

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 845

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARNITZ.

Read 1st time January 27, 2010, and ordered printed.

Read 2nd time January 28, 2010, and referred to the Committee on Financial and Governmental Organizations and Elections.

Reported from the Committee March 18, 2010, with recommendation that the bill do pass.

Taken up for Perfection March 22, 2010. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

4237S.02P

AN ACT

To repeal sections 115.279, 115.281, 115.287, 115.291, and 115.292, RSMo, and to enact in lieu thereof seven new sections relating to uniformed and overseas voters.

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

Section A. Sections 115.279, 115.281, 115.287, 115.291, and 115.292, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 115.156, 115.278, 115.279, 115.281, 115.287, 115.291, and 115.292, to read as follows:

115.156. 1. The secretary of state shall establish procedures for absent uniformed services voters and overseas voters to request by mail and electronically, voter registration applications, and to send by mail and electronically, in accordance with the preferred method of transmission designated by the voter, such voter registration applications. The secretary of state shall designate not less than one means of electronic communication for use by absent uniformed services voters and overseas voters to request voter registration applications and to send such voter registration applications.

2. No election authority shall refuse to accept and process any otherwise valid voter registration application submitted by an absent uniformed services voter or overseas voter solely on the basis of

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

13 **restrictions on paper type.**

115.278. The secretary of state shall establish procedures for
2 absent uniformed services voters and overseas voters to request by
3 mail and electronically, absentee ballot applications, and to send by
4 mail and electronically, in accordance with the preferred method of
5 transmission designated by the voter, such absentee ballot
6 applications. The secretary of state shall designate not less than one
7 means of electronic communication for use by absent uniformed
8 services voters and overseas voters to request absentee ballot
9 applications and to send such absentee ballot applications and to
10 provide related voting, balloting, and election information to absent
11 uniformed services voters and overseas voters.

115.279. 1. Application for an absentee ballot may be made by the
2 applicant in person, or by mail, or for the applicant, in person, by his or her
3 guardian or a relative within the second degree by consanguinity or affinity. The
4 election authority shall accept applications by facsimile transmission within the
5 limits of its telecommunications capacity.

6 2. Each application shall be made to the election authority of the
7 jurisdiction in which the person is or would be registered. Each application shall
8 be in writing and shall state the applicant's name, address at which he or she is
9 or would be registered, his or her reason for voting an absentee ballot [and], the
10 address to which the ballot is to be mailed, if mailing is requested, **and for**
11 **absent uniformed services and overseas applicants, the applicant's**
12 **email address if electronic transmission is requested.** Each application
13 to vote in a primary election shall also state which ballot the applicant wishes to
14 receive. If any application fails to designate a ballot, the election authority shall,
15 within three working days after receiving the application, notify the applicant by
16 mail that it will be unable to deliver an absentee ballot until the applicant
17 designates which political party ballot he or she wishes to receive. If the
18 applicant does not respond to the request for political party designation, the
19 election authority is authorized to provide the voter with that part of the ballot
20 for which no political party designation is required.

21 3. **Except as provided in subsection 3 of section 115.281,** all
22 applications for absentee ballots received prior to the sixth Tuesday before an
23 election shall be stored at the office of the election authority until such time as
24 the applications are processed in accordance with section 115.281. No application

25 for an absentee ballot received in the office of the election authority by mail, by
26 facsimile transmission or by a guardian or relative after 5:00 p.m. on the
27 Wednesday immediately prior to the election shall be accepted by any election
28 authority. No application for an absentee ballot submitted by the applicant in
29 person after 5:00 p.m. on the day before the election shall be accepted by any
30 election authority, except as provided in subsections 6, 8 and 9 of this section.

31 4. Each application for an absentee ballot shall be signed by the applicant
32 or, if the application is made by a guardian or relative pursuant to this section,
33 the application shall be signed by the guardian or relative, who shall note on the
34 application his or her relationship to the applicant. If an applicant, guardian or
35 relative is blind, unable to read or write the English language or physically
36 incapable of signing the application, he or she shall sign by mark, witnessed by
37 the signature of an election official or person of his or her own choosing. Any
38 person who knowingly makes, delivers or mails a fraudulent absentee ballot
39 application shall be guilty of a class one election offense.

