

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2688

03/08/2016 Authored by Sanders, Nelson and Pugh
The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

04/11/2016 Adoption of Report: Placed on the General Register as Amended
Read Second Time

04/27/2016 Referred to the Chief Clerk for Comparison with S. F. No. 2381

04/28/2016 Postponed Indefinitely

1.1 A bill for an act

1.2 relating to elections; modifying provisions related to elections and election

1.3 administration; modifying the timeline for when a special election is required

1.4 to fill a vacancy on a school board; authorizing the appointment of specified

1.5 county offices; making technical changes; amending Minnesota Statutes 2014,

1.6 sections 123B.09, by adding a subdivision; 202A.13; 204B.04, by adding

1.7 a subdivision; 204B.14, subdivision 7; 204B.146, subdivision 3; 204B.18,

1.8 subdivision 1; 204C.07, subdivision 3; 204C.37; 204C.39, subdivision 4;

1.9 204D.22, subdivision 2; 205.065, subdivision 4; 205.10, subdivision 6; 205A.03,

1.10 subdivision 3; 205A.05, subdivision 2; 205A.06, subdivision 1; 205A.11,

1.11 subdivision 2a; 209.021, subdivision 1; 375.08; 375A.10, subdivision 5;

1.12 375A.12, subdivision 2; 382.01; 382.02; Minnesota Statutes 2015 Supplement,

1.13 sections 203B.17, subdivision 1; 204B.45, subdivision 2; proposing coding for

1.14 new law in Minnesota Statutes, chapter 375A; repealing Minnesota Statutes 2015

1.15 Supplement, sections 123B.09, subdivision 5a; 123B.095.

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

1.17 **ARTICLE 1**

1.18 **ELECTIONS ADMINISTRATION**

1.19 Section 1. Minnesota Statutes 2014, section 202A.13, is amended to read:

1.20 **202A.13 COMMITTEES, CONVENTIONS.**

1.21 The rules of each major political party shall provide that for each congressional

1.22 district and each county or legislative district a convention shall be held at least once

1.23 every state general election year. Each major political party shall also provide for each

1.24 congressional district and each county or legislative district an executive committee

1.25 consisting of a chair and such other officers as may be necessary. The party rules may

1.26 provide for only one executive committee and one convention where any county and

1.27 congressional district have the same territorial limits.

2.1 A delegate or alternate who is deaf, deafblind, or hard-of-hearing who needs
2.2 interpreter services at a county, legislative district, congressional district, or state
2.3 convention shall so notify the executive committee of the major political party unit whose
2.4 convention the delegate or alternate plans to attend. Written notice must be given by
2.5 certified mail or electronic mail to the executive committee at least 30 days before the
2.6 convention date. The major political party, not later than 14 days before the convention
2.7 date, shall secure the services of one or more interpreters if available and shall assume
2.8 responsibility for the cost of the services. The state central committee of the major
2.9 political party shall determine the process for reimbursing interpreters.

2.10 A visually impaired delegate or alternate to a county, legislative district,
2.11 congressional district, or state convention may notify the executive committee of the major
2.12 political party unit that the delegate or alternate requires convention materials in audio
2.13 tape, Braille, or large print format. Upon receiving the request, the executive committee
2.14 shall provide all official written convention materials as soon as they are available, so
2.15 that the visually impaired individual may have them converted to audio tape, Braille, or
2.16 large print format, prior to the convention.

2.17 Sec. 2. Minnesota Statutes 2015 Supplement, section 203B.17, subdivision 1, is
2.18 amended to read:

2.19 Subdivision 1. **Submission of application.** (a) An application for absentee ballots
2.20 for a voter described in section 203B.16 must be in writing and may be submitted in
2.21 person, by mail, by electronic facsimile device, by electronic mail, or electronically
2.22 through a secure Web site that shall be maintained by the secretary of state for this
2.23 purpose, upon determination by the secretary of state that security concerns have been
2.24 adequately addressed. An application for absentee ballots for a voter described in section
2.25 203B.16 may be submitted by that voter or by that voter's parent, spouse, sister, brother,
2.26 or child over the age of 18 years.

2.27 (b) An application for a voter described in section 203B.16, subdivision 1, shall be
2.28 submitted to the county auditor of the county where the voter maintains residence or
2.29 through the secure Web site maintained by the secretary of state.

2.30 (c) An application for a voter described in section 203B.16, subdivision 2, shall be
2.31 submitted to the county auditor of the county where the voter or the voter's parent last
2.32 maintained residence in Minnesota or through the secure Web site maintained by the
2.33 secretary of state.

