

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 1361

(SENATE AUTHORS: HOUSLEY and Chamberlain)

DATE
02/23/2017

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OFFICIAL STATUS
Introduction and first reading
Referred to State Government Finance and Policy and Elections

1.1 A bill for an act
 1.2 relating to elections; authorizing recall elections for school board members;
 1.3 amending Minnesota Statutes 2016, sections 123B.09, subdivisions 3, 5b; 351.14,
 1.4 subdivisions 3, 5, by adding a subdivision; 351.15; 351.16, subdivisions 1, 2, 3,
 1.5 4; 351.18; 351.19, subdivision 4; 351.20; 351.21; 351.22, subdivisions 1, 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 123B.09, subdivision 3, is amended to read:

1.8 Subd. 3. **Causes for school board member vacancy.** A vacancy in any board occurs
 1.9 when a member ~~(a)~~ (1) dies, ~~(b)~~ (2) resigns, ~~(c)~~ (3) ceases to be a resident of the district, (4)
 1.10 has been recalled under sections 351.14 to 351.23, or ~~(d)~~ (5) is unable to serve on such board
 1.11 and attend its meetings for not less than 90 days because of illness or prolonged absence
 1.12 from the district.

1.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.14 Sec. 2. Minnesota Statutes 2016, section 123B.09, subdivision 5b, is amended to read:

1.15 Subd. 5b. **Appointments to fill vacancies; special elections.** (a) Any vacancy on the
 1.16 board, other than a vacancy described in subdivision 4 or a removal election under sections
 1.17 351.14 to 351.23, must be filled by board appointment at a regular or special meeting. The
 1.18 appointment shall be evidenced by a resolution entered in the minutes and shall be effective
 1.19 30 days following adoption of the resolution, subject to paragraph (b). If the appointment
 1.20 becomes effective, it shall continue until an election is held under this subdivision. All
 1.21 elections to fill vacancies shall be for the unexpired term. A vacancy caused by a removal
 1.22 election must be filled by a special election. A special election to fill the vacancy must be
 1.23 held no later than the first Tuesday after the first Monday in November following the

2.1 vacancy. If the vacancy occurs less than 90 days prior to the first Tuesday after the first
 2.2 Monday in November in the year in which the vacancy occurs, the special election must be
 2.3 held no later than the first Tuesday after the first Monday in November of the following
 2.4 calendar year. If the vacancy occurs less than 90 days prior to the first Tuesday after the
 2.5 first Monday in November in the third year of the term, no special election is required.

2.6 (b) An appointment made under paragraph (a) shall not be effective if a petition to reject
 2.7 the appointee is filed with the school district clerk. To be valid, a petition to reject an
 2.8 appointee must be signed by a number of eligible voters residing in the district equal to at
 2.9 least five percent of the total number of voters voting in the district at the most recent state
 2.10 general election, and must be filed within 30 days of the board's adoption of the resolution
 2.11 making the appointment. If a valid petition is filed according to the requirements of this
 2.12 paragraph, the appointment by the school board is ineffective and the board must name a
 2.13 new appointee as provided in paragraph (a).

2.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.15 Sec. 3. Minnesota Statutes 2016, section 351.14, subdivision 3, is amended to read:

2.16 Subd. 3. **Nonfeasance.** "Nonfeasance" means the willful failure to perform a specific
 2.17 act which is a required part of the duties of the public official or the willful failure to uphold
 2.18 the intent and purpose of a voter-approved policy.

2.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.20 Sec. 4. Minnesota Statutes 2016, section 351.14, subdivision 5, is amended to read:

2.21 Subd. 5. **Elected ~~county~~ local official.** "Elected ~~county~~ local official" means:

2.22 (1) any public official who is elected to countywide office or appointed to an elective
 2.23 countywide office, including county attorney, county sheriff, county auditor, county recorder,
 2.24 county treasurer, and soil and water conservation supervisor. ~~"Elected county official" also~~
 2.25 ~~means;~~

2.26 (2) a county commissioner elected or appointed from a commissioner district or a soil
 2.27 and water conservation district supervisor elected or appointed from a supervisor district
 2.28 established under section 103C.311, subdivision 2; or

2.29 (3) a school board member.

2.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.1 Sec. 5. Minnesota Statutes 2016, section 351.14, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 6. **Filing official.** "Filing official" means:

3.4 (1) for county offices, the county auditor; or

3.5 (2) for school board members, the school district clerk.

3.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.7 Sec. 6. Minnesota Statutes 2016, section 351.15, is amended to read:

3.8 **351.15 REMOVAL OF ELECTED ~~COUNTY~~ LOCAL OFFICIAL.**

3.9 An elected ~~county~~ local official may be removed from office in accordance with the
3.10 procedures established in sections 351.14 to 351.23.