40 5. (1) Notwithstanding any law to the contrary, any resident of the state
41 of Missouri who resides outside the boundaries of the United States or who is on
42 active duty with the armed forces of the United States or members of their
43 immediate family living with them may request an absentee ballot for both the
44 primary and subsequent general election with one application. [In addition, the
45 election authority shall provide to each absent uniformed services voter and each
46 overseas voter who submits an absentee ballot request an absentee ballot through
47 the next two regularly scheduled general elections for federal office.]

48 (2) The election authority shall provide each absent uniformed services
49 voter and each overseas voter who submits a voter registration application or an
50 absentee ballot request, if the election authority rejects the application or request,
51 with the reasons for the rejection.

52 (3) Notwithstanding any other law to the contrary, if a standard oath
53 regarding material misstatements of fact is adopted for uniformed and overseas
54 voters pursuant to the Help America Vote Act of 2002, the election authority shall
55 accept such oath for voter registration, absentee ballot, or other election-related
56 materials.

57 (4) Not later than sixty days after the date of each regularly scheduled
58 general election for federal office, each election authority which administered the
59 election shall submit to the secretary of state in a format prescribed by the
60 secretary a report on the combined number of absentee ballots transmitted to,

61 and returned by, absent uniformed services voters and overseas voters for the
62 election. The secretary shall submit to the Election Assistance Commission a
63 combined report of such information not later than ninety days after the date of
64 each regularly scheduled general election for federal office and in a standardized
65 format developed by the commission pursuant to the Help America Vote Act of
66 2002. The secretary shall make the report available to the general public.

67 (5) As used in this section, the terms "absent uniformed services voter"
68 and "overseas voter" shall have the meaning prescribed in 42 U.S.C. 1973ff-6.

69 6. An application for an absentee ballot by a new resident, as defined in
70 section 115.275, shall be submitted in person by the applicant in the office of the
71 election authority in the election jurisdiction in which such applicant
72 resides. The application shall be received by the election authority no later than
73 7:00 p.m. on the day of the election. Such application shall be in the form of an
74 affidavit, executed in duplicate in the presence of the election authority or any
75 authorized officer of the election authority, and in substantially the following
76 form:

77 "STATE OF.....

78 COUNTY OF....., ss.

79 I,....., do solemnly swear that:

80 (1) Before becoming a resident of this state, I resided at
81 (residence address) in (town,
82 township, village or city) of County in the state of
83

84 (2) I moved to this state after the last day to register to vote in such
85 general presidential election and I am now residing in the county of
86, state of Missouri;

87 (3) I believe I am entitled pursuant to the laws of this state to vote in the
88 presidential election to be held November, (year);

89 (4) I hereby make application for a presidential and vice presidential
90 ballot. I have not voted and shall not vote other than by this ballot at such
91 election.

92 Signed

93 (Applicant)

94

95 (Residence Address)

96 Subscribed and sworn to before me this day of

97 ,

98 Signed

99 (Title and name of officer authorized to administer oaths)"

100 7. The election authority in whose office an application is filed pursuant
101 to subsection 6 of this section shall immediately send a duplicate of such
102 application to the appropriate official of the state in which the new resident
103 applicant last resided and shall file the original of such application in its office.

104 8. An application for an absentee ballot by an intrastate new resident, as
105 defined in section 115.275, shall be made in person by the applicant in the office
106 of the election authority in the election jurisdiction in which such applicant
107 resides. The application shall be received by the election authority no later than
108 7:00 p.m. on the day of the election. Such application shall be in the form of an
109 affidavit, executed in duplicate in the presence of the election authority or an
110 authorized officer of the election authority, and in substantially the following
111 form:

112 "STATE OF

113 COUNTY OF, ss.

114 I,, do solemnly swear that:

115 (1) Before becoming a resident of this election jurisdiction, I resided at
116 (residence address) in (town,
117 township, village or city) of county in the state of
118

119 (2) I moved to this election jurisdiction after the last day to register to
120 vote in such election;

121 (3) I believe I am entitled pursuant to the laws of this state to vote in the
122 election to be held (date);

123 (4) I hereby make application for an absentee ballot for candidates and
124 issues on which I am entitled to vote pursuant to the laws of this state. I have
125 not voted and shall not vote other than by this ballot at such election.

