS SCS HB 1878 -- ELECTIONS

This bill modifies election laws. In its main provisions the bill:

(1) Authorizes the Secretary of State (SOS) to quarterly audit voter registration lists and requires election authorities to determine whether local election authorities have performed voter registration list maintenance activities. Audit procedures and deadlines are specified in the bill and noncompliance could result in a withhold of certain transaction funds (Section 28.960, RSMo);

(2) Prohibits amendment or modification of Chapter 115 in the 26 weeks preceding a presidential election (Section 115.004);

(3) Removes obsolete references to ballot cards and requires voting machines to be air gapped as a security measure. The term "air gapped" is specified in the bill (Section 115.013 and 115.447);

(4) Prohibits the state and its political subdivisions from receiving or expending private money, excluding in-kind donations as defined in the bill, for preparing, administering, or conducting an election or registering voters. If there is not sufficient appropriation of state funds to proportionately compensate counties pursuant to Sections 115.063 and 115.065, this section will not be enforced. The bill also prohibits receipt of in-kind donations from candidates, candidate committees, campaign committees, and continuing committees (Section 115.022);

(5) Exempts board of election commissioners and county clerk employees from the requirement to reside in or register within the jurisdiction in which they serve (Sections 115.045 and 115.051);

(6) Allows appointment of election judges who reside outside of the election authority's jurisdiction without the need for written consent from the election authority in whose jurisdiction the potential judge resides. Procedures for selecting election judges from lists submitted by political party committees are specified (Sections 115.081 and 115.085);

(7) Repeals a provision that provides that in a presidential primary election, challengers may collect information about the party ballot selected by a voter and may disclose party affiliation information after the polls close (Section 115.105);

(8) Repeals the provision that requires an election for a presidential primary under Sections 115.755 to 115.785 to be held on the second Tuesday after the first Monday in March of each presidential election year (Section 115.123);

(9) Repeals specified registration exceptions for intrastate new residents (Section 115.135);

(10) Requires the Department of Revenue to use electronic applications when sending materials to election authorities under the existing voter registration program in place at the Division of Motor Vehicles and Drivers Licensing, within the Department of Revenue. No person with documentation showing non-citizenship will be offered registration to vote, and voter information may be analyzed to avoid mistakes using the statewide voter registration database as specified in the bill. Electronic applications shall be sent no later than three business days after completion of a form. The electronic applications shall be secure and in a format compatible with the existing Voter Registration System under Section 115.158. The Secretary of State and Director of the Department of Revenue shall guarantee the security and transmission of electronic data. Images of signatures may be used for the purpose of voter registration (Sections 115.151, 115.160, and 115.960);

(11) Requires, beginning January 1, 2023, that any person registering to vote must declare a political party affiliation from the established political parties or declare themselves unaffiliated. If a voter does not designate any political party affiliation, then the election authority shall designate the voter as unaffiliated. Voter identification cards will now contain a voter's political party affiliation. A voter can change his or her political party affiliation at any time by notifying his or her election authority in a signed, written notice substantially similar to the process for changing a voter's address under section 115.165, or when checking in to vote at any election. Prior to January 1, 2025, local election authorities must notify registered voters of the political party affiliation opportunities now offered using all current election mailings that would otherwise be mailed to registered voters (Sections 115.155, 115.163, 115.168, and 115.628);

(12) Restricts voter information released by election authorities by prohibiting the release of the date of birth of voters, instead allowing only the release of the year of birth, as well as prohibiting use of released information for commercial purposes. Specified voter history information will be forwarded to the Secretary of State within three months after an election (Section 115.157);

(13) Allows registered voters to file change of address forms in person after the deadline to register to vote including on election day at the office of the election authority if they provide a type

of personal identification under Subsection 1 of Section 115.427 which involves photographic identification (Section 115.165);

(14) Prohibits payment for soliciting voter registration applications and requires registration with the Secretary of State's office for soliciting more than 10 voter registration applications as specified in the bill (Section 115.205);

(15) Beginning January 1, 2023, the bill requires the use of a paper ballot that is hand-marked by the voter or in another manner authorized by Chapter 115. Any election authority with touchscreen direct-recording electronic vote-counting machines may continue using such machines already in their possession until January 1, 2024. Because paper ballots will now be required, the provision stating the information required on voter instruction cards if paper ballots are used is repealed. Each election authority shall, once every two years, allow a cyber security review of their office by the Secretary of State or an entity that specializes in cyber security reviews and the Secretary of State shall also allow such a cyber security review of its office by an entity that specializes in cyber security reviews, as defined in the bill. The Secretary of State has the authority to require cyber security testing of vendors, upon appropriation. The Secretary of State may require that all election authorities be a member of an organization that provides information to increase cyber security and election integrity efforts and does not charge a membership fee (Sections 115.225, 115.237, and 115.417);