2.34 (d) An application for absentee ballots shall be valid for any primary, special
2.35 primary, general election, or special election from the time the application is received

3.1 through the end of that calendar year or through the next regularly scheduled state general
3.2 election, whichever is later.

3.3 (e) There shall be no limitation of time for filing and receiving applications for
3.4 ballots under sections 203B.16 to 203B.27.

3.5 Sec. 3. Minnesota Statutes 2014, section 204B.04, is amended by adding a subdivision
3.6 to read:

3.7 Subd. 5. **Ballots; candidates who file by nominating petition.** Candidates who
3.8 were filed as a team by nominating petition under section 204B.07, subdivision 2, shall not
3.9 appear on the ballot as minor party or independent candidates if either candidate is certified
3.10 as a major party candidate for president or vice president pursuant to section 208.03.

3.11 Sec. 4. Minnesota Statutes 2014, section 204B.14, subdivision 7, is amended to read:

3.12 Subd. 7. **Application to municipalities.** Notwithstanding the provisions of
3.13 section 410.21, or any other law, ordinance or charter to the contrary, the provisions of
3.14 subdivisions 1, and 3 ~~and 6~~ apply to all municipalities.

3.15 Sec. 5. Minnesota Statutes 2014, section 204B.146, subdivision 3, is amended to read:

3.16 Subd. 3. **Correction to election district boundaries.** When a municipal boundary
3.17 ~~that has changed and~~ is coterminous with (1) a congressional, legislative, or county
3.18 commissioner district boundary ~~has changed,~~ or (2) a soil and water conservation district
3.19 supervisor district boundary elected by district under section 103C.311, subdivision 2,
3.20 and the affected territory contains 50 or fewer registered voters, the secretary of state may
3.21 order corrections to move the affected election district boundaries so they the boundaries
3.22 are again will be coterminous with the municipal boundary. The election district boundary
3.23 change is effective 28 days after the date that the order is issued. The secretary of state
3.24 shall immediately notify the municipal clerk and county auditor affected by the boundary
3.25 change and the Legislative Coordinating Commission. The municipal clerk shall send
3.26 a nonforwardable notice stating the location of the polling place to every household
3.27 containing a registered voter affected by the boundary change at least 25 days before the
3.28 next election.

3.29 Sec. 6. Minnesota Statutes 2014, section 204B.18, subdivision 1, is amended to read:

3.30 Subdivision 1. **Booths; voting stations.** (a) Each polling place must contain a
3.31 number of voting booths or voting stations in proportion to the number of individuals
3.32 eligible to vote in the precinct. ~~Each booth or station must be at least six feet high,~~

4.1 ~~three feet deep and two feet wide with a shelf at least two feet long and one foot wide~~
4.2 ~~placed at a convenient height for writing.~~ The booth or station shall permit the voter to
4.3 vote privately and independently.

4.4 (b) Each polling place must have at least one accessible voting booth or other
4.5 accessible voting station and beginning with federal and state elections held after
4.6 December 31, 2005, and county, municipal, and school district elections held after
4.7 December 31, 2007, one voting system that conforms to section 301(a)(3)(B) of the Help
4.8 America Vote Act, Public Law 107-252.

4.9 (c) Local jurisdictions must make accessible voting stations purchased with funds
4.10 provided from the Help America Vote Act account available to other local jurisdictions
4.11 holding stand-alone elections. The jurisdiction providing the equipment may require the
4.12 jurisdiction using the equipment to reimburse any direct actual costs incurred as a result
4.13 of the equipment's use and any prorated indirect costs of maintaining and storing the
4.14 equipment. A rental or other similar use fee may not be charged.

4.15 Any funds received under this paragraph for expenses incurred by that local
4.16 jurisdiction as a direct result of making the equipment available that were not paid for
4.17 in whole or in part with funds from the Help America Vote Act account are not program
4.18 income under the Help America Vote Act, Public Law 107-252.

4.19 Any funds received by a local jurisdiction making the equipment available as
4.20 reimbursement for expenses as defined as "operating costs" under Laws 2005, chapter 162,
4.21 section 34, subdivision 1, paragraph (b), and paid for in whole or in part with funds from
4.22 the Help America Vote Act account must be treated as program income and deposited into
4.23 the jurisdiction's Help America Vote Act account in the direct proportion that funds from
4.24 the Help America Vote Act account were used to pay for those "operating costs."

