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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1261**

February 22, 2007

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
1.2 relating to courts; modifying the composition and powers of the Board of Judicial
1.3 Standards; modifying court rule provisions; amending Minnesota Statutes
1.4 2006, sections 490A.01; 490A.02; repealing Minnesota Statutes 2006, sections
1.5 480.056; 480.059, subdivision 7; 480.0591, subdivision 6.

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

1.7 Section 1. Minnesota Statutes 2006, section 490A.01, is amended to read:

1.8 **490A.01 BOARD ON JUDICIAL STANDARDS; ESTABLISHMENT.**

1.9 Subdivision 1. **Establishment; composition.** The Board on Judicial Standards is
1.10 established. The board is a continuation of the board established by Laws 1971, chapter
1.11 909, sections 1 and 2, as amended.

1.12 Subd. 2. **Composition; appointment.** ~~(a) The board consists of one judge of the~~
1.13 ~~Court of Appeals, three trial court judges, two lawyers who have practiced law in the state~~
1.14 ~~for at least ten years, and four citizens who are not judges, retired judges, or lawyers~~ eight
1.15 citizens of the state of Minnesota, one member of the house of representatives, and one
1.16 member of the senate. The citizen members will be selected at random from a pool of
1.17 volunteer state citizen applicants. The citizen members will appoint the members from the
1.18 house of representatives and the senate.

1.19 ~~(b) All members must be appointed by the governor with the advice and consent of~~
1.20 ~~the senate. Senate confirmation is not required for judicial members.~~

1.21 Subd. 3. **Term maximum; membership termination.** No member may serve
1.22 ~~more than two full four-year terms or their equivalent.~~ if a conflict of interest exists. If
1.23 there is a question of whether a conflict of interest exists, the board members will resolve

2.1 the conflict with a majority vote. Membership terminates if a member ceases to hold the
2.2 position that qualified the member for appointment.

2.3 Subd. 4. **Member terms; compensation; removal.** (a) The membership terms; and
2.4 compensation; of board members are as provided in this section. The removal of members;
2.5 and filling of vacancies on the board are as provided in governed by section 15.0575.

2.6 (b) Citizen membership to the board is a full-time position, and compensation to
2.7 the citizen members shall be determined by the board and approved by the legislature.
2.8 The legislative members shall be compensated only for their time upon the board when
2.9 the legislature is not in session. The compensation for the legislative member is one-half
2.10 the salary of the citizen member.

2.11 (c) Citizen members are selected at random from a pool of applicants. Application
2.12 for citizen membership to the board is made to the secretary of state and the secretary of
2.13 state must conduct a random selection from qualified citizen applicants. Citizen applicants
2.14 must be current residents of the state of Minnesota. The term of membership for the
2.15 citizens is two years, after which time the citizen member may reapply. Of the first
2.16 appointees selected to serve on the board, one-half shall serve a one-year term, as decided
2.17 by the secretary of state. The term of membership of the legislative members is at the
2.18 discretion of the citizen members.

2.19 (d) The legislature shall provide office space and necessary office equipment for
2.20 the board.

2.21 Subd. 5. **Executive secretary appointment; salary.** (a) The board shall appoint
2.22 the executive secretary.

2.23 (b) The salary of the executive secretary of the board is 85 percent of the maximum
2.24 salary provided for an administrative law judge under section 15A.083, subdivision 6a.

2.25 **EFFECTIVE DATE.** This section is effective July 1, 2007.

2.26 Sec. 2. Minnesota Statutes 2006, section 490A.02, is amended to read:

2.27 **490A.02 JUDICIAL STANDARDS BOARD; POWERS.**

2.28 Subdivision 1. **Judicial disqualification.** A judge is disqualified from acting as a
2.29 judge, without a loss of salary, while there is pending an indictment or any information
2.30 charging the judge with a crime that is punishable as a felony under either Minnesota law
2.31 or federal law, ~~or while there is pending a recommendation to the Supreme Court by the~~
2.32 ~~Board on Judicial Standards for the judge's removal or retirement.~~

2.33 Subd. 2. **Judicial suspension.** ~~On receipt of a recommendation of the Board on~~
2.34 ~~Judicial Standards or on its own motion, the Supreme Court may suspend~~ A judge is

suspended from office without salary when the judge pleads guilty to or no contest to or is found guilty of a crime that is punishable as a felony under either Minnesota law or federal law or any other crime that involves moral turpitude. If the conviction is reversed, the suspension terminates and the judge must be paid a salary for the period of suspension. If the judge is suspended and the conviction becomes final, the ~~Supreme Court judge~~ shall ~~remove the judge~~ be removed from office.

Subd. 3. **Judicial disability.** ~~On receipt of a recommendation of the Board on Judicial Standards, the Supreme Court~~ (a) The Board of Judicial Standards may retire a judge for a physical or mental disability that the ~~court board~~ determines seriously interferes with the performance of the judge's duties and is or is likely to become permanent; ~~and~~. The board may censure, warn, or remove a judge for an action or inaction that may constitute persistent failure to perform the judge's duties, incompetence in performing the judge's duties, violations of state or federal law, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(b) If the board removes a judge under this subdivision, the judge shall have the right to appeal the board's decision. Pending the appeal, the judge shall be suspended with pay.

Subd. 4. **Authority to reopen matters.** The board is specifically empowered to reopen any matter wherein any information or evidence was previously precluded by a statute of limitations or by a previously existing provision of time limitation.

Subd. 5. **Retirement status.** (a) A judge who is retired by the ~~Supreme Court Board~~ of Judicial Standards for a physical or mental disability must be considered to have retired voluntarily. A judge who is removed by the Board of Judicial Standards forfeits any state funded pension or retirement benefits.

(b) This section and section 490A.01 must not affect the right of a judge who is suspended, ~~retired~~, or removed hereunder from qualifying for any private pension or other private retirement benefits to which the judge would otherwise be entitled by law to receive.

Subd. 6. **Eligibility for judicial office; ~~practice law~~.** A judge removed by the ~~Supreme Court Board~~ of Judicial Standards is ineligible for any future service in a judicial office. ~~The question of the right of a removed judge to practice law in this state must be referred to the proper authority for review.~~

Subd. 7. ~~Supreme Court rules~~ **Rulemaking authorization.** The ~~Supreme Court~~ Board of Judicial Standards shall make rules to implement this section.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 3. **REPEALER.**

- 4.1 Minnesota Statutes 2006, sections 480.056; 480.059, subdivision 7; and 480.0591,
- 4.2 subdivision 6, are repealed.
- 4.3 **EFFECTIVE DATE.** This section is effective July 1, 2007.