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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3685

02/21/2022 Authored by Heintzeman
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; establishing school board member removal election
1.3 procedures; amending Minnesota Statutes 2020, section 123B.09, subdivision 9;
1.4 proposing coding for new law in Minnesota Statutes, chapters 123B; 351.

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

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

1.7 Subd. 9. Removing board members. The board may remove, for proper cause, any
1.8 member or officer of the board and fill the vacancy; but such removal must be by a concurrent
1.9 vote of at least four members, at a meeting of whose time, place, and object the charged
1.10 member has been duly notified, with the reasons for such proposed removal and after an
1.11 opportunity to be heard in defense against the removal. A school board member may also
1.12 be removed in accordance with the removal election procedures under section 123B.096.

1.13 Sec. 2. [123B.096] SCHOOL BOARD REMOVAL ELECTION PROCEDURES.

1.14 Subdivision 1. Petition form. (a) A petition form to request the removal of a school
1.15 board member must include:

1.16 (1) a statement that a removal election, if conducted, would be conducted at public
1.17 expense; and

1.18 (2) a statement that each person signing the petition:

1.19 (i) is an eligible voter residing within the school district;

1.20 (ii) understands the purpose and content of the petition;

1.21 (iii) is signing of their own free will; and

2.1 (iv) may sign only once.

2.2 (b) The petition must:

2.3 (1) identify the school board member who is named in the petition;

2.4 (2) include the specific grounds for removal; and

2.5 (3) include a concise, accurate, and complete summary of the specific facts that constitute  
2.6 grounds for removal in no less than 200 words.

2.7 (c) The removal election committee must attach to the petition documents that contain  
2.8 the signatures of supporters who are registered voters residing within the school district  
2.9 totaling at least 30 percent of the number of persons who voted in the preceding election  
2.10 for the office held by the school board member named in the petition. Each page on which  
2.11 signatures are included must clearly identify the purpose of the petition. The petition  
2.12 documents including signature pages must be provided by the school district clerk and must  
2.13 provide space for each supporter's signature and signature date; printed first, middle, and  
2.14 last name; residence address, including municipality and county; phone number; and birth  
2.15 date.

2.16 (d) The petition must identify three removal election committee members. The petition  
2.17 form must include space for each committee member's notarized signature and signature  
2.18 date; printed first, middle, and last name; residence address, including municipality and  
2.19 county; phone number; and birth date.

2.20 Subd. 2. **District clerk duties.** (a) The school district clerk must make petition forms  
2.21 available for eligible voters residing within the school district to file a petition requesting  
2.22 the removal of a school board member. The clerk must not issue a petition form for a removal  
2.23 election of a school board member within 90 days of the named board member's election  
2.24 to office, or less than 120 days before the next school board election.

2.25 (b) The school district clerk must examine the petition to determine whether it contains  
2.26 the requisite number of valid signatures of registered voters. If so, the clerk must forward  
2.27 the petition, but not the signatures, to the clerk of appellate courts within 15 days of receipt  
2.28 of the petition. If the school district clerk determines that the petition does not include the  
2.29 requisite number of signatures, the school district clerk must deny the petition within 15  
2.30 days of receipt of the petition with the denial reason in writing to the removal election  
2.31 committee. The removal election committee may appeal the denial within 15 days with  
2.32 additional supporting documents, signatures, or clerical amendments. The school district  
2.33 clerk must review the resubmission and issue a final acceptance or denial within 15 days.

3.1 (c) The school district clerk must submit the petition to the appropriate district judge.  
3.2 The district judge must review the petition to determine whether the petition has been  
3.3 properly executed. If the petition is deemed correct, the judge must approve the case for a  
3.4 public hearing. The public hearing must provide an opportunity for public comment regarding  
3.5 the allegations in the petition against the named school board member.

3.6 Subd. 3. **Removal election committee.** (a) A removal election committee consisting of  
3.7 no more than three eligible voters residing within the school district must circulate the  
3.8 removal election petition for signatures and receive the official correspondence from the  
3.9 school district clerk regarding the removal election petition process.

3.10 (b) A petition to remove a school board member may be in active circulation by the  
3.11 removal election committee for no more than 120 days after the first signature is collected.  
3.12 The committee must submit the petition to the school district clerk within seven days of the  
3.13 last signature. A petition that is older than 127 days from the date of the first signature shall  
3.14 be deemed invalid.

3.15 Subd. 4. **Public hearing.** (a) A public hearing regarding the allegations in the petition  
3.16 must be held within 45 days of the district judge determining the petition has been properly  
3.17 executed. The judge may issue subpoenas to compel the testimony of witnesses and the  
3.18 production of any supporting documents. The judge may permit the petition to be amended  
3.19 only for good cause.

3.20 (b) The board member named in the petition may waive in writing the right to a public  
3.21 hearing. If the board member waives the right to a hearing, the case must be certified by  
3.22 order of the judge to the school district clerk for a removal election to be held within 30  
3.23 days of receipt of the order.

3.24 (c) The judge must consider evidence at the public hearing under this section and  
3.25 determine:

3.26 (1) whether the petitioners have shown by clear and convincing evidence that the  
3.27 allegations made against the named school board member are true; and

3.28 (2) if so, whether the facts found to be true constitute grounds for legitimate removal  
3.29 from office.

3.30 The judge must dismiss the petition at any time if it appears that this standard has not been  
3.31 met.

3.32 (d) The petitioners and the named board member must be represented by legal counsel  
3.33 at their own expense and must pay the costs associated with the hearing, except the school

4.1 district may assume the legal costs incurred by the named board member. The school district  
4.2 must pay all other costs of the hearing.

4.3 (e) The judge must issue a decision within 14 days after the end of a public hearing  
4.4 under this section.

4.5 (f) If a petition under this section is dismissed by the judge, either before or after a public  
4.6 hearing, the petitioners may appeal the decision within 30 days.

4.7 Subd. 5. **Certification of the decision.** If the judge determines that the allegations against  
4.8 the named board member are true and constitute grounds for legitimate removal from office,  
4.9 and it is the will of the petitioners to remove the named board member in the performance  
4.10 of official duties, the case must be certified to the school district clerk for a removal election  
4.11 on a date to be fixed by the school district clerk and held within 30 days of the order of the  
4.12 judge.

4.13 Subd. 6. **Appeal.** A school board member may appeal the decision of a judge under  
4.14 subdivision 5 to the supreme court within ten days. The removal election is stayed until 20  
4.15 days after the supreme court issues a decision on the appeal. The supreme court must grant  
4.16 an expedited appeal.

4.17 Subd. 7. **Majority vote; form of question.** A school board member may be removed  
4.18 pursuant to this section by majority vote. The removal election is a special election conducted  
4.19 under applicable provisions of section 205A.05. The question submitted to the voters must  
4.20 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 Subd. 8. **Disqualification.** A removed school board member may not thereafter hold  
4.27 the same office for the remainder of the term to which the official was elected.

4.28 Sec. 3. **[351.24] REMOVAL OF SCHOOL DISTRICT BOARD MEMBERS.**

4.29 An elected school district board member may be removed from office in accordance  
4.30 with the procedures in section 123B.09, subdivision 9, or 123B.096.