4.25 (d) All booths or stations must be constructed so that a voter is free from observation
4.26 while marking ballots. During the hours of voting, the booths or stations must have
4.27 instructions, a pencil, and other supplies needed to mark the ballots. A chair must be
4.28 provided for elderly voters and voters with disabilities to use while voting or waiting
4.29 to vote. Stable flat writing surfaces must also be made available to voters who are
4.30 completing election-related forms.

4.31 (e) All ballot boxes, voting booths, voting stations, and election judges must be
4.32 in open public view in the polling place.

4.33 Sec. 7. Minnesota Statutes 2015 Supplement, section 204B.45, subdivision 2, is
4.34 amended to read:

5.1 Subd. 2. **Procedure.** Notice of the election and the special mail procedure must
5.2 be given at least ten weeks prior to the election. Not more than 46 days nor later than 14
5.3 days before a regularly scheduled election and not more than 30 days nor later than 14
5.4 days before any other election, the auditor shall mail ballots by nonforwardable mail to
5.5 all voters registered in the city, town, or unorganized territory. No later than 14 days
5.6 before the election, the auditor must make a subsequent mailing of ballots to those voters
5.7 who register to vote after the initial mailing but before the 20th day before the election.
5.8 Eligible voters not registered at the time the ballots are mailed may apply for ballots as
5.9 provided in chapter 203B. Ballot return envelopes, with return postage provided, must
5.10 be preaddressed to the auditor or clerk and the voter may return the ballot by mail or in
5.11 person to the office of the auditor or clerk. The auditor or clerk must appoint a ballot board
5.12 to examine the mail and absentee ballot return envelopes and mark them "accepted" or
5.13 "rejected" within three days of receipt if there are 14 or fewer days before election day, or
5.14 within five days of receipt if there are more than 14 days before election day. The board
5.15 may consist of deputy county auditors or deputy municipal clerks who have received
5.16 training in the processing and counting of mail ballots, who need not be affiliated with
5.17 a major political party. Election judges performing the duties in this section must be of
5.18 different major political parties, unless they are exempt from that requirement under
5.19 section 205.075, subdivision 4, or section 205A.10. If an envelope has been rejected at
5.20 least five days before the election, the ballots in the envelope must remain sealed and the
5.21 auditor or clerk shall provide the voter with a replacement ballot and return envelope in
5.22 place of the spoiled ballot. If the ballot is rejected within five days of the election, the
5.23 envelope must remain sealed and the official in charge of the ballot board must attempt to
5.24 contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been
5.25 rejected. The official must document the attempts made to contact the voter.

5.26 If the ballot is accepted, the county auditor or municipal clerk must mark the roster
5.27 to indicate that the voter has already cast a ballot in that election. After the close of
5.28 business on the seventh day before the election, the ballots from return envelopes marked
5.29 "Accepted" may be opened, duplicated as needed in the manner provided by section 206.86,
5.30 subdivision 5, initialed by the members of the ballot board, and deposited in the ballot box.

5.31 In all other respects, the provisions of the Minnesota Election Law governing
5.32 deposit and counting of ballots apply.

5.33 The mail and absentee ballots for a precinct must be counted together and reported
5.34 as one vote total. No vote totals from mail or absentee ballots may be made public before
5.35 the close of voting on election day.

6.1 The costs of the mailing shall be paid by the election jurisdiction in which the voter
6.2 resides. Any ballot received by 8:00 p.m. on the day of the election must be counted.

6.3 Sec. 8. Minnesota Statutes 2014, section 204C.07, subdivision 3, is amended to read:

6.4 Subd. 3. **Elections on a question.** At an election where a question is to be voted
6.5 upon in an election jurisdiction, the appropriate mayor of a city, ~~or the~~ school board of a
6.6 school district, or ~~the~~ board of supervisors of a town, upon receiving a written petition
6.7 signed by at least 25 eligible voters, shall appoint by written certificate one voter for each
6.8 precinct in the municipality, or school district if applicable, to act as a challenger of voters
6.9 in the polling place for that precinct. The petition must be delivered to the clerk of the
6.10 municipality or school conducting the election.

