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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3123

03/14/2016 Authored by Howe, Bernardy and Peterson

The bill was read for the first time and referred to the Committee on Education Innovation Policy

1.1 A bill for an act
1.2 relating to elections; modifying the timeline for when a special election is
1.3 required to fill a vacancy on a school board; amending Minnesota Statutes 2014,
1.4 section 123B.09, by adding a subdivision; repealing Minnesota Statutes 2015
1.5 Supplement, sections 123B.09, subdivision 5a; 123B.095.

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

1.7 Section 1. Minnesota Statutes 2014, section 123B.09, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 5b. **Appointments to fill vacancies; special elections.** (a) Except as provided
1.10 in paragraph (b), any vacancy on the board, other than a vacancy described in subdivision 4,
1.11 must be filled by board appointment at a regular or special meeting. The appointment shall
1.12 be evidenced by a resolution entered in the minutes and shall continue until an election is
1.13 held under this subdivision. All elections to fill vacancies shall be for the unexpired term.
1.14 If the vacancy occurs 21 days before the first day to file affidavits of candidacy for the next
1.15 school district general election and more than two years remain in the unexpired term,
1.16 a special election shall be held in conjunction with the school district general election.
1.17 The appointed person shall serve until the qualification of the successor elected to fill the
1.18 unexpired part of the term at that special election. If the vacancy occurs later than 21 days
1.19 before the first day to file affidavits of candidacy for the school district general election, or
1.20 when less than two years remain in the unexpired term, there shall be no special election
1.21 to fill the vacancy and the appointed person shall serve the remainder of the unexpired
1.22 term and until a successor is elected and qualifies at the school district election.

1.23 (b) When a vacancy is created by the removal of a board member pursuant to
1.24 subdivision 9, the vacancy must be filled in the manner described in paragraph (a) except

2.1 that a special election must be held to fill the vacancy if more than one year remains on
2.2 the unexpired term.

2.3 Sec. 2. **REPEALER.**

2.4 Minnesota Statutes 2015 Supplement, sections 123B.09, subdivision 5a; and
2.5 123B.095, are repealed.

2.6 Sec. 3. **EFFECTIVE DATE.**

2.7 This act is effective the day following final enactment.

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.