

# SENATE BILL NO. 814

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

3203S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 115.353, 115.365, 115.511, 115.515, 115.517, 115.531, 115.555, 115.575, 115.603, 478.010, 478.320, and 478.330, RSMo, and to enact in lieu thereof twelve new sections relating to the election of circuit and associate circuit judges, with a contingent effective date.

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

Section A. Sections 115.353, 115.365, 115.511, 115.515,  
2 115.517, 115.531, 115.555, 115.575, 115.603, 478.010, 478.320,  
3 and 478.330, RSMo, are repealed and twelve new sections enacted  
4 in lieu thereof, to be known as sections 115.353, 115.365,  
5 115.511, 115.515, 115.517, 115.531, 115.555, 115.575, 115.603,  
6 478.010, 478.320, and 478.330, to read as follows:

115.353. All declarations of candidacy shall be filed  
2 as follows:

3 (1) For presidential elector, United States senator,  
4 representative in Congress, statewide office, circuit judge  
5 [not subject to the provisions of Article V, Section 25 of  
6 the Missouri Constitution], state senator and state  
7 representative, in the office of the secretary of state;

8 (2) For all county offices which for the purpose of  
9 election procedures shall include associate circuit judges  
10 [not subject to the provisions of Article V, Section 25 of  
11 the Missouri Constitution], in the office of the county  
12 election authority;

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

13           (3) For all county offices, in the office of the  
14 county election authority. In any county in which there are  
15 two boards of election commissioners, the county clerk shall  
16 be deemed to be the election authority for purposes of this  
17 section.

115.365. 1. The nominating committee authorized to  
2 select a candidate for nomination or election to office  
3 pursuant to section 115.363 shall be one of the following:

4           (1) To select a candidate for county office, the  
5 nominating committee shall be the county committee of the  
6 party;

7           (2) To select a candidate for state representative,  
8 the nominating committee shall be the legislative district  
9 committee of the party;

10           (3) To select a candidate for state senator, the  
11 nominating committee shall be the senatorial district  
12 committee of the party;

13           (4) To select a candidate for circuit court judge [not  
14 subject to the provisions of Article V, Section 25 of the  
15 State Constitution], the nominating committee shall be the  
16 judicial district committee of the party;

17           (5) To select a candidate for representative in  
18 Congress, the nominating committee shall be the  
19 congressional district committee of the party;

20           (6) To select a candidate for statewide office, the  
21 nominating committee shall be the state committee of the  
22 party.

23           2. After any decennial redistricting, the nominating  
24 committee shall be composed from the new districts, and the  
25 new district lines shall be used in the selection of a  
26 candidate; provided, however, that members of nominating  
27 committees for candidates for special elections to fill

28 vacancies conducted pursuant to section 21.130 shall be from  
29 the old districts.

115.511. 1. The secretary of state shall convene the  
2 board of state canvassers to total the abstracts of each  
3 primary election and the board shall, not later than two  
4 weeks after receiving all required abstracts from the  
5 primary election, issue a statement announcing the results  
6 of the primary election for federal officers, governor,  
7 lieutenant governor, state senators and representatives,  
8 circuit judges, secretary of state, attorney general, state  
9 treasurer and state auditor.

10 2. The secretary of state shall convene the board of  
11 state canvassers to total the abstracts of each general  
12 election and the board shall, not later than the second  
13 Tuesday in December following the general election, issue a  
14 statement announcing the results of the general election for  
15 federal officers, governor, lieutenant governor, state  
16 senators and representatives, circuit judges, **and** appellate  
17 **[and circuit]** judges subject to the provisions of Article V,  
18 Section 25 of the State Constitution, secretary of state,  
19 attorney general, state treasurer and state auditor.

20 3. The secretary of state shall convene the board of  
21 state canvassers to total the abstracts of each special  
22 election at which the name of a candidate for nomination or  
23 election to the office of United States senator,  
24 representative in Congress, governor, lieutenant governor,  
25 state senator, state representative, circuit judge **[not**  
26 **subject to the provisions of Article V, Section 25 of the**  
27 **State Constitution]**, secretary of state, attorney general,  
28 state treasurer or state auditor, or at which an initiative,  
29 referendum or constitutional amendment appears on the  
30 ballot, and the board shall, not later than two weeks after

31 receiving all required abstracts from the election, issue a  
32 statement announcing the results of the election for such  
33 office or on such question.