126 Signed

127 (Applicant)

128

129 (Residence Address)

130 Subscribed and sworn to before me this day of,

131 Signed

132 (Title and name of officer authorized to administer oaths)"

133 9. An application for an absentee ballot by an interstate former resident,
134 as defined in section 115.275, shall be received in the office of the election
135 authority where the applicant was formerly registered by 5:00 p.m. on the
136 Wednesday immediately prior to the election, unless the application is made in
137 person by the applicant in the office of the election authority, in which case such
138 application shall be made no later than 7:00 p.m. on the day of the election.

115.281. 1. **Except as provided in subsection 3 of this section**, not
2 later than the sixth Tuesday prior to each election, or within fourteen days after
3 candidates' names or questions are certified pursuant to section 115.125, the
4 election authority shall cause to have printed and made available a sufficient
5 quantity of absentee ballots, ballot envelopes and mailing envelopes. As soon as
6 possible after the proper officer calls a special state or county election, the
7 election authority shall cause to have printed and made available a sufficient
8 quantity of absentee ballots, ballot envelopes and mailing envelopes.

9 2. All absentee ballots for an election shall be in the same form as the
10 official ballots for the election, except that in lieu of the words "Official Ballot"
11 at the top of the ballot, the words "Official Absentee Ballot" shall appear.

12 **3. Not later than forty-five days prior to each general, primary,**
13 **and special election for federal office, the election authority shall cause**
14 **to have printed and made available a sufficient quantity of absentee**
15 **ballots, ballot envelopes, and mailing envelopes for absent uniformed**
16 **services voters and overseas voters.**

115.287. 1. Upon receipt of a signed application for an absentee ballot
2 and if satisfied the applicant is entitled to vote by absentee ballot, the election
3 authority shall, within three working days after receiving the application, or if
4 absentee ballots are not available at the time the application is received, within
5 five working days after they become available, deliver to the voter an absentee
6 ballot, ballot envelope and such instructions as are necessary for the applicant
7 to vote. Delivery shall be made to the voter personally in the office of the election
8 authority or by bipartisan teams appointed by the election authority, or by first
9 class, registered, or certified mail at the discretion of the election authority **or in**
10 **the case of absent uniformed services and overseas voters by electronic**
11 **transmission if electronic transmission is requested by the voter.** Where
12 the election authority is a county clerk, the members of bipartisan teams
13 representing the political party other than that of county clerk shall be selected
14 from a list of persons submitted to the county clerk by the county chairman of

15 that party. If no list is provided by the time that absentee ballots are to be made
16 available, the county clerk may select a person or persons from lists provided in
17 accordance with section 115.087. If the election authority is not satisfied that any
18 applicant is entitled to vote by absentee ballot, it shall not deliver an absentee
19 ballot to the applicant. Within three working days of receiving such an
20 application, the election authority shall notify the applicant and state the reason
21 he or she is not entitled to vote by absentee ballot. The applicant may appeal the
22 decision of the election authority to the circuit court in the manner provided in
23 section 115.223.

24 2. If, after 5:00 p.m. on the Wednesday before an election, any voter from
25 the jurisdiction has become hospitalized, becomes confined due to illness or
26 injury, or is confined in an adult boarding facility, intermediate care facility,
27 residential care facility, or skilled nursing facility, as defined in section 198.006,
28 RSMo, in the county in which the jurisdiction is located or in the jurisdiction or
29 an adjacent election authority within the same county, the election authority
30 shall appoint a team to deliver, witness the signing of and return the voter's
31 application and deliver, witness the voting of and return the voter's absentee
32 ballot. In counties with a charter form of government and in cities not within a
33 county, and in each city which has over three hundred thousand inhabitants, and
34 is situated in more than one county, if the election authority receives ten or more
35 applications for absentee ballots from the same address it may appoint a team to
36 deliver and witness the voting and return of absentee ballots by voters residing
37 at that address, except when such addresses are for an apartment building or
38 other structure wherein individual living units are located, each of which has its
39 own separate cooking facilities. Each team appointed pursuant to this subsection
40 shall consist of two registered voters, one from each major political party. Both
41 members of any team appointed pursuant to this subsection shall be present
42 during the delivery, signing or voting and return of any application or absentee
43 ballot signed or voted pursuant to this subsection.

44 3. On the mailing and ballot envelopes for each applicant in federal
45 service, the election authority shall stamp prominently in black the words
46 "FEDERAL BALLOT, STATE OF MISSOURI" and "U.S. Postage Paid, 39
47 U.S.C. 3406".

48 4. No information which encourages a vote for or against a candidate or
49 issue shall be provided to any voter with an absentee ballot.

