SENATE STATE OF MINNESOTA EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1097

(SENATE AUTHORS: NEWMAN and Ingebrigtsen)

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DATED-PGOFFICIAL STATUS04/05/20111188Introduction and first reading
Referred to Judiciary and Public Safety01/26/20123651Author added Ingebrigtsen

1.1 A bill for an act
1.2 relating to the judiciary; establishing provisions for determining when a judicial
1.3 vacancy occurs and requiring elections in certain cases; modifying the effective
1.4 date of judicial retirements; amending Minnesota Statutes 2010, sections 2.722,
1.5 subdivision 4; 490.126, subdivision 2.

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

Section 1. Minnesota Statutes 2010, section 2.722, subdivision 4, is amended to read: Subd. 4. **Determination of a judicial vacancy; election.** (a) When a judge of the district court dies, resigns, retires, or is removed from office, the Supreme Court, in consultation with judges and attorneys in the affected district, shall determine after receiving notice of a vacancy an open office from the governor whether the vacant office position is necessary for effective judicial administration or is necessary for adequate access to the courts. In determining whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where need for additional judges exists, designating the position as either a county, county/municipal or district court judgeship. If an office becomes open on or after July 1 in an even-numbered year and the Supreme Court makes a determination at least two weeks before the general election to continue or transfer the position, the Supreme Court shall notify the official with whom nominating petitions are required to be filed for the judicial district where the position is continued or transferred and an election for the position must be held. In other cases, the Supreme Court shall certify any a vacancy to the governor, who shall fill it in the manner provided by law.

Section 1.

S.F. No. 1097, as introduced - 87th Legislative Session (2011-2012) [11-2600]

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(b) If a judge of district court fails to timely file an affidavit of candidacy and filing fee or petition in lieu of a fee, the official with whom the affidavits of candidacy are required to be filed shall notify the Supreme Court that the incumbent judge is not seeking reelection. Within five days of receipt of the notice, the Supreme Court shall determine whether the judicial position is necessary for effective judicial administration or adequate access to the courts and notify the official responsible for certifying the election results of its determination. In determining whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where the need for additional judgeships exists. If the position is continued, the election must be held. If the position is abolished or transferred, the election may not be held. If the position is transferred, the court shall also notify the governor official with whom nominating petitions are required to be filed in the judicial district where the position is transferred of the transfer and an election must be held. Upon transfer, the position is vacant and the governor shall fill it in the manner provided by law. An order abolishing or transferring a position is effective the first Monday in the next January.

(c) If an election is to be held for a position that is transferred under this subdivision or for a position that is continued and for which only one or no candidate filed, a vacancy in nomination exists, which may be filled as provided in section 204B.13, subdivision 4.

Sec. 2. Minnesota Statutes 2010, section 490.126, subdivision 2, is amended to read:

Subd. 2. Vacancies Effective date of retirement. Any judge may make written application to the governor for retirement. The governor thereupon shall direct the judge's retirement by written order which, when filed, file the order in the Office of the Secretary of State, effects a vacancy in the office to be filled as provided by law and notify the Supreme Court for purposes of a determination under section 2.722, subdivision 4. The retirement is effective as of the date specified by the judge in the application for retirement.

Sec. 2. 2