6.11 Sec. 9. Minnesota Statutes 2014, section 204C.37, is amended to read:

6.12 **204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF**
6.13 **STATE.**

6.14 A copy of the report required by sections 204C.32, subdivision 1, and 204C.33,
6.15 subdivision 1, shall be certified under the official seal of the county auditor. The copy shall
6.16 be enclosed in an envelope addressed to the secretary of state, with the county auditor's
6.17 name and official address and the words "Election Returns" endorsed on the envelope.
6.18 The copy of the canvassing board report ~~and the precinct summary statements~~ must be
6.19 sent by express mail or delivered to the secretary of state. If the copy is not received by
6.20 the secretary of state within ten days following the applicable election, the secretary of
6.21 state shall immediately notify the county auditor, who shall deliver another copy to the
6.22 secretary of state by special messenger.

6.23 Sec. 10. Minnesota Statutes 2014, section 204C.39, subdivision 4, is amended to read:

6.24 Subd. 4. **Canvassing board; declaration of results; notification.** The canvassing
6.25 board shall declare the results of the election upon completing the inspection for the
6.26 office in question. The report and declaration shall be filed by the county auditor, who
6.27 shall mail a certified copy to each candidate for that office. The county auditor shall
6.28 promptly notify the secretary of state by ~~certified~~ United States mail and electronic mail of
6.29 the action of the county canvassing board.

6.30 Sec. 11. Minnesota Statutes 2014, section 204D.22, subdivision 2, is amended to read:

6.31 Subd. 2. **Posting of writ.** Immediately upon receipt of the writ, the secretary of state
6.32 shall send a certified copy of the writ by ~~certified~~ United States mail and electronic mail to

7.1 the county auditor of each county in which candidates to fill the vacancy are to be voted
7.2 upon. The county auditor shall post a copy of the writ in the auditor's office at least five
7.3 days before the close of the time for filing affidavits of candidacy for the special election.

7.4 Sec. 12. Minnesota Statutes 2014, section 205.065, subdivision 4, is amended to read:

7.5 Subd. 4. **Candidates, filing.** The clerk shall place upon the primary ballot without
7.6 partisan designation the names of individuals whose candidacies have been filed and for
7.7 whom the proper filing fee has been paid. When not more than twice the number of
7.8 individuals to be elected to a municipal office file for nomination for the office, their
7.9 names shall not be placed upon the primary ballot and shall be placed on the municipal
7.10 general election ballot as the nominees for that office. When more than one council
7.11 member is to be elected for full terms at the same election, the candidates' names shall be
7.12 placed under one office on the ballot with the number to be elected to the office specified
7.13 directly underneath the title and identification of the office.

7.14 Sec. 13. Minnesota Statutes 2014, section 205.10, subdivision 6, is amended to read:

7.15 Subd. 6. **Cancellation.** A special election ordered by the governing body of the
7.16 municipality on its own motion under subdivision 1 may be canceled by motion of the
7.17 governing body, but not less than ~~46~~ 74 days before the election.

7.18 Sec. 14. Minnesota Statutes 2014, section 205A.03, subdivision 3, is amended to read:

7.19 Subd. 3. **Candidates, filing.** The clerk shall place upon the primary ballot without
7.20 partisan designation the names of individuals whose candidacies have been filed and for
7.21 whom the proper filing fee has been paid. When not more than twice as many school board
7.22 candidates as there are at-large school board positions available file for nomination for the
7.23 office or when not more than two candidates for a specified school board position file for
7.24 nomination for that office, their names must not be placed upon the primary ballot and must
7.25 be placed on the school district general election ballot as the nominees for that office. When
7.26 more than one school board member is to be elected for full terms at the same election, the
7.27 candidates' names shall be placed under one office on the ballot with the number to be
7.28 elected to the office specified directly underneath the title and identification of the office.

7.29 Sec. 15. Minnesota Statutes 2014, section 205A.05, subdivision 2, is amended to read:

7.30 Subd. 2. **Vacancies in school district offices.** Special elections to fill vacancies in
7.31 elective school district offices shall be held in school districts ~~in conjunction with school~~
7.32 ~~district primary and general elections to fill vacancies in elective school district offices~~

8.1 pursuant to section 123B.095. When more than one vacancy exists in an office elected
8.2 at-large, voters must be instructed to vote for up to the number of vacancies to be filled.

8.3 Sec. 16. Minnesota Statutes 2014, section 205A.06, subdivision 1, is amended to read:

8.4 Subdivision 1. **Affidavit of candidacy.** An individual who is eligible and desires to
8.5 become a candidate for an office to be voted on at the election must file an affidavit of
8.6 candidacy with the school district clerk. The affidavit must be in ~~substantially the same~~
8.7 ~~form as that in~~ prescribed by section 204B.06, ~~subdivision 1.~~ The school district clerk
8.8 shall also accept an application signed by at least five voters and filed on behalf of an
8.9 eligible voter in the school district whom they desire to be a candidate, if service of a copy
8.10 of the application has been made on the candidate and proof of service is endorsed on the
8.11 application being filed. No individual shall be nominated by nominating petition for a
8.12 school district elective office. Upon receipt of the proper filing fee, the clerk shall place
8.13 the name of the candidate on the official ballot without partisan designation.

