

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 800

02/21/2013 Authored by Nelson

The bill was read for the first time and referred to the Committee on Elections

03/06/2013 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
1.2 relating to counties; providing for appointment of certain county offices;
1.3 amending Minnesota Statutes 2012, sections 375.08; 375A.10, subdivision
1.4 5; 375A.12, subdivision 2; 382.01; 382.02; proposing coding for new law in
1.5 Minnesota Statutes, chapter 375A.
1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2012, section 375.08, is amended to read:

1.8 **375.08 BOARD TO FILL VACANCIES IN COUNTY OFFICES.**

1.9 When a vacancy occurs in the office of an elected county auditor, county treasurer,
1.10 county recorder, sheriff, county attorney, county surveyor, or coroner, the county board
1.11 shall fill it by appointment. For that purpose it shall meet at the usual place of meeting,
1.12 upon one day's notice from the chair or clerk, which shall be served personally upon each
1.13 member in the same manner as a district court summons. The person appointed shall give
1.14 the bond and take the oath required by law, and serve the remainder of the term, and until
1.15 a successor qualifies. When a vacancy occurs in an office that has a chief deputy or first
1.16 assistant, the chief deputy or first assistant may perform all the duties and functions of the
1.17 office until it is filled by appointment by the county board.

1.18 Sec. 2. Minnesota Statutes 2012, section 375A.10, subdivision 5, is amended to read:

1.19 Subd. 5. **Auditor-treasurer.** In any county exercising the option provided
1.20 in subdivision 2, clause (c), the office shall be known thereafter as the office of
1.21 auditor-treasurer, if the office is to remain elective. If the board chooses to make the
1.22 office of auditor-treasurer elective, and not require a referendum, it must act with the
1.23 concurrence of 80 percent of its members.

In the exercise of this option, the county board shall direct which of the offices of auditor or treasurer shall be terminated for the purpose of providing for the election to the single office of auditor-treasurer. The duties, functions and responsibilities which have been heretofore and which shall hereafter be required by statute to be performed by the county auditor and the county treasurer shall be vested in and performed by the auditor-treasurer without diminishing, prohibiting or avoiding those specific duties required by statute to be performed by the county auditor and the county treasurer.

Nothing in this subdivision shall preclude the county from exercising the option to make the combined office of auditor-treasurer appointive as if it had been specifically enumerated in subdivision 2. If the combined office is to be appointive, a referendum under section 375A.12 shall be necessary, except as provided by section 375A.1205.

If the combined office is to be elective, a referendum under section 375A.12 shall be necessary if:

(a) the county board requires a referendum; or

(b) a referendum is required by a petition of a number of voters equal to ten percent of those voting in the county at the last general election that is received by the county auditor within 30 days after the second publication of the board resolution that orders the combination.

The persons last elected to the positions of auditor and treasurer before adoption of the resolution shall serve in those offices and perform the duties of those offices until the completion of the terms to which they were elected.

Sec. 3. Minnesota Statutes 2012, section 375A.12, subdivision 2, is amended to read:

Subd. 2. **Form of government options.** Except as provided in section 375A.1205 or by special law, the options provided in sections 375A.01 to 375A.10 shall be adopted in any county only after an affirmative vote of the voters in the county on the question of the adoption of the option. Except as provided in section 375A.01, only one such plan may be submitted at any one election.

Sec. 4. **[375A.1205] APPOINTING COUNTY OFFICERS.**

Subdivision 1. Authority to appoint certain officers. A county board may appoint the county auditor, county treasurer, or county recorder, under section 375A.10, subdivision 2, or the auditor-treasurer under section 375A.10, subdivision 5, by following the process outlined in this section. Notwithstanding section 375A.12, a referendum is not required if the appointment is made pursuant to this section.

