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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3427

02/14/2022 Authored by Franson
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education finance; authorizing an election to revoke a school district's
1.3 operating referendum authority and its local optional revenue authority; authorizing
1.4 recall of school board members; amending Minnesota Statutes 2020, sections
1.5 123B.09, subdivision 9; 126C.17, subdivision 9; 351.14, subdivision 5, by adding
1.6 a subdivision; 351.15; 351.16, subdivisions 1, 2, 4; 351.18; 351.19, subdivision
1.7 4; 351.20; 351.21; 351.22, subdivisions 1, 2; Minnesota Statutes 2021 Supplement,
1.8 section 126C.10, subdivision 2e; repealing Minnesota Statutes 2020, section
1.9 128D.14.

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

1.11 Section 1. Minnesota Statutes 2020, section 123B.09, subdivision 9, is amended to read:

1.12 Subd. 9. Removing board members. The A board member may be removed in one of
1.13 two ways: (1) the board may remove, for proper cause, any member or officer of the board
1.14 and fill the vacancy; but such or (2) a member may be removed from office in accordance
1.15 with the procedures established in sections 351.14 to 351.23. A removal by the board must
1.16 be by a concurrent vote of at least four a majority of the current board members, at a meeting
1.17 of whose time, place, and object the charged member has been duly notified, with the reasons
1.18 for such proposed removal and after an opportunity to be heard in defense against the
1.19 removal. A board must fill a vacancy caused by a member being removed.

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

1.21 Sec. 2. Minnesota Statutes 2021 Supplement, section 126C.10, subdivision 2e, is amended
1.22 to read:

1.23 Subd. 2e. Local optional revenue. (a) For fiscal year 2021 and later, local optional
1.24 revenue for a school district equals the sum of the district's first tier local optional revenue

2.1 and second tier local optional revenue. A district's first tier local optional revenue equals
2.2 \$300 times the adjusted pupil units of the district for that school year. A district's second
2.3 tier local optional revenue equals \$424 times the adjusted pupil units of the district for that
2.4 school year.

2.5 (b) For fiscal year 2021 and later, a district's local optional levy equals the sum of the
2.6 first tier local optional levy and the second tier local optional levy.

2.7 (c) A district's first tier local optional levy equals the district's first tier local optional
2.8 revenue times the lesser of one or the ratio of the district's referendum market value per
2.9 resident pupil unit to \$880,000.

2.10 (d) For fiscal year 2022, a district's second tier local optional levy equals the district's
2.11 second tier local optional revenue times the lesser of one or the ratio of the district's
2.12 referendum market value per resident pupil unit to \$510,000. For fiscal year 2023, a district's
2.13 second tier local optional levy equals the district's second tier local optional revenue times
2.14 the lesser of one or the ratio of the district's referendum market value per resident pupil unit
2.15 to \$548,842. For fiscal year 2024 and later, a district's second tier local optional levy equals
2.16 the district's second tier local optional revenue times the lesser of one or the ratio of the
2.17 district's referendum market value per resident pupil unit to \$510,000.

2.18 (e) The local optional levy must be spread on referendum market value. A district may
2.19 levy less than the permitted amount.

2.20 (f) A district's local optional aid equals its local optional revenue minus its local optional
2.21 levy. If a district's actual levy for first or second tier local optional revenue is less than its
2.22 maximum levy limit for that tier, its aid must be proportionately reduced.

2.23 (g) A school board's authority to exercise local optional revenue under this subdivision
2.24 is subject to a referendum to revoke or reduce the school district's local optional revenue.
2.25 A school district that receives a qualifying petition to revoke or reduce its local optional
2.26 revenue must hold an election to revoke or reduce its local optional revenue. A petition to
2.27 revoke local optional revenue is effective if signed by a number of qualified voters in excess
2.28 of 15 percent of the registered voters of the district on the day the petition is filed with the
2.29 board. The petition must state the per pupil unit amount of local optional revenue that is
2.30 intended to be reduced or revoked. The petition must be submitted to the school board no
2.31 later than June 1 of the year of the election and the election must be held on the November
2.32 election date if signed by a number of qualified voters in excess of 15 percent of the registered
2.33 voters of the district on the day the petition is filed with the board. The ballot must contain
2.34 a textual portion stating substantially the following:

3.1 "Shall the local optional revenue of, School District No. ..., be reduced to not more
 3.2 than \$..... per pupil?"