8.14 Sec. 17. Minnesota Statutes 2014, section 205A.11, subdivision 2a, is amended to read:

8.15 Subd. 2a. **Notice of special elections.** The school district clerk shall prepare a
8.16 notice to the voters who will be voting in a combined polling place for a school district
8.17 special election. The notice must include the following information: the date of the
8.18 election, the hours of voting, and the location of the voter's polling place. The notice must
8.19 be sent by nonforwardable mail to every affected household in the school district with
8.20 at least one registered voter. The notice must be mailed no later than 14 days before the
8.21 election. The mailed notice is not required for a school district special election that is held
8.22 on the second Tuesday in August, the Tuesday following the first Monday in November,
8.23 or for a special election conducted entirely by mail. ~~In addition, the mailed notice is not~~
8.24 ~~required for voters residing in a township if the school district special election is held on~~
8.25 ~~the second Tuesday in March and the town general election is held on that day.~~ A notice
8.26 that is returned as undeliverable must be forwarded immediately to the county auditor.

8.27 Sec. 18. Minnesota Statutes 2014, section 209.021, subdivision 1, is amended to read:

8.28 Subdivision 1. **Manner; time; contents.** Service of a notice of contest must be made
8.29 in the same manner as the service of summons in civil actions. The notice of contest must
8.30 specify the grounds on which the contest will be made. The contestant shall serve notice
8.31 of the contest on the parties enumerated in this section. Except as provided in section
8.32 204D.27, notice must be served and filed within five days after the canvass is completed in
8.33 the case of a primary or special primary or within seven days after the canvass is completed

9.1 in the case of a special or general election; ~~except that~~. If a contest is based on a deliberate,
9.2 serious, and material violation of the election laws ~~which~~ that was discovered from the
9.3 statements of receipts and disbursements required to be filed by candidates and committees,
9.4 the action may be commenced and the notice served and filed within ten days after the
9.5 filing of the statements in the case of a general or special election or within five days after
9.6 the filing of the statements in the case of a primary or special primary. If a notice of contest
9.7 questions only which party received the highest number of votes legally cast at the election,
9.8 a contestee who loses may serve and file a notice of contest on any other ground during the
9.9 three days following expiration of the time for appealing the decision on the vote count.

9.10 ARTICLE 2

9.11 SCHOOL BOARD VACANCIES

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

9.14 Subd. 5b. **Appointments to fill vacancies; special elections.** (a) Except as provided
9.15 in paragraph (b), any vacancy on the board, other than a vacancy described in subdivision
9.16 4, must be filled by board appointment at a regular or special meeting. The appointment
9.17 shall be evidenced by a resolution entered in the minutes and shall be effective 30 days
9.18 following adoption of the resolution, subject to paragraph (c). If the appointment becomes
9.19 effective, it shall continue until an election is held under this subdivision. All elections
9.20 to fill vacancies shall be for the unexpired term. If the vacancy occurs 21 or more days
9.21 before the first day to file affidavits of candidacy for the next school district general
9.22 election and more than two years remain in the unexpired term, a special election shall be
9.23 held in conjunction with the school district general election. The appointed person shall
9.24 serve until the qualification of the successor elected to fill the unexpired part of the term at
9.25 that special election. If the vacancy occurs fewer than 21 days before the first day to file
9.26 affidavits of candidacy for the school district general election, or when less than two years
9.27 remain in the unexpired term, there shall be no special election to fill the vacancy and the
9.28 appointed person shall serve the remainder of the unexpired term and until a successor is
9.29 elected and qualifies at the school district election.

9.30 (b) When a vacancy is created by the removal of a board member pursuant to
9.31 subdivision 9, the vacancy must be filled in the manner described in paragraph (a) except
9.32 that a special election must be held to fill the vacancy if more than one year remains on
9.33 the unexpired term.