115.515. 1. If two or more persons receive an equal  
2 number of votes for nomination as a party's candidate for  
3 any federal office, governor, lieutenant governor, secretary  
4 of state, attorney general, state treasurer, state auditor,  
5 circuit judge [not subject to the provisions of Article V,  
6 Sections 25(a) to 25(g) of the State Constitution], state  
7 senator or state representative, and a higher number of  
8 votes than any other candidate for the same office on the  
9 same party ballot, the governor shall, immediately after the  
10 results of the election have been announced, issue a  
11 proclamation stating the fact and ordering a special primary  
12 election to determine the party's nominee for the office.  
13 The proclamation shall set the date of the election, which  
14 shall be not less than fourteen or more than thirty days  
15 after the proclamation is issued, and shall be sent by the  
16 governor to each election authority responsible for  
17 conducting the special primary election. In the  
18 proclamation, the governor shall specify the name of each  
19 candidate for the office to be voted on at the election, and  
20 the special primary election shall be conducted and the  
21 votes counted as in other primary elections.

22 2. If two or more persons receive an equal number of  
23 votes for nomination as a party's candidate for any other  
24 office, except party committeeman or committeewoman, and a  
25 higher number of votes than any other candidate for the same  
26 office on the same party ballot, the officer with whom such  
27 candidates filed their declarations of candidacy shall,  
28 immediately after the results of the election have been  
29 certified, issue a proclamation stating the fact and

30 ordering a special primary election to determine the party's  
31 nominee for the office. The proclamation shall set the date  
32 of the election, which shall be not less than fourteen or  
33 more than thirty days after the proclamation is issued, and  
34 shall be sent by the officer to each election authority  
35 responsible for conducting the special primary election. In  
36 the proclamation, the officer shall specify the name of each  
37 candidate for the office to be voted on at the election, and  
38 the special primary election shall be conducted and the  
39 votes counted as in other primary elections.

40 3. As an alternative to the procedure prescribed in  
41 subsections 1 and 2 of this section, if the candidates who  
42 received an equal number of votes in such election agree to  
43 the procedure prescribed in this subsection, the officer  
44 with whom such candidates filed their declarations of  
45 candidacy may, after notification of the time and place of  
46 such drawing given to each such candidate at least five days  
47 before such drawing, determine the winner of such election  
48 by lot. Any candidate who received an equal number of votes  
49 may decline to have his or her name put into such drawing.

115.517. 1. If two or more persons receive an equal  
2 number of votes for election to the office of governor,  
3 lieutenant governor, secretary of state, state auditor,  
4 state treasurer or attorney general, and a higher number of  
5 votes than any other candidate for the same office, the  
6 secretary of state shall, immediately after the results of  
7 the election have been announced, issue a proclamation  
8 stating the fact, and the general assembly shall, by joint  
9 vote and without delay at its next regular session, choose  
10 one of such persons for the office. The speaker of the  
11 house shall file a certificate declaring which person has  
12 been elected to the office with the secretary of state.

13           2. If two or more persons receive an equal number of  
14 votes for election to federal office, state senator, state  
15 representative or circuit judge [not subject to the  
16 provisions of Article V, Section 25 of the State  
17 Constitution], and a higher number of votes than any other  
18 candidate for the same office, the governor shall,  
19 immediately after the results of the election have been  
20 announced, issue a proclamation stating the fact and  
21 ordering a special election to determine which candidate is  
22 elected to the office. The proclamation shall set the date  
23 of the election and shall be sent by the governor to each  
24 election authority responsible for conducting the special  
25 election. In his proclamation, the governor shall specify  
26 the name of each candidate for the office to be voted on at  
27 the election, and the special election shall be conducted  
28 and the votes counted as in other elections.

