

HOW MISSOURI SENATE BILL 22 CHANGES LAWSUITS ABOUT BALLOT MEASURES

Voters now have different rules in challenging constitutional amendments after Gov. Mike Kehoe signed Senate Bill 22 on April 24, 2025. It's worth noting at the outset that there is little impact to actions involving initiative petitions^[1]. Instead, Senate Bill 22 primarily affects joint resolutions^[2] and referendum petitions^[3]. Outlined below are the changes within Senate Bill 22 in the order they appear, contextualizing them with the current legal landscape. Only Section 526.010 contained an emergency clause, so that section is immediately effective while all other sections will be effective Aug. 28, 2025. Art. III, § 29.

Section 116.155

CHANGE: The word limit on summary statements^[4] for joint resolutions has doubled to 100 words. § 116.155.2.

- This is the same word limit as summary statements for initiative and referendum petitions drafted by the Secretary of State. § 116.334.

Section 116.160

CHANGE: Summary statement written by General Assembly shall appear on ballot unless challenged. § 116.160.2.

- This change solidifies the status quo. The Secretary of State only drafts a summary statement for a joint resolution if the General Assembly does not. § 116.160.1.

Section 116.190

CHANGE: Civil action challenging ballot title^[5] of a joint resolution or referendum petition must be brought by the 22nd Tuesday prior to the general election where the ballot measure will be submitted to the voters, instead of 10 days after certification by the Secretary of State. § 116.190.1.

- The language only speaks to a "general election," which is "the first Tuesday after the first Monday in November in even-numbered years." § 116.010. The General Assembly may order a special election for a joint resolution. Art. III, § 52(b). The Governor may also order a special election for a ballot measure^[6]. Art. XII, § 2(b); *State ex rel. Nixon v. Blunt*, 135 S.W.3d 416, 418–20 (Mo. banc 2004). Senate Bill 22 does not specify the proper timeline for challenges to the ballot title of a joint resolution or referendum petition placed on a ballot due to a

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special election.

- The next statewide general election is Nov. 3, 2026. § 116.010. Twenty-two weeks prior is June 2, 2026.
- Three years ago, the Missouri Supreme Court determined that the statutory 51-day timeline for the Secretary of State to certify the ballot title of a referendum petition violated the constitutional right to referendum because it did not leave enough time to collect signatures for the referendum petition. *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 491–92 (Mo. banc 2022). The Court struck down two provisions— (1) a statute giving the Secretary of State three days after the other statewide officers complete their certifications to finally certify the ballot title and (2) a portion of a statute invalidating signatures collected before Secretary of State certified the ballot title. *See id.* Perhaps the ballot title is automatically certified after other statewide officers complete their certifications, but the Court did not define a timeline because only two statutes were challenged.
- Article III, Section 52(a) of the Missouri Constitution specifies that a referendum petition must be filed within 90 days of adjournment of the session the bill passed, where the legislature constitutionally adjourns *sine die* on May 30 each year. Art. III, § 20.
- The Governor must sign or veto bills within 15 days of the bill’s presentment during a legislative session, and within 45 days of presentment if the legislature adjourns. Art. III, § 31.
- Under Senate Bill 22, the General Assembly must pass a bill, the Governor must sign it, a referendum petition must be filed, and the ballot title certified on that referendum petition before June 2, 2026, to file a lawsuit on the ballot title.
- A voter can contest the passage of a ballot measure based on a defective ballot title after the election. *See Lucas v. Ashcroft*, 688 S.W.3d 204, 220–23 (Mo. banc 2024).

CHANGE: Court must allow the Secretary of State to revise summary statement up to three times in a civil action challenging the ballot title of any ballot measure. § 116.190.4.

- This process can take up to 15 days. § 116.190.4(2).
- Court may only rewrite the summary statement after this process or if the Secretary of State does not submit a revised statement. § 116.190.4(2)(d).

CHANGE: The non-prevailing party may appeal only after the circuit court finds a summary statement sufficient and fair or after the circuit court orders its own summary statement on the ballot. § 116.190.4(2)(f).

- This change solidifies the status quo if the only claim in the civil action

challenges the sufficiency and fairness of the summary statement because an order on that claim is final and subject to appeal. § 512.020(5); *see also Wilson v. City of St. Louis*, 600 S.W.3d 763, 767 (Mo. banc 2020).

- Previously, a non-prevailing party could not appeal an adverse ruling on the summary statement until the court resolved all claims if the party raised additional claims. *See Wilson*, 600 S.W.3d at 768–71.
- The General Assembly may define the right to appeal. *Id.* at 767.

CHANGE: Civil action must be fully resolved 70 (up from 56) days before the election where the ballot measure appears. § 116.190.5.

- For the next general election, that date is Aug. 25, 2026.
- Using May 30, 2026, the date of adjournment, a referendum petition may be filed by Aug. 28, 2026.

Section 116.334

CHANGE: Signatures supporting initiative or referendum petitions may be collected and counted after the Secretary of State certifies the ballot title even if the ballot title is challenged in court. § 116.334.2.

- The Missouri Supreme Court found that Section 116.334.2 (prior to this change) is unconstitutional as it violates the right to referendum. *See No Bans on Choice*, 638 S.W.3d at 492.
- The Court noted that signatures can be valid on a referendum petition before the Secretary of State certifies the ballot title where the full text of the proposal is on the petition. *See id.* at 490.

Section 526.010 [EMERGENCY CLAUSE]

CHANGE: Attorney General may appeal any preliminary injunction affecting a ballot measure, statute or regulation. § 526.010.2–.3.

- In all other instances, a preliminary injunction is not subject to appeal because the judgment is not final. *See Cook v. McElwain*, 432 S.W.3d 286, 292–93 (Mo. App. W.D. 2014). The Missouri Supreme Court recently found that the Attorney General may appeal a final judgment when the State is an aggrieved party, unless the statute states otherwise. *See In re Circuit Attorney, 22nd Judicial Circuit ex rel. Dunn*, No. SC100878, 2025 WL 1117928, at *3 (Mo. banc Apr. 15, 2025).
- A substantive law may operate retrospectively if the General Assembly expressly states so, while a procedural law is presumed to operate retrospectively. *Callahan v. Cardinal Glennon Hosp.*, 863 S.W.2d 852, 872 (Mo. banc 1993).

If you have any questions about the changes implemented by Senate Bill 22, please contact your regular Armstrong Teasdale attorney or the author.

[1] Initiative petition: the method a voter may use to propose an amendment to the Missouri Constitution or to state statute. Art. III, §§ 49 and 50.

[2] Joint resolution: the method the General Assembly may use to propose an amendment to the Missouri Constitution. Art. XII, § 2(a).

[3] Referendum petition: the method a voter (or the General Assembly) may use to invalidate a law passed by the General Assembly. Art. III, §§ 49 and 52(a).

[4] Summary statement: a “true and impartial statement” that summarizes the “purposes of the proposed measure” using language that is “neither intentionally argumentative nor likely to create prejudice either for or against the proposed measure.” § 116.155.2.

[5] Ballot title: the combination of the summary statement and fiscal note summary appearing on any proposed amendment to the Missouri Constitution. § 116.155.2.

[6] Ballot measure: generic term incorporating any proposed amendment to the Missouri Constitution or to state statute (when submitted by a voter) that is referred to a vote.