9.34 (c) An appointment made under paragraph (a) shall not be effective if a petition to
9.35 reject the appointee is filed with the school district clerk. To be valid, a petition to reject an

10.1 appointee must be signed by a number of eligible voters residing in the district equal to at
10.2 least five percent of the total number of voters voting in the district at the most recent state
10.3 general election, and must be filed within 30 days of the board's adoption of the resolution
10.4 making the appointment. If a valid petition is filed according to the requirements of this
10.5 paragraph, the appointment by the school board is ineffective and the board must name a
10.6 new appointee as provided in paragraph (a).

10.7 Sec. 2. **REPEALER.**

10.8 Minnesota Statutes 2015 Supplement, sections 123B.09, subdivision 5a; and
10.9 123B.095, are repealed.

10.10 Sec. 3. **EFFECTIVE DATE.**

10.11 This article is effective the day following final enactment.

10.12 **ARTICLE 3**

10.13 **APPOINTMENT OF COUNTY OFFICERS**

10.14 Section 1. Minnesota Statutes 2014, section 375.08, is amended to read:

10.15 **375.08 BOARD TO FILL VACANCIES IN COUNTY OFFICES.**

10.16 When a vacancy occurs in the office of an elected county auditor, county treasurer,
10.17 county recorder, sheriff, county attorney, county surveyor, or coroner, the county board
10.18 shall fill it by appointment. For that purpose it shall meet at the usual place of meeting,
10.19 upon one day's notice from the chair or clerk, which shall be served personally upon each
10.20 member in the same manner as a district court summons. The person appointed shall give
10.21 the bond and take the oath required by law, and serve the remainder of the term, and until
10.22 a successor qualifies. When a vacancy occurs in an office that has a chief deputy or first
10.23 assistant, the chief deputy or first assistant may perform all the duties and functions of the
10.24 office until it is filled by appointment by the county board.

10.25 Sec. 2. Minnesota Statutes 2014, section 375A.10, subdivision 5, is amended to read:

10.26 Subd. 5. **Auditor-treasurer.** In any county exercising the option provided
10.27 in subdivision 2, clause (c), the office shall be known thereafter as the office of
10.28 auditor-treasurer, if the office is to remain elective. If the board chooses to make the
10.29 office of auditor-treasurer elective, and not require a referendum, it must act with the
10.30 concurrence of 80 percent of its members.

11.1 In the exercise of this option, the county board shall direct which of the offices of
11.2 auditor or treasurer shall be terminated for the purpose of providing for the election to
11.3 the single office of auditor-treasurer. The duties, functions and responsibilities which
11.4 have been heretofore and which shall hereafter be required by statute to be performed
11.5 by the county auditor and the county treasurer shall be vested in and performed by the
11.6 auditor-treasurer without diminishing, prohibiting or avoiding those specific duties
11.7 required by statute to be performed by the county auditor and the county treasurer.

11.8 Nothing in this subdivision shall preclude the county from exercising the option to
11.9 make the combined office of auditor-treasurer appointive as if it had been specifically
11.10 enumerated in subdivision 2. If the combined office is to be appointive, a referendum
11.11 under section 375A.12 shall be necessary, except as provided by section 375A.1205.

11.12 If the combined office is to be elective, a referendum under section 375A.12 shall
11.13 be necessary if:

11.14 (a) the county board requires a referendum; or

11.15 (b) a referendum is required by a petition of a number of voters equal to ten
11.16 percent of those voting in the county at the last general election that is received by the
11.17 county auditor within 30 days after the second publication of the board resolution that
11.18 orders the combination.

11.19 The persons last elected to the positions of auditor and treasurer before adoption
11.20 of the resolution shall serve in those offices and perform the duties of those offices until
11.21 the completion of the terms to which they were elected.

11.22 Sec. 3. Minnesota Statutes 2014, section 375A.12, subdivision 2, is amended to read:

11.23 Subd. 2. **Form of government options.** Except as provided in section 375A.1205
11.24 or by special law, the options provided in sections 375A.01 to 375A.10 shall be adopted
11.25 in any county only after an affirmative vote of the voters in the county on the question
11.26 of the adoption of the option. Except as provided in section 375A.01, only one such
11.27 plan may be submitted at any one election.