3.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.12 Sec. 7. Minnesota Statutes 2016, section 351.16, subdivision 1, is amended to read:

3.13 Subdivision 1. **Form of petition.** Any registered voter may petition the ~~county auditor~~
3.14 filing official requesting a removal election and setting forth facts which allege with
3.15 specificity that an elected ~~county~~ local official committed malfeasance or nonfeasance in
3.16 the performance of official duties during the current or any previous term in the office held
3.17 by the elected ~~county~~ local official, except that a petition may not be submitted during the
3.18 180 days immediately preceding a general election for the office which is held by the ~~county~~
3.19 elected local official named in the petition. The petitioner must attach to the petition
3.20 documents which contain the signatures of supporters who are registered voters totaling at
3.21 least 25 percent of the number of persons who voted in the preceding election for the office
3.22 which is held by the ~~county~~ elected local official named in the petition. Each page on which
3.23 signatures are included must clearly identify the purpose of the petition. In a removal election
3.24 involving a countywide office, the registered voters must be residents of the county ~~or~~. In
3.25 a removal election involving a county commissioner, the registered voters must be residents
3.26 of the commissioner district which elected the named county commissioner. In a removal
3.27 election involving a school board member, the registered voters must be residents of the
3.28 school district. The signatures of supporters must be on forms provided by the ~~county auditor~~
3.29 filing official.

3.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.1 Sec. 8. Minnesota Statutes 2016, section 351.16, subdivision 2, is amended to read:

4.2 Subd. 2. ~~County auditor's~~ **Filing official's duties.** The ~~county auditor~~ filing official
4.3 shall examine the petition to determine whether it contains the requisite number of valid
4.4 signatures of registered voters. If so, the ~~county auditor~~ filing official shall forward the
4.5 petition, but not the signatures, to the clerk of appellate courts within 15 days of receipt of
4.6 the petition. If the ~~county auditor~~ filing official determines that the petition does not include
4.7 the requisite number of signatures, the ~~county auditor~~ filing official shall deny the petition
4.8 within 15 days of receipt of the petition.

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.10 Sec. 9. Minnesota Statutes 2016, section 351.16, subdivision 3, is amended to read:

4.11 Subd. 3. **Removal of county auditor.** If the county auditor is the named elected county
4.12 official, the petition must be submitted to the chair of the county board of commissioners
4.13 who shall appoint a county official to perform the duties of the ~~county auditor~~ filing official
4.14 specified in sections 351.14 to 351.23.

4.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.16 Sec. 10. Minnesota Statutes 2016, section 351.16, subdivision 4, is amended to read:

4.17 Subd. 4. **Limitation.** An elected ~~county~~ local official is not subject to a removal election
4.18 on the ground that misfeasance in the performance of official duties was committed, or on
4.19 the ground of disagreement with actions taken that were within the lawful discretion of the
4.20 elected ~~county~~ local official.

4.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.22 Sec. 11. Minnesota Statutes 2016, section 351.18, is amended to read:

4.23 **351.18 WAIVER.**

4.24 An elected ~~county~~ local official who is the subject of a petition under section 351.16
4.25 may waive in writing the right to a public hearing. If the hearing is waived, the case must
4.26 be certified by order of the chief justice to the ~~county auditor~~ filing official for a removal
4.27 election to be held within 30 days of the receipt of the order.

4.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.1 Sec. 12. Minnesota Statutes 2016, section 351.19, subdivision 4, is amended to read:

5.2 Subd. 4. **Legal counsel.** (a) In a removal election involving a county official, the
 5.3 petitioners and the elected county official shall be represented by legal counsel at their own
 5.4 expense, and shall pay their costs associated with the hearing, except that the county may
 5.5 assume the legal costs incurred by the elected county official. The county shall pay all other
 5.6 costs of the hearing.

5.7 (b) In a removal election involving a school board member, the petitioners and the school
 5.8 board member shall be represented by legal counsel at their own expense and shall pay their
 5.9 costs associated with the hearing, except that the school district may assume the legal costs
 5.10 incurred by the school board member. The school district shall pay all other costs of the
 5.11 hearing.

5.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.13 Sec. 13. Minnesota Statutes 2016, section 351.20, is amended to read:

5.14 **351.20 DECISION; CERTIFICATION.**

5.15 If the special master determines that the elected ~~county~~ local official committed
 5.16 malfeasance or nonfeasance in the performance of official duties, the case must be certified
 5.17 to the ~~county auditor~~ filing official for a removal election on a date to be fixed by the ~~county~~
 5.18 ~~auditor~~ filing official and held within 30 days of the order of the special master.

5.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.20 Sec. 14. Minnesota Statutes 2016, section 351.21, is amended to read:

5.21 **351.21 APPEAL.**

5.22 An elected ~~county~~ local official may appeal the decision of a special master under section
 5.23 351.20 to the Supreme Court within ten days. The removal election is stayed until 20 days
 5.24 after the Supreme Court issues a decision on the appeal. The Supreme Court shall grant an
 5.25 expedited appeal.

5.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.27 Sec. 15. Minnesota Statutes 2016, section 351.22, subdivision 1, is amended to read:

5.28 Subdivision 1. **Majority vote; form of question.** An elected ~~county~~ local official may
 5.29 be removed pursuant to sections 351.14 to 351.23 by majority vote. ~~The~~ A removal election

6.1 for a county official is a special election conducted under applicable provisions of section
6.2 375.20. The question submitted to the voters must be:

6.3 "Should (Name) elected (appointed) to the office of
6.4 (title) be removed from that office?

6.5 Yes

6.6 No "

6.7 Any resulting vacancy must be filled as provided by law.

6.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.9 Sec. 16. Minnesota Statutes 2016, section 351.22, subdivision 2, is amended to read:

6.10 Subd. 2. **Disqualification.** A removed ~~county~~ elected local official may not thereafter
6.11 hold the same office for the remainder of the term to which the official was elected.

6.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.