3.3 (h) A school board's local optional revenue that is revoked or reduced under paragraph
 3.4 (g) cancels for the fiscal year following the fiscal year of the revocation election and remains
 3.5 canceled for ten fiscal years following its reduction or revocation unless a successful
 3.6 referendum is conducted under section 126C.17, in which case the authority approved under
 3.7 that question is restored.

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

3.9 Sec. 3. Minnesota Statutes 2020, section 126C.17, subdivision 9, is amended to read:

3.10 Subd. 9. **Referendum revenue.** (a) The revenue authorized by section 126C.10,
 3.11 subdivision 1, may be increased or revoked in the amount approved by the voters of the
 3.12 district at a referendum called for the purpose. The referendum may be called by the board.
 3.13 A referendum to revoke authority must be called according to paragraph (c). The referendum
 3.14 must be conducted one or two calendar years before the increased levy authority, if approved,
 3.15 first becomes payable. Only one election to approve an increase or revoke existing authority
 3.16 may be held in a calendar year. Unless the referendum is conducted by mail under subdivision
 3.17 11, paragraph (a), the referendum must be held on the first Tuesday after the first Monday
 3.18 in November. The ballot must state the maximum amount of the increased revenue per
 3.19 adjusted pupil unit or the amount of the proposed authority to revoke per adjusted pupil
 3.20 unit. For referendum authority, the ballot may state a schedule, determined by the board,
 3.21 of increased revenue per adjusted pupil unit that differs from year to year over the number
 3.22 of years for which the increased revenue is authorized or may state that the amount shall
 3.23 increase annually by the rate of inflation. For this purpose, the rate of inflation shall be the
 3.24 annual inflationary increase calculated under subdivision 2, paragraph (b). The ballot may
 3.25 state that existing referendum levy authority is expiring. In this case, the ballot may also
 3.26 compare the proposed levy authority to the existing expiring levy authority, and express
 3.27 the proposed increase as the amount, if any, over the expiring referendum levy authority.
 3.28 The ballot must designate the specific number of years, not to exceed ten, for which the
 3.29 referendum authorization applies. The ballot, including a ballot on the question to revoke
 3.30 or reduce the increased revenue amount under paragraph (c), must abbreviate the term "per
 3.31 adjusted pupil unit" as "per pupil." The notice required under section 275.60 may be modified
 3.32 to read, in cases of renewing existing levies at the same amount per pupil as in the previous
 3.33 year:

4.1 "BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING TO
4.2 EXTEND AN EXISTING PROPERTY TAX REFERENDUM THAT IS SCHEDULED
4.3 TO EXPIRE."

4.4 The ballot may contain a textual portion with the information required in this subdivision
4.5 and a question stating substantially the following:

4.6 "Shall the increase (revocation) in the revenue proposed by (petition to) the board of
4.7, School District No. ..., be approved?"

4.8 If approved, an amount equal to the approved revenue per adjusted pupil unit times the
4.9 adjusted pupil units for the school year beginning in the year after the levy is certified shall
4.10 be authorized for certification for the number of years approved, if applicable, or until
4.11 revoked or reduced by the voters of the district at a subsequent referendum.

4.12 (b) The board must deliver by mail at least 15 days but no more than 45 days before the
4.13 day of the referendum to each taxpayer a notice of the referendum and the proposed revenue
4.14 increase or decrease in the case of a revocation election. The board need not mail more than
4.15 one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision,
4.16 owners must be those shown to be owners on the records of the county auditor or, in any
4.17 county where tax statements are mailed by the county treasurer, on the records of the county
4.18 treasurer. Every property owner whose name does not appear on the records of the county
4.19 auditor or the county treasurer is deemed to have waived this mailed notice unless the owner
4.20 has requested in writing that the county auditor or county treasurer, as the case may be,
4.21 include the name on the records for this purpose. The notice must project the anticipated
4.22 amount of tax increase or decrease in annual dollars for typical residential homesteads,
4.23 agricultural homesteads, apartments, and commercial-industrial property within the school
4.24 district.

4.25 The notice for a referendum may state that an existing referendum levy is expiring and
4.26 project the anticipated amount of increase over the existing referendum levy in the first
4.27 year, if any, in annual dollars for typical residential homesteads, agricultural homesteads,
4.28 apartments, and commercial-industrial property within the district.