29           3. If two or more persons receive an equal number of  
30 votes for nomination or election to any office not otherwise  
31 provided for in section 115.515 or this section, and a  
32 higher number of votes than any other candidate for  
33 nomination or election to the same office, the officer with  
34 whom such candidates filed their declarations of candidacy  
35 shall, immediately after the results of the election have  
36 been certified, issue a proclamation stating the fact and  
37 ordering a special election to determine which candidate is  
38 elected to the office. The proclamation shall set the date  
39 of the election and shall be sent by the officer to each  
40 election authority responsible for conducting the special  
41 election. In his proclamation, the officer shall specify  
42 the name of each candidate for the office to be voted on at  
43 the election, and the special election shall be conducted  
44 and the votes counted as in other elections.

45           4. As an alternative to the procedure prescribed in  
46 subsections 1, 2, and 3 of this section, if the candidates  
47 who received an equal number of votes in such election agree  
48 to the procedure prescribed in this subsection, the officer  
49 with whom such candidates filed their declarations of  
50 candidacy may, after notification of the time and place of  
51 such drawing given to each such candidate at least five days  
52 before such drawing, determine the winner of such election  
53 by lot. Any candidate who received an equal number of votes  
54 may decline to have his name put into such drawing.

          115.531. 1. Not later than five days after the  
2 official announcement of the results of a primary election  
3 is issued by the election authority or the secretary of  
4 state, as the case may be, any candidate desiring to contest  
5 the primary election shall file a verified petition in the  
6 office of the clerk of the circuit court of any circuit in  
7 which part of the election was held and in which any alleged  
8 irregularity occurred, unless the office involved in the  
9 contest is that of a circuit or associate circuit judge [not  
10 subject to Section 25, Article V, Constitution of Missouri],  
11 in which case the verified petition shall be filed, heard,  
12 and determined by an adjoining circuit court selected by the  
13 contestant as specified in section 115.575. The contestant  
14 shall only be required to file one petition with the circuit  
15 court for each election contest regardless of the number of  
16 counties within the court's jurisdiction. The petition  
17 shall set forth the points on which the contestant wishes to  
18 contest the election and the facts the contestant will prove  
19 in support of such points, and shall pray leave to produce  
20 such proof. The judge of the court shall immediately note  
21 on the petition the date it was filed and shall immediately  
22 set a date, not later than five days after the petition is

23 filed, for a preliminary hearing. If the petition is filed  
24 in vacation, the judge of the circuit court shall  
25 immediately convene the court in special session for the  
26 purpose of hearing the contest. If no regular judge of the  
27 court is available the supreme court shall immediately  
28 assign another judge. The circuit court in which the  
29 petition is filed shall have exclusive jurisdiction over all  
30 matters relating to the contest and may issue appropriate  
31 orders to all election authorities in the area in which the  
32 contested election was held.

33 2. If a petition contesting a primary election is  
34 filed in an incorrect circuit, the court in which it is  
35 filed shall have jurisdiction and shall promptly transfer  
36 the suit to the correct circuit court.

115.555. All contested elections for the office of  
2 governor, lieutenant governor, secretary of state, attorney  
3 general, state treasurer and state auditor shall be heard  
4 and determined by the supreme court. Likewise, all contests  
5 to the results of elections on constitutional amendments, on  
6 state statutes submitted or referred to the voters, and on  
7 questions relating to the retention of appellate [and  
8 circuit] judges subject to Article V, Section 25 of the  
9 State Constitution shall be heard and determined by the  
10 supreme court.

115.575. 1. Notwithstanding any provision of this  
2 chapter to the contrary, all contested elections for the  
3 office of circuit or associate circuit judge [not subject to  
4 the provisions of Article V, Section 25 of the State  
5 Constitution], whether contested on the basis of  
6 qualification, irregularity, or other cause, or for recount  
7 other than the automatic recount provided for in section  
8 115.601, and whether in a primary or general election, shall

9 be filed in and heard and determined by an adjoining circuit  
10 court selected by the contestant.

11 2. All contested elections on any office or question  
12 other than those provided for in sections 115.555, 115.563  
13 and subsection 1 of this section shall be heard and  
14 determined by the circuit court of any circuit, selected by  
15 the contestant, in which all or any part of the election was  
16 held and in which any alleged irregularity occurred. The  
17 contestant shall only be required to file one petition with  
18 the circuit court for each election contest regardless of  
19 the number of counties within the court's jurisdiction.

