

HERE IS THE ACTUAL BILL:

THE RESOLUTION

Be it so resolved:

Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform government whenever required by the public good.

The Minnesota Constitution is the supreme Law, enacted by the Citizens and that said Law cannot be superseded by government created law, including but not limited to, legislated statutes, case law, court rules and agency rules.

That the constitution for the people of the state of Minnesota is the supreme Law enacted by and for the protection of the citizens fundamental and substantive rights.

That the constitution for the people of the state of Minnesota cannot be superseded, circumvented or abrogated by judicial rule inconsistent with the fundamental or substantive rights embraced in either the constitution for the state of Minnesota or the United States.

That no act of the legislature intended to secure proper constitutional due process procedures may be, superseded, circumvented or abrogated by judicial rule.

When the government creates law that violates the Minnesota Constitution, it is the right and the duty of the Citizens of Minnesota to demand their government to comply with the constraints of the Minnesota Constitution.

AMENDMENTS AND REPEAL

The following are Statutes, wherein language should be repealed and amended in order to make them compliant with the constitutional mandate respecting article III Section 1 of the constitution for the people of the State of Minnesota. Further any language change proposed herein indicated by striking out the text shall be considered a proposal for repeal of the language so struck out. This is a proposal for the following amendments and repeals of language as follows:

(The underlined words are words that have been added. The “crossed out” words are words that are removed.)

M.S. Sec. 480.056, M.S. Sec. 480.59 and M.S. Sec. 480.0519 violate the separation of powers required by the Minnesota Constitution.

These statutes currently give the Judicial Branch the power to IGNORE the statutes and to create “rules” that supercede the statutes.

The power to enact law is granted solely to the legislative branch. The power to enact court rules is not granted to the judicial branch. The power for court rules to supersede legislated statutes is a violation of the Minnesota Constitution.

The Citizens demand M.S. Sec. 480.056, M.S. Sec. 480.59 and M.S. sec. 480.591 to be repealed

M.S. Sec. 490A.01 M.S. Sec. 490A.02

According to our Constitution, the LEGISLATURE is to CONTROL the Judicial Branch. M.S. Sec. 490.15 and 490.16 were enacted pursuant to Article VI section Sec. 9 of the Minnesota Constitution.

In 2006, said statutes were repealed, and immediately replaced with 490A.01 and 490A.02.

M.S. Sec. 490A.01 abrogates the power conferred upon the legislature to the judicial and executive branches. Said statute is in violation of the Minnesota Constitution.

The current membership of the Judicial Board of Standards, established pursuant to M.S. Sec. 490.15 is in violation of the Minnesota Constitution.

Said board members are required to act as agents of the legislative branch, pursuant to Article VI, Sec.9 of the Minnesota Constitution. Yet, 6 of the 10 board members are either judges, or have sworn an oath to the judicial branch and acquire their income from the judicial branch.

Currently, the governor appoints the members of the board. There is no constitutional provision for the Executive Branch to have the power to appoint the members of the board.

We are seeking following amendments to M.S. Sec. 490A.01 & 490A.02 that will return to the Legislature the power to discipline the Judicial Branch.

M.S. Sec. 490A.01

BOARD ON JUDICIAL STANDARDS; ESTABLISHMENT.

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

Subd. 2. **Composition; appointment.**

(a) ~~The board consists of one judge of the Court of Appeals, three trial court judges, two lawyers who have practiced law in the state for at least ten years, and four citizens who are not judges, retired judges, or lawyers.~~ eight Citizens of the state of Minnesota, one member of the House of Representatives and one member of the Senate. The Citizen members will be selected at random from a pool of volunteer Citizen applicants.

(b) ~~All members must be appointed by the governor with the advice and consent of the senate. Senate confirmation is not required for judicial members. The Citizen members will appoint the members from the House of Representatives and the Senate.~~

Subd. 3. **Term maximum; membership termination.** No member may serve ~~more than two full four-year terms or their equivalent.~~ if there exists a conflict of interest, such as a member earning his/her income from the activities within the judicial branch. If there is a question of whether there is a conflict of interest, the Board members will resolve the conflict with a majority vote. Membership terminates if a member ceases to hold the position that qualified the member for appointment.

Subd. 4. **Member terms; compensation; removal.** The membership terms, compensation, removal of members, and filling of vacancies on the board are as provided in ~~section 15.0575.~~ this section. Membership to the Board is a full time position and compensation to the Citizen members will be equal to the compensation paid a justice for the Supreme Court. The legislative members will be compensated only for their time upon the Board when the legislature is not in session. The compensation for the legislative members is one-half the salary of a justice for the Supreme Court. Citizen members are selected at random from a pool of applicants. Application is made to the Secretary of State and said office will conduct a random selection from qualified Citizen applicants. Citizen applicants

must be current residents and state Citizens, not federal Citizens. The term of membership for the Citizens is two years, after which time the Citizen member may re-apply and be again included in the pool. The term of membership of the legislative members is at the discretion of the Citizen members that appoint them. The membership in the Board constitutes a valuable service to the Citizens of the state of Minnesota, thereby, any employers of Board members are required by law to grant the Board members extended unpaid leave of absence while the members serve on the Board, if the Board member makes written request to the employer. The legislature will provide office space, phones and necessary office equipment for the board.

Subd. 5. **Executive secretary appointment; salary.** (a) The board shall appoint the executive secretary. (b) The salary of the executive secretary of the board is 85 percent of the maximum salary provided for an administrative law judge under section 15A.083, subdivision 6a.

M.S. Sec. 490A.02

JUDICIAL STANDARDS BOARD; POWERS.

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

Subd. 2. **Judicial suspension.** ~~On receipt of a recommendation of the Board on 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 judge~~ Supreme Court shall be removed ~~the judge~~ from office.

Subd. 3. **Judicial disability.** On receipt of a recommendation of the Board on Judicial Standards, ~~the Supreme Court~~ Legislature may retire a judge for a physical or mental disability that ~~the court determines~~ seriously interferes with the performance of the judge's duties and is or is likely to become permanent, The

Board is empowered to ~~and~~ censure, warn or remove a judge for an action or inaction that may constitute persistent