

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

S.F. No. 539

(SENATE AUTHORS: BONOFF, by request, Benson and Sieben)

DATE	D-PG	OFFICIAL STATUS
02/05/2015	208	Introduction and first reading Referred to Rules and Administration
02/26/2015	450	Author added Sieben

A bill for an act

relating to elections; authorizing recall elections for school board members; eliminating the authority of a school board to remove members; amending Minnesota Statutes 2014, sections 351.14, subdivision 5, by adding a subdivision; 351.15; 351.16, subdivisions 1, 2, 3, 4; 351.18; 351.19, subdivision 4; 351.20; 351.21; 351.22, subdivisions 1, 2; repealing Minnesota Statutes 2014, sections 123B.09, subdivision 9; 128D.14.

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

Section 1. Minnesota Statutes 2014, section 351.14, subdivision 5, is amended to read:

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

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

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

(3) a school board member.

Sec. 2. Minnesota Statutes 2014, section 351.14, is amended by adding a subdivision to read:

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

(1) the county auditor for county offices; or

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

Sec. 3. Minnesota Statutes 2014, section 351.15, is amended to read:

351.15 REMOVAL OF ELECTED COUNTY LOCAL OFFICIAL.

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

Sec. 4. Minnesota Statutes 2014, section 351.16, subdivision 1, is amended to read:

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

Sec. 5. Minnesota Statutes 2014, section 351.16, subdivision 2, is amended to read:

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

Sec. 6. Minnesota Statutes 2014, section 351.16, subdivision 3, is amended to read:

Subd. 3. **Removal of county auditor.** If the county auditor is the named elected county official, the petition must be submitted to the chair of the county board of

3.1 commissioners who shall appoint a county official to perform the duties of the ~~county~~
3.2 ~~auditor~~ filing official specified in sections 351.14 to 351.23.

3.3 Sec. 7. Minnesota Statutes 2014, section 351.16, subdivision 4, is amended to read:

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

3.8 Sec. 8. Minnesota Statutes 2014, section 351.18, is amended to read:

3.9 **351.18 WAIVER.**

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

3.14 Sec. 9. Minnesota Statutes 2014, section 351.19, subdivision 4, is amended to read:

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

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

3.25 Sec. 10. Minnesota Statutes 2014, section 351.20, is amended to read:

3.26 **351.20 DECISION; CERTIFICATION.**

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

4.1 Sec. 11. Minnesota Statutes 2014, section 351.21, is amended to read:

4.2 **351.21 APPEAL.**

4.3 An elected ~~county~~ local official may appeal the decision of a special master under
4.4 section 351.20 to the Supreme Court within ten days. The removal election is stayed until
4.5 20 days after the Supreme Court issues a decision on the appeal. The Supreme Court
4.6 shall grant an expedited appeal.

4.7 Sec. 12. Minnesota Statutes 2014, section 351.22, subdivision 1, is amended to read:

4.8 Subdivision 1. **Majority vote; form of question.** An elected ~~county~~ local official
4.9 may be removed pursuant to sections 351.14 to 351.23 by majority vote. ~~The A~~ removal
4.10 election for a county official is a special election conducted under applicable provisions of
4.11 section 375.20. The question submitted to the voters must be:

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

4.14 Yes

4.15 No "

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

4.17 Sec. 13. Minnesota Statutes 2014, section 351.22, subdivision 2, is amended to read:

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

4.20 Sec. 14. **REPEALER.**

4.21 Minnesota Statutes 2014, sections 123B.09, subdivision 9; and 128D.14, are repealed.

APPENDIX
Repealed Minnesota Statutes: 15-0887

123B.09 BOARDS OF INDEPENDENT SCHOOL DISTRICTS.

Subd. 9. **Removing board members.** The board may remove, for proper cause, any member or officer of the board and fill the vacancy; but such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place, and object the charged member has been duly notified, with the reasons for such proposed removal and after an opportunity to be heard in defense against the removal.

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.