4.29 In cases other than a revocation, the notice must include the following statement: "Passage
4.30 of this referendum will result in an increase in your property taxes." However, in cases of
4.31 renewing existing levies, the notice may include the following statement: "Passage of this
4.32 referendum extends an existing operating referendum at the same amount per pupil as in
4.33 the previous year."

5.1 (c) A referendum on the question of revoking or reducing the increased revenue amount
 5.2 authorized pursuant to paragraph (a) may be called by the board and must be called upon
 5.3 receiving a qualifying petition under paragraph (d). A referendum to revoke or reduce the
 5.4 revenue amount must state the amount per adjusted pupil unit by which the authority is to
 5.5 be reduced. Revenue authority approved by the voters of the district pursuant to paragraph
 5.6 (a) must be available to the school district at least once before it is subject to a referendum
 5.7 on its revocation or reduction for subsequent years. Only one revocation or reduction
 5.8 referendum may be held to revoke or reduce referendum revenue for any specific year and
 5.9 for years thereafter.

5.10 (d) A school district that receives a qualifying petition to revoke or reduce its local
 5.11 optional revenue must hold an election to revoke or reduce its referendum revenue. A petition
 5.12 to revoke referendum revenue is effective if signed by a number of qualified voters in excess
 5.13 of 15 percent of the registered voters of the district on the day the petition is filed with the
 5.14 board. The petition must state the per pupil unit amount of referendum revenue that is
 5.15 intended to be reduced or revoked. The petition must be submitted to the school board no
 5.16 later than June 1 of the year of the election and the election must be held on the November
 5.17 election date if signed by a number of qualified voters in excess of 15 percent of the registered
 5.18 voters of the district on the day the petition is filed with the board.

5.19 ~~(d)~~ (e) The approval of 50 percent plus one of those voting on the question is required
 5.20 to pass or revoke a referendum authorized by this subdivision.

5.21 ~~(e)~~ (f) At least 15 days before the day of the referendum, the district must submit a copy
 5.22 of the notice required under paragraph (b) to the commissioner and to the county auditor
 5.23 of each county in which the district is located. Within 15 days after the results of the
 5.24 referendum have been certified by the board, or in the case of a recount, the certification of
 5.25 the results of the recount by the canvassing board, the district must notify the commissioner
 5.26 of the results of the referendum.

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

5.28 Sec. 4. Minnesota Statutes 2020, section 351.14, subdivision 5, is amended to read:

5.29 Subd. 5. **Elected county or school district official.** "Elected county or school district
 5.30 official" means:

5.31 (1) any public official who is elected to countywide office or appointed to an elective
 5.32 countywide office, including county attorney, county sheriff, county auditor, county recorder,

6.1 county treasurer, and soil and water conservation supervisor. ~~"Elected county official" also~~
 6.2 ~~means;~~

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

6.6 (3) a school board member.

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

6.8 Sec. 5. Minnesota Statutes 2020, section 351.14, is amended by adding a subdivision to
 6.9 read:

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

6.11 (1) the county auditor for county offices; or

6.12 (2) the school district clerk for school board members.

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

6.14 Sec. 6. Minnesota Statutes 2020, section 351.15, is amended to read:

6.15 **351.15 REMOVAL OF ELECTED COUNTY OR SCHOOL DISTRICT OFFICIAL.**

6.16 An elected county or school district official may be removed from office in accordance
 6.17 with the procedures established in sections 351.14 to 351.23. A school board member may
 6.18 also be removed by any other procedure provided under section 123B.09, subdivision 9.

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

6.20 Sec. 7. Minnesota Statutes 2020, section 351.16, subdivision 1, is amended to read:

6.21 Subdivision 1. **Form of petition.** Any registered voter may petition the ~~county auditor~~
 6.22 filing officer requesting a removal election and setting forth facts which allege with
 6.23 specificity that an elected county or school district official committed malfeasance or
 6.24 nonfeasance in the performance of official duties during the current or any previous term
 6.25 in the office held by the elected county or school district official, except that a petition may
 6.26 not be submitted during the 180 days immediately preceding a general election for the office
 6.27 which is held by the county or school district official named in the petition. The petitioner
 6.28 must attach to the petition documents which contain the signatures of supporters who are
 6.29 registered voters totaling at least 25 percent of the number of persons who voted in the
 6.30 preceding election for the office which is held by the county or school district official named

7.1 in the petition. Each page on which signatures are included must clearly identify the purpose
 7.2 of the petition. In a removal election involving a countywide office, the registered voters
 7.3 must be residents of the county or, In a removal election involving a county commissioner,
 7.4 the registered voters must be residents of the commissioner district which elected the named
 7.5 county commissioner. In a removal election involving a school board member elected at
 7.6 large, the registered voters must be residents of the school district or, in the case of a board
 7.7 member elected to an election district, the voters must be residents of that election district.
 7.8 The signatures of supporters must be on forms provided by the county auditor.