3.1 Subd. 2. **Board controls; may change as long as duties done.** Upon adoption of
3.2 a resolution by the county board of commissioners and subject to subdivisions 3 and 4,
3.3 the duties of an elected official required by statute whose office is made appointive as
3.4 authorized by this section must be discharged by the county board of commissioners
3.5 acting through a department head appointed by the board for that purpose. Reorganization,
3.6 reallocation, delegation, or other administrative change or transfer does not diminish,
3.7 prohibit, or avoid the discharge of duties required by statute.

3.8 Subd. 3. **Incumbents to complete term.** The person elected at the last general
3.9 election to an office made appointive under this section must serve in that capacity and
3.10 perform the duties, functions, and responsibilities required by statute until the completion
3.11 of the term of office to which the person was elected or until a vacancy occurs in the
3.12 office, whichever occurs earlier.

3.13 Subd. 4. **Publishing resolution; petition, referendum.** (a) Before the adoption
3.14 of the resolution to provide for the appointment of an office described in subdivision 1,
3.15 the county board must publish a proposed resolution notifying the public of its intent to
3.16 consider the issue once each week, for two consecutive weeks, in the official publication
3.17 of the county. Following publication and prior to formally adopting the resolution, the
3.18 county board shall provide an opportunity at its next regular meeting for public comment
3.19 relating to the issue. After the public comment opportunity, at the same meeting or a
3.20 subsequent meeting, the county board of commissioners may adopt a resolution that
3.21 provides for the appointment of the office or offices as permitted in this section. The
3.22 resolution must be approved by at least 80 percent of the members of the county board.
3.23 The resolution may take effect 60 days after it is adopted, or at a later date stated in the
3.24 resolution, unless a petition is filed as provided in paragraph (b).

3.25 (b) Within 60 days after the county board adopts the resolution, a petition requesting
3.26 a referendum may be filed with the county auditor. The petition must be signed by at least
3.27 ten percent of the registered voters of the county. The petition must meet the requirements
3.28 of the secretary of state, as provided in section 204B.071, and any rules adopted to
3.29 implement that section. If the petition is sufficient, the question of making the office
3.30 an appointed position must be placed on the ballot at a regular or special election. If a
3.31 majority of the voters of the county voting on the question vote in favor of appointment,
3.32 the resolution may be implemented.

3.33 Subd. 5. **Reverting to elected offices.** (a) The county board may adopt a resolution
3.34 to provide for the election of an office made an appointed position under this section, but
3.35 not until at least three years after the office was made an appointed position. The county
3.36 board must publish a proposed resolution notifying the public of its intent to consider the

issue once each week, for two consecutive weeks, in the official publication of the county. Following publication and before formally adopting the resolution, the county board must provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment hearing, the county board may adopt the resolution. The resolution must be approved by at least 60 percent of the members of the county board and is effective August 1 following adoption of the resolution.

(b) The question of whether an office made an appointed position under this section must be made an elected office must be placed on the ballot at the next general election if (1) the position has been an appointed position for at least three years; (2) a petition signed by at least ten percent of the registered voters of the county is filed with the office of the county auditor by August 1 of the year in which the general election is held; and (3) the petition meets the requirements of the secretary of state, as provided in section 204B.071, and any rules adopted to implement that section. If a majority of the voters of the county voting on the question vote in favor of making the office an elected position, the election for that office must be held at the next regular or special election.

Sec. 5. Minnesota Statutes 2012, section 382.01, is amended to read:

382.01 OFFICERS ELECTED; TERMS.

In every county in this state there shall be elected at the general election in 1918 a county auditor, a county treasurer, sheriff, county recorder, county attorney, and coroner.

The terms of office of these officers shall be four years and shall begin on the first Monday in January next succeeding their election. They shall hold office until their successors are elected and qualified. Each of these offices shall must be filled by election every four years thereafter, unless an office is consolidated with another county office or made appointive under chapter 375A or other general or special law.

Sec. 6. Minnesota Statutes 2012, section 382.02, is amended to read:

382.02 VACANCIES, HOW FILLED.

Any appointment made to fill a vacancy in any of the offices named in section 382.01 that has not been made appointive under chapter 375A or other general or special law shall be for the balance of such entire term, and be made by the county board.