

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

**S.F. No. 2427**

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DATE	D-PG	OFFICIAL STATUS
03/10/2016		Introduction and first reading Referred to Rules and Administration

A bill for an act

1.1  
 1.2 relating to elections; authorizing recall elections for school board members;  
 1.3 amending Minnesota Statutes 2014, sections 351.14, by adding a subdivision;  
 1.4 351.15; 351.16, subdivisions 1, 2; 351.17; 351.18; 351.19, subdivisions 2, 4;  
 1.5 351.20; 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 2014, section 351.14, is amended by adding a  
 1.8 subdivision to read:

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

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

1.11 (2) the school board election clerk for school board members.

1.12 Sec. 2. Minnesota Statutes 2014, section 351.15, is amended to read:

1.13 **351.15 REMOVAL OF ELECTED ~~COUNTY~~ LOCAL OFFICIAL.**

1.14 An elected county official or school board member may be removed from office in  
 1.15 accordance with the procedures established in sections 351.14 to 351.23.

1.16 Sec. 3. Minnesota Statutes 2014, section 351.16, subdivision 1, is amended to read:

1.17 Subdivision 1. **Form of petition.** Any registered voter may petition the county  
 1.18 ~~auditor~~ filing official requesting a removal election and setting forth facts which allege  
 1.19 with specificity that:

1.20 (1) an elected county official committed malfeasance or nonfeasance in the  
 1.21 performance of official duties; or

2.1 (2) a school board member committed malfeasance or nonfeasance in the  
 2.2 performance of official duties, or engaged in any other conduct or speech that fails to  
 2.3 conform to or uphold the intent and purpose of a school board adopted policy, or that  
 2.4 brings the school board or school district into disrepute.

2.5 The petition must allege acts that occurred during the current or any previous term  
 2.6 in the office held by the elected county official or school board member, except that a  
 2.7 petition may not be submitted during the 180 days immediately preceding a general  
 2.8 election for the office which is held by the elected county official or school board member  
 2.9 named in the petition. The petitioner must attach to the petition documents which contain  
 2.10 the signatures of supporters who are registered voters totaling at least 25 percent of the  
 2.11 number of persons who voted in the preceding election for the office which is held by  
 2.12 the elected county official or school board member named in the petition. Each page  
 2.13 on which signatures are included must clearly identify the purpose of the petition. In a  
 2.14 removal election involving a countywide office, the registered voters must be residents  
 2.15 of the county or. In a removal election involving a county commissioner, the registered  
 2.16 voters must be residents of the commissioner district which elected the named county  
 2.17 commissioner. In a removal election involving a school board member, the registered  
 2.18 voters must be residents of the school district. The signatures of supporters must be on  
 2.19 forms provided by the county auditor filing official.

2.20 Sec. 4. Minnesota Statutes 2014, section 351.16, subdivision 2, is amended to read:

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

2.28 Sec. 5. Minnesota Statutes 2014, section 351.17, is amended to read:

2.29 **351.17 CHIEF JUSTICE REVIEW; ASSIGNMENT TO SPECIAL MASTER.**

2.30 The clerk of appellate courts shall submit the petition to the chief justice. The chief  
 2.31 justice shall review the petition to determine whether the petition properly alleges facts  
 2.32 which, if proven, ~~constitute malfeasance or nonfeasance in the performance of official~~  
 2.33 ~~duties~~ establish grounds for removal under section 351.16, subdivision 1, clause (1) or  
 2.34 (2). If the petition properly contains sufficient factual allegations ~~of malfeasance or~~

3.1 ~~nonfeasance~~, the chief justice shall assign the case to a special master for a public hearing.  
3.2 The special master must be an active or retired judge. The chief justice may issue an order  
3.3 denying the petition if it appears that the petition does not contain allegations which,  
3.4 if proven, ~~constitute malfeasance or nonfeasance in the performance of official duties~~  
3.5 establish proper grounds for removal.

3.6 Sec. 6. Minnesota Statutes 2014, section 351.18, is amended to read:

3.7 **351.18 WAIVER.**

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

3.12 Sec. 7. Minnesota Statutes 2014, section 351.19, subdivision 2, is amended to read:

3.13 Subd. 2. **Determinations by special master.** The special master shall take evidence  
3.14 at a public hearing under this section and determine:

3.15 (1) whether the petitioners have shown by clear and convincing evidence that the  
3.16 factual allegations of ~~malfeasance or nonfeasance~~ establishing grounds for a removal are  
3.17 true; and

3.18 (2) if so, whether the facts found to be true constitute ~~malfeasance or nonfeasance~~  
3.19 sufficient grounds for removal under section 351.16, subdivision 1, clause (1) or (2).

3.20 The special master shall dismiss the petition at any time if it appears that this  
3.21 standard has not been met.

3.22 Sec. 8. Minnesota Statutes 2014, section 351.19, subdivision 4, is amended to read:

3.23 Subd. 4. **Legal counsel.** (a) In a removal election involving an elected county  
3.24 official, the petitioners and the elected county official shall be represented by legal counsel  
3.25 at their own expense, and shall pay their costs associated with the hearing except that the  
3.26 county may assume the legal costs incurred by the elected county official. The county  
3.27 shall pay all other costs of the hearing.

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

4.1 Sec. 9. Minnesota Statutes 2014, section 351.20, is amended to read:

4.2 **351.20 DECISION; CERTIFICATION.**

4.3 If the special master determines that the elected county official or school board  
4.4 member committed malfeasance or nonfeasance in the performance of official duties acts  
4.5 that establish grounds for removal, the case must be certified to the ~~county auditor~~ filing  
4.6 official for a removal election on a date to be fixed by the ~~county auditor~~ filing official  
4.7 and held within 30 days of the order of the special master.

4.8 Sec. 10. Minnesota Statutes 2014, section 351.21, is amended to read:

4.9 **351.21 APPEAL.**

4.10 ~~An~~ The elected county official or school board member may appeal the decision of a  
4.11 special master under section 351.20 to the Supreme Court within ten days. The removal  
4.12 election is stayed until 20 days after the Supreme Court issues a decision on the appeal.  
4.13 The Supreme Court shall grant an expedited appeal.

4.14 Sec. 11. Minnesota Statutes 2014, section 351.22, subdivision 1, is amended to read:

4.15 Subdivision 1. **Majority vote; form of question.** (a) An elected county official or  
4.16 school board member may be removed pursuant to sections 351.14 to 351.23 by majority  
4.17 vote. ~~The~~ A removal election for an elected county official is a special election conducted  
4.18 under applicable provisions of section 375.20. A removal election for a school board  
4.19 member is a special election conducted under applicable provisions of chapter 205A.

4.20 (b) The question submitted to the voters must be:

4.21 "Should ..... (Name) elected (appointed) to the office of  
4.22 ..... (title) be removed from that office?"

4.23 Yes .....

4.24 No ..... "

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

4.26 Sec. 12. Minnesota Statutes 2014, section 351.22, subdivision 2, is amended to read:

4.27 Subd. 2. **Disqualification.** A removed county official or school board member may  
4.28 not thereafter hold the same office for the remainder of the term to which the official  
4.29 was elected.

4.30 Sec. 13. **EFFECTIVE DATE.**

5.1            Sections 1 to 12 are effective the day following final enactment and apply to  
5.2            incumbent officials and officials elected or appointed on or after that date.