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

7.10 Sec. 8. Minnesota Statutes 2020, section 351.16, subdivision 2, is amended to read:

7.11 Subd. 2. **County auditor's Filing official's duties.** The ~~county auditor~~ filing official
 7.12 shall examine the petition to determine whether it contains the requisite number of valid
 7.13 signatures of registered voters. If so, the ~~county auditor~~ filing official shall forward the
 7.14 petition, but not the signatures, to the clerk of appellate courts within 15 days of receipt of
 7.15 the petition. If the ~~county auditor~~ filing official determines that the petition does not include
 7.16 the requisite number of signatures, the ~~county auditor~~ filing official shall deny the petition
 7.17 within 15 days of receipt of the petition.

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

7.19 Sec. 9. Minnesota Statutes 2020, section 351.16, subdivision 4, is amended to read:

7.20 Subd. 4. **Limitation.** An elected county or school district official is not subject to a
 7.21 removal election on the ground that misfeasance in the performance of official duties was
 7.22 committed, or on the ground of disagreement with actions taken that were within the lawful
 7.23 discretion of the elected county or school district official.

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

7.25 Sec. 10. Minnesota Statutes 2020, section 351.18, is amended to read:

7.26 **351.18 WAIVER.**

7.27 An elected county or school district official who is the subject of a petition under section
 7.28 351.16 may waive in writing the right to a public hearing. If the hearing is waived, the case
 7.29 must be certified by order of the chief justice to the ~~county auditor~~ filing official for a
 7.30 removal election to be held within 30 days of the receipt of the order.

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

8.1 Sec. 11. Minnesota Statutes 2020, section 351.19, subdivision 4, is amended to read:

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

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

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

8.13 Sec. 12. Minnesota Statutes 2020, section 351.20, is amended to read:

8.14 **351.20 DECISION; CERTIFICATION.**

8.15 If the special master determines that the elected county or school district official
 8.16 committed malfeasance or nonfeasance in the performance of official duties, the case must
 8.17 be certified to the ~~county auditor~~ filing official for a removal election on a date to be fixed
 8.18 by the ~~county auditor~~ filing official and held within 30 days of the order of the special
 8.19 master.

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

8.21 Sec. 13. Minnesota Statutes 2020, section 351.21, is amended to read:

8.22 **351.21 APPEAL.**

8.23 An elected county or school district official may appeal the decision of a special master
 8.24 under section 351.20 to the supreme court within ten days. The removal election is stayed
 8.25 until 20 days after the supreme court issues a decision on the appeal. The supreme court
 8.26 shall grant an expedited appeal.

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

9.1 Sec. 14. Minnesota Statutes 2020, section 351.22, subdivision 1, is amended to read:

9.2 Subdivision 1. **Majority vote; form of question.** (a) An elected county official or school
9.3 board member may be removed pursuant to sections 351.14 to 351.23 by majority vote.

9.4 ~~The~~

9.5 (b) A removal election for a county official is a special election conducted under
9.6 applicable provisions of section 375.20. The question submitted to the voters must be:

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

9.9 Yes

9.10 No"

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

9.12 (c) A removal election for a school board member is a special election conducted under
9.13 section 205A.05. The question submitted to the voters must be:

9.14 "Should (name) elected (appointed) to the office of
9.15 (title) be removed from that office?

9.16 Yes

9.17 No "

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

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

9.20 Sec. 15. Minnesota Statutes 2020, section 351.22, subdivision 2, is amended to read:

9.21 Subd. 2. **Disqualification.** A removed county or school district official may not thereafter
9.22 hold the same office for the remainder of the term to which the official was elected.

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

9.24 Sec. 16. **REPEALER.**

9.25 Minnesota Statutes 2020, section 128D.14, is repealed.

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

APPENDIX
Repealed Minnesota Statutes: 22-05635

128D.14 BOARD MEMBER REMOVAL LAW DOES NOT APPLY.

The provisions of section 123B.09, subdivision 9, concerning the removal of a board member or officer of an independent school district, shall not be applicable to the special independent school district of Minneapolis, established under the provisions of this chapter.