

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-NINTH SESSION**

**S.F. No. 2904**

(SENATE AUTHORS: WIKLUND and Clausen)

DATE	D-PG	OFFICIAL STATUS
03/17/2016	5113	Introduction and first reading Referred to Rules and Administration
03/21/2016	5168	Author added Clausen

A bill for an act

1.1 relating to elections; repealing a requirement that certain school board member  
 1.2 vacancies be filled by special election; amending Laws 2015, chapter 70, article  
 1.3 1, section 63; repealing Minnesota Statutes 2015 Supplement, sections 123B.09,  
 1.4 subdivision 5a; 123B.095.  
 1.5

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

1.7 Section 1. Laws 2015, chapter 70, article 1, section 63, is amended to read:

1.8 Sec. 63. **REPEALER.**

1.9 Minnesota Statutes 2014, sections ~~123B.09, subdivision 5~~; 204B.14, subdivision 6;  
 1.10 204C.13, subdivision 4; 204C.30, subdivision 1; and 383A.555, are repealed.

1.11 **EFFECTIVE DATE; REVIVAL.** This section is effective the day following final  
 1.12 enactment. Pursuant to Minnesota Statutes, section 645.36, Minnesota Statutes, section  
 1.13 123B.09, subdivision 5, is revived effective the day following final enactment.

1.14 Sec. 2. **REPEALER.**

1.15 Minnesota Statutes 2015 Supplement, sections 123B.09, subdivision 5a; and  
 1.16 123B.095, are repealed.

1.17 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 1.18 and applies to school board positions that are currently vacant or become vacant on or  
 1.19 after that date.

**123B.09 BOARDS OF INDEPENDENT SCHOOL DISTRICTS.**

Subd. 5a. **Vacancies.** A vacancy other than a vacancy described in subdivision 4 must be filled pursuant to section 123B.095.

**123B.095 VACANCY IN OFFICE OF SCHOOL BOARD MEMBER.**

Subdivision 1. **Option for filling vacancies; special election.** (a) Except as provided in section 123B.09, subdivision 4, a vacancy in the office of school board may be filled as provided in this subdivision and subdivision 2, or as provided in subdivision 3. If the vacancy is to be filled under this subdivision and subdivision 2, it must be filled at a special election. The school board may by resolution call for a special election to be held according to the earliest of the following time schedules:

- (1) not less than 120 days following the date the vacancy is declared, but no later than 12 weeks prior to the date of the next regularly scheduled primary election;
- (2) concurrently with the next regularly scheduled primary election and general election; or
- (3) no sooner than 120 days following the next regularly scheduled general election.

(b) The person elected at the special election shall take office immediately after receipt of the certificate of election and upon filing the bond and taking the oath of office and shall serve the remainder of the unexpired term.

Subd. 2. **When victor seated immediately.** If a vacancy for which a special election is required occurs less than 120 days before the general election preceding the end of the term, the vacancy shall be filled by the person elected at that election for the ensuing term who shall take office immediately after receiving the certificate of election, filing the bond and taking the oath of office.

Subd. 3. **Vacancies of less than one year; appointment option.** Except as provided in section 123B.09, subdivision 4, and as an alternative to the procedure provided in subdivisions 1 and 2, any other vacancy in the office of school board member may be filled by board appointment at a regular or special meeting. The appointment shall be evidenced by a resolution entered in the minutes and shall continue until an election is held under this subdivision. All elections to fill vacancies shall be for the unexpired term. If one year or more remains in the unexpired term, a special election must be held under subdivision 1. If less than one year remains in the unexpired term, the school board may appoint a person to fill the vacancy for the remainder of the unexpired term, unless the vacancy occurs within 90 days of the next school district general election, in which case an appointment shall not be made and the vacancy must be filled at the general election. The person elected to fill a vacancy at the general election takes office immediately in the same manner as for a special election under subdivision 1, and serves the remainder of the unexpired term and the new term for which the election was otherwise held.

Subd. 4. **School board vacancy appointment; public hearing.** Before making an appointment to fill a vacancy under subdivision 3, the school board must hold a public hearing not more than 30 days after the vacancy occurs with public notice given in the same manner as for a special meeting of the school board. At the public hearing, the board must invite public testimony from persons residing in the district in which the vacancy occurs relating to the qualifications of prospective appointees to fill the vacancy. Before making an appointment, the board also must notify public officials in the school district on the appointment, including county commissioners, town supervisors, and city council members, and must enter into the record at the board meeting in which the appointment is made the names and addresses of the public officials notified. If, after the public hearing, the board is unable or decides not to make an appointment under subdivision 3, it must hold a special election under subdivision 1, but the time period in which the election must be held begins to run from the date of the public hearing.