20 3. If a petition contesting any election is filed in  
21 an incorrect circuit, the court in which it is filed shall  
22 have jurisdiction and shall promptly transfer the suit to  
23 the correct circuit court.

115.603. Each established political party shall have a  
2 state committee, a congressional district committee for each  
3 congressional district in the state, a judicial district  
4 committee for each circuit judge district in the state [not  
5 subject to the provisions of Article V, Section 25 of the  
6 state constitution], a senatorial district committee for  
7 each senatorial district in the state, a legislative  
8 district committee for each legislative district in the  
9 state and a county committee for each county in the state,  
10 except any city not within a county which shall have a city  
11 committee in lieu of a county committee.

478.010. 1. [Except as provided in Section 25 of  
2 Article V of the Constitution of Missouri,] The circuit  
3 judges of the various judicial circuits shall be elected at  
4 the general elections as herein provided and at the general  
5 election every six years thereafter, and shall enter upon  
6 the duties of their office on the first day in January next

7 following their election; provided, however, that any terms  
8 commencing in 1981 and 1983 shall commence on the first  
9 Monday in January.

10 2. The circuit judge of judicial circuit number one  
11 shall be elected in 1980.

12 3. The circuit judge of judicial circuit number thirty-  
13 six shall be elected in 1984.

14 4. The circuit judges of the remaining judicial  
15 circuits, except those covered by sections 478.370 through  
16 478.715, shall be elected in 1982.

478.320. 1. In counties having a population of thirty  
2 thousand or less, there shall be one associate circuit  
3 judge. In counties having a population of more than thirty  
4 thousand and less than one hundred thousand, there shall be  
5 two associate circuit judges. In counties having a  
6 population of one hundred thousand or more, there shall be  
7 three associate circuit judges and one additional associate  
8 circuit judge for each additional one hundred thousand  
9 inhabitants.

10 2. For purposes of this section, notwithstanding the  
11 provisions of section 1.100, population of a county shall be  
12 determined on the basis of the last previous decennial  
13 census of the United States; and, beginning after  
14 certification of the year 2000 decennial census, on the  
15 basis of annual population estimates prepared by the United  
16 States Bureau of the Census, provided that the number of  
17 associate circuit judge positions in a county shall be  
18 adjusted only after population estimates for three  
19 consecutive years indicate population change in the county  
20 to a level provided by subsection 1 of this section.

21 3. [Except in circuits where associate circuit judges  
22 are selected under the provisions of Sections 25(a) to (g)

23 of Article V of the constitution,] The election of associate  
24 circuit judges shall in all respects be conducted as other  
25 elections and the returns made as for other officers.

26 4. [In counties not subject to Sections 25(a) to (g)  
27 of Article V of the constitution,] Associate circuit judges  
28 shall be elected by the county at large.

29 5. No associate circuit judge shall practice law, or  
30 do a law business, nor shall he or she accept, during his or  
31 her term of office, any public appointment for which he or  
32 she receives compensation for his or her services.

33 6. No person shall be elected as an associate circuit  
34 judge unless he or she has resided in the county for which  
35 he or she is to be elected at least one year prior to the  
36 date of his or her election; provided that, a person who is  
37 appointed by the governor to fill a vacancy may file for  
38 election and be elected notwithstanding the provisions of  
39 this subsection.

478.330. 1. When an annual judicial performance  
2 report submitted pursuant to section 477.405 indicates for  
3 three consecutive calendar years the need for two or more  
4 full-time judicial positions in any judicial circuit there  
5 shall be one additional circuit judge position authorized in  
6 such circuit, subject to appropriations made for that  
7 purpose.

8 2. [Except in circuits where circuit judges are  
9 selected under the provisions of Sections 25(a) to 25(g) of  
10 Article V of the Missouri Constitution,] The election of  
11 circuit judges authorized by this section shall be conducted  
12 in accordance with chapter 115.

Section B. Section A of this act shall become  
2 effective only upon approval by the voters of an amendment

3 to article V of the Constitution of Missouri that requires  
4 the election of all circuit and associate circuit judges.

✓