11.28 Sec. 4. **[375A.1205] APPOINTING COUNTY OFFICERS.**

11.29 Subdivision 1. Authority to appoint certain officers. A county board may
11.30 appoint the county auditor, county treasurer, or county recorder, under section 375A.10,
11.31 subdivision 2, or the auditor-treasurer under section 375A.10, subdivision 5, by following
11.32 the process outlined in this section. Notwithstanding section 375A.12, a referendum is not
11.33 required if the appointment is made pursuant to this section. A county board shall only use
11.34 the authority to appoint under the following circumstances:

12.1 (1) there is a vacancy in the office, due to resignation or death; or

12.2 (2) there is a signed contract with the county board and the incumbent auditor,
12.3 treasurer, auditor-treasurer, or recorder which provides that the incumbent officer will be
12.4 appointed to the position and retain tenure, pay, and benefits equal to or greater than
12.5 length of service.

12.6 Subd. 2. **Responsibility of county officer.** At least 104 days prior to the filing date
12.7 for office under section 204B.09, an elected county officer must notify the county board
12.8 in writing whether he or she will be filing for another term. If the current county officer
12.9 indicates in writing they will not file for the office and the county board has passed a
12.10 resolution under subdivision 6, affidavits of candidacy will not be accepted for that office,
12.11 and the office will not be placed on the ballot.

12.12 Subd. 3. **Board controls; may change as long as duties done.** Upon adoption of
12.13 a resolution by the county board of commissioners and subject to subdivisions 5 and 6,
12.14 the duties of an elected official required by statute whose office is made appointive as
12.15 authorized by this section must be discharged by the county board of commissioners
12.16 acting through a department head appointed by the board for that purpose. Reorganization,
12.17 reallocation, delegation, or other administrative change or transfer does not diminish,
12.18 prohibit, or avoid the discharge of duties required by statute.

12.19 Subd. 4. **Discharge or demotion.** (a) A county auditor, county treasurer, county
12.20 auditor-treasurer, or county recorder who was elected at the most recent election for that
12.21 office prior to a county board resolution to make the office appointed, and is appointed
12.22 by the county board to the office, may not be involuntarily demoted or discharged except
12.23 for incompetency or misconduct.

12.24 (b) Prior to demoting or discharging an office holder under this subdivision, the board
12.25 must notify the office holder in writing and state its grounds for the proposed demotion or
12.26 discharge in reasonable detail. Within ten days after receipt of this notification, the office
12.27 holder may make a written request for a hearing before an arbitrator and it shall be granted
12.28 before final action is taken. Failure to request a hearing before an arbitrator during this
12.29 period is considered acquiescence to the board's action. The board may suspend an office
12.30 holder with pay pending the conclusion of the hearing and determination of the issues
12.31 raised in the hearing after charges have been filed which constitute grounds for demotion
12.32 or discharge. If an office holder has been charged with a felony and the underlying
12.33 conduct that is the subject of the felony charge is a ground for a proposed discharge, the
12.34 suspension pending the conclusion of the hearing and determination of the issues may
12.35 be without pay. If a hearing under this subdivision is held, the board must reimburse the

13.1 office holder for any salary or compensation withheld if the final decision of the arbitrator
13.2 does not result in a penalty or discharge of the office holder.

13.3 (c) If the office holder and the board are unable to mutually agree on an arbitrator,
13.4 the board must request from the Bureau of Mediation Services a list of seven persons
13.5 qualified to serve as an arbitrator. If the office holder and the board are unable to mutually
13.6 agree on an arbitrator from the list provided, the parties shall alternately strike names from
13.7 the list until the name of one arbitrator remains. The person remaining after the striking
13.8 procedure must be the arbitrator. If the parties are unable to agree on who shall strike the
13.9 first name, the question must be decided by a flip of a coin. The office holder and the board
13.10 must share equally the costs and fees of the arbitrator except as set forth in paragraph (g).

13.11 (d) The arbitrator shall determine, by a preponderance of the evidence, whether the
13.12 grounds for discharge or demotion exist to support the proposed discharge or demotion. A
13.13 lesser penalty than demotion or discharge may be imposed by the arbitrator only to the
13.14 extent that either party proposes such lesser penalty in the proceeding. In making the
13.15 determination, the arbitration proceeding is governed by sections 572B.15 to 572B.28.

13.16 (e) An arbitration hearing conducted under this subdivision is a meeting for
13.17 preliminary consideration of allegations or charges within the meaning of section 13D.05,
13.18 subdivision 3, paragraph (a), and must be closed, unless the office holder requests it to
13.19 be open.

13.20 (f) The arbitrator's award is final and binding on the parties, subject to sections
13.21 572B.18 to 572B.28.

13.22 (g) In the event the arbitrator rules not to demote or discharge the office holder,
13.23 the board shall pay all of the costs and fees of the arbitrator and the attorney fees of the
13.24 office holder.