115.291. 1. Upon receiving an absentee ballot **in person or by mail**, the

2 voter shall mark the ballot in secret, place the ballot in the ballot envelope, seal
3 the envelope and fill out the statement on the ballot envelope. The affidavit of
4 each person voting an absentee ballot shall be subscribed and sworn to before the
5 election official receiving the ballot, a notary public or other officer authorized by
6 law to administer oaths, unless the voter is voting absentee due to incapacity or
7 confinement due to the provisions of section 115.284, illness or physical disability,
8 **or the voter is an absent uniformed services or overseas voter.** If the
9 voter is blind, unable to read or write the English language, or physically
10 incapable of voting the ballot, the voter may be assisted by a person of the voter's
11 own choosing. Any person assisting a voter who is not entitled to such assistance,
12 and any person who assists a voter and in any manner coerces or initiates a
13 request or a suggestion that the voter vote for or against or refrain from voting
14 on any question, ticket or candidate, shall be guilty of a class one election offense.
15 If, upon counting, challenge or election contest, it is ascertained that any
16 absentee ballot was voted with unlawful assistance, the ballot shall be rejected.

17 2. **Except as provided in subsection 4 of this section,** each absentee
18 ballot shall be returned to the election authority in the ballot envelope and shall
19 only be returned by the voter in person, or in person by a relative of the voter
20 who is within the second degree of consanguinity or affinity, by mail or registered
21 carrier or by a team of deputy election authorities; except that persons in federal
22 service, when sent from a location determined by the secretary of state to be
23 inaccessible on election day, shall be allowed to return their absentee ballots cast
24 by use of facsimile transmission or under a program approved by the Department
25 of Defense for electronic transmission of election materials.

26 3. In cases of an emergency declared by the President of the United States
27 or the governor of this state where the conduct of an election may be affected, the
28 secretary of state may provide for the delivery and return of absentee ballots by
29 use of a facsimile transmission device or system. Any rule promulgated pursuant
30 to this subsection shall apply to a class or classes of voters as provided for by the
31 secretary of state.

32 4. **No election authority shall refuse to accept and process any**
33 **otherwise valid marked absentee ballot submitted in any manner by an**
34 **absent uniformed services voter or overseas voter solely on the basis**
35 **of restrictions on envelope type.**

36 5. **Pursuant to the federal Military and Overseas Voter**
37 **Empowerment Act, the secretary of state, in coordination with local**

38 **election jurisdictions, shall develop a free access system by which an**
39 **absent uniformed services voter or overseas voter may determine**
40 **whether the absentee ballot of the absent uniformed services voter or**
41 **overseas voter has been received by the appropriate election official.**

115.292. 1. Notwithstanding any other provision of this chapter, a
2 qualified absentee voter[, as described in subsection 3 of this section,] **who is**
3 **unable to vote by any other means due to requirements of military**
4 **service or due to living in isolated or extremely remote areas of the**
5 **world** may apply for a special write-in absentee ballot within eighty days of a
6 special, primary, or general election for federal office. Such a ballot shall be for
7 voting for all offices being contested at such election.

8 2. A qualified absentee voter applying for a special write-in absentee
9 ballot pursuant to this section shall apply to the local election authority of the
10 area which contains his last residence in this state for such ballot. The
11 application for a special write-in absentee ballot may be made on the federal
12 postcard application form, by letter, or on a form provided by the local election
13 authority.

14 3. [In order to qualify for a special write-in absentee ballot, the voter shall
15 state that he is unable to vote by any other means due to requirements of
16 military service or due to living in isolated or extremely remote areas of the
17 world. This statement may be made by federal postcard application, by letter, or
18 on a form prepared by the local election authority.

19 4.] Upon receipt of the application, the election authority shall issue a
20 special write-in absentee ballot. Such ballot shall permit the voter to cast a ballot
21 by writing in a party preference for each office, the names of specific candidates,
22 or the names of persons whom the voter prefers.

23 [5.] 4. The election authority shall issue a regular absentee ballot as soon
24 as such ballots are available. If both the regular absentee ballot and the special
25 write-in absentee ballot are returned, the regular absentee ballot shall be counted
26 and the special write-in absentee ballot shall be voided.

27 5. **This special write-in absentee ballot shall be used in place of**
28 **the federal write-in absentee ballot in general, special, and primary**
29 **elections for federal office as authorized by 42 U.S.C. 1973ff-2(e).**

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