(16) For the purpose of processing absentee ballots cast by voters in person in the election authority's office that is deemed designated as a polling place, the election authority may cause voting machines, if used, to be put in order, set, adjusted, tested, and made ready for voting within one business day of the printing of absentee ballots as provided in Section 115.281 (Section 115.257);

(17) Defines absentee ballots as those authorized to be cast in the office of the election authority, by mail, or at another authorized location designated by the election authority. References to Space Force are included for purposes of voting processes and electronic ballot information authorized for the Armed Forces (Sections 115.275 and 115.902);

(18) Allows use of absentee ballots to vote in person with a form of personal identification as specified in the bill for a reason listed in this section, except that beginning on the second Tuesday prior to an election no reason shall be required as long as Section 115.427 is not held to be invalid. Notarization requirements are also specified in the bill depending upon the excuse for voting

absentee and whether or not voting is conducted in person. The bill modifies the affidavit forms to comply with these provisions. No individual or group shall solicit voters regarding absentee ballot applications and such applications shall not be pre-filled and provided to voters (Sections 115.277, 115.279, and 115.283);

(19) This bill prohibits the use of mail-in ballots under executive or administrative order. Expired provisions are repealed relating to the use of mail-in ballots for the 2020 general election and absentee voting during the 2020 general election for voters who have contracted COVID-19 or who are at risk of contracting or transmitting COVID-19. No absentee ballot can be delivered through a drop box and no election authority will establish or use a drop box for the purpose of collecting absentee ballots (Sections 115.285, 115.302, and 115.652);

(20) Determines when absentee ballots are deemed to be cast, with distinctions made between absentee ballots received by the election authority in person and absentee ballots received through a common carrier (Section 115.286);

(21) Allows voter assistance in cases of temporary confinement due to illness or physical disability on election day, but repeals specific COVID-19 references to mail-in ballots that have expired (Sections 115.287, 115.291, and 115.652);

(22) Repeals obsolete intersectional references (Section 115.349);

(23) Repeals a provision that allows a person to file a request to be included on a presidential primary ballot and to appear as a party candidate for nomination to another office (Section 115.351);

(24) Specifies photographic identification requirements for voting a regular ballot or absentee ballot in person, but allows use of provisional ballots with any type of documentation currently allowed for voting. A line item appropriation for the Secretary of State's Office regarding notice of personal identification is repealed. Certain affidavit requirements are repealed and requirements for provisional ballots are specified in the bill (Section 115.427);

(25) Specifies that once a ballot is submitted, then it is deemed cast (115.435);

(26) Repeals reference to a presidential preference primary and provides that a series of caucuses will be conducted to nominate a candidate for president before the national conventions (Sections 115.776 and 115.904); and

(27) Provides that if any provision of Section A of this bill or the application thereof to anyone or to any circumstance is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances will not be affected thereby (Section 1);

(28) Provides that a public official, as defined in the bill, has no authority in any civil action in a state or federal court to compromise or settle an action, consent to any condition, or agree to any order in connection therewith if the compromise, settlement, condition, or order nullifies, suspends, enjoins, alters, or conflicts with any provision of Chapters 115 to 128. Any compromise, settlement, condition, or order that a public official agrees with that violates this prohibition is null and void. Nothing in this section should be construed to limit or restrict any powers granted by articles III or VIII of the Missouri constitution.

Parties are required to provide a copy of the pleading to the Speaker of the House of Representatives and the President Pro Tem of the Senate within 14 days of filing the pleading with the court in cases challenging the constitutionality of a statute facially or as applied, cases challenging a statute as violating or being preempted by federal law, or cases challenging the construction or validity of a statute, as part of a claim or affirmative defense. The Speaker and the President Pro Tem may intervene to defend against the action at any time in the action as a matter of right by serving a motion upon the parties as provided by applicable rules of civil procedure. The Speaker and President Pro Tem may intervene at any time in an action on behalf of their respective chambers, or acting jointly, intervene in an action on behalf of the General Assembly. They may obtain legal counsel other than from the Attorney General, with the cost of representation paid from funds appropriated for that purpose, to represent the respective chamber or General Assembly in any action. However, no individual member, or group of members, of the Senate or the House of Representatives, except the President Pro Tem and the Speaker, as provided under this bill, shall intervene in an action described in this bill or obtain legal counsel at public expense under this bill in the member's or group's capacity as a member or members of the Senate or the House of Representatives.

The participation of the Speaker or the President Pro Tem in any state or federal action, as a party or otherwise, does not constitute a waiver of the legislative immunity or legislative privilege of any member, officer, or staff of the General Assembly (Section 2); and

(29) All audits required by subsection 6 of Section 115.225 that

are conducted by the Secretary of State must be paid for by state and federal funding (Section 3).