13.25 Subd. 5. **Incumbents to complete term.** The person elected at the last general
13.26 election to an office made appointive under this section must serve in that capacity and
13.27 perform the duties, functions, and responsibilities required by statute until the completion
13.28 of the term of office to which the person was elected, or until a vacancy occurs in the
13.29 office, whichever occurs earlier.

13.30 Subd. 6. **Publishing resolution; petition, referendum.** (a) Before the adoption of
13.31 the resolution to provide for the appointment of an office as described in subdivision 1,
13.32 the county board must publish a proposed resolution notifying the public of its intent to
13.33 consider the issue once each week, for two consecutive weeks, in the official publication
13.34 of the county. Following publication and prior to formally adopting the resolution, the
13.35 county board shall provide an opportunity at its next regular meeting for public comment
13.36 relating to the issue. After the public comment opportunity, at the same meeting or a

14.1 subsequent meeting, the county board of commissioners may adopt a resolution that
14.2 provides for the appointment of the office or offices as permitted in this section. The
14.3 resolution must be approved by at least 80 percent of the members of the county board.
14.4 The resolution may take effect 30 days after it is adopted, or at a later date stated in the
14.5 resolution, unless a petition is filed as provided in paragraph (b).

14.6 (b) Except when an office is made appointive under subdivision 1, clause (2), within
14.7 30 days after the county board adopts the resolution, a petition requesting a referendum
14.8 may be filed with the county auditor. The petition must be signed by at least ten percent
14.9 of the registered voters of the county. The petition must meet the requirements of the
14.10 secretary of state, as provided in section 204B.071, and any rules adopted to implement
14.11 that section. If the petition is sufficient, the county board resolution is rescinded.

14.12 Subd. 7. **Reverting to elected offices.** (a) The county board may adopt a resolution
14.13 to provide for the election of an office made an appointed position under this section, but
14.14 not until at least three years after the office was made an appointed position. The county
14.15 board must publish a proposed resolution notifying the public of its intent to consider
14.16 the issue once each week, for two consecutive weeks, in the official publication of the
14.17 county. Following publication and before formally adopting the resolution, the county
14.18 board must provide an opportunity at its next regular meeting for public comment relating
14.19 to the issue. After the public comment opportunity, at the same meeting or a subsequent
14.20 meeting, the county board of commissioners may adopt the resolution. The resolution
14.21 must be approved by at least 60 percent of the members of the county board and is
14.22 effective August 1 following adoption of the resolution.

14.23 (b) The question of whether an office made an appointed position under this section
14.24 must be made an elected office must be placed on the ballot at the next general election if
14.25 (1) the position has been an appointed position for at least three years; (2) a petition signed
14.26 by at least ten percent of the registered voters of the county is filed with the office of the
14.27 county auditor by August 1 of the year in which the general election is held; and (3) the
14.28 petition meets the requirements of the secretary of state, as provided in section 204B.071,
14.29 and any rules adopted to implement that section. If a majority of the voters of the county
14.30 voting on the question vote in favor of making the office an elected position, the election
14.31 for that office must be held at the next regular or special election.

14.32 Sec. 5. Minnesota Statutes 2014, section 382.01, is amended to read:

14.33 **382.01 OFFICERS ELECTED; TERMS.**

14.34 In every county in this state there shall be elected at the general election in 1918 a
14.35 county auditor, a county treasurer, sheriff, county recorder, county attorney, and coroner.

15.1 The terms of office of these officers shall be four years and shall begin on the first
15.2 Monday in January next succeeding their election. They shall hold office until their
15.3 successors are elected and qualified. Each of these offices shall ~~shall~~ must be filled by election
15.4 every four years thereafter, unless an office is consolidated with another county officer or
15.5 made appointive under chapter 375A or other general or special law.

15.6 Sec. 6. Minnesota Statutes 2014, section 382.02, is amended to read:

15.7 **382.02 VACANCIES, HOW FILLED.**

15.8 Any appointment made to fill a vacancy in any of the offices named in section
15.9 382.01 that has not been made appointive under chapter 375A or other general or special
15.10 law shall be for the balance of such entire term, and be made by the county board.

APPENDIX
Article locations in H2688-1

ARTICLE 1	ELECTIONS ADMINISTRATION	Page.Ln 1.17
ARTICLE 2	SCHOOL BOARD VACANCIES	Page.Ln 9.10
ARTICLE 3	APPOINTMENT OF COUNTY OFFICERS	Page.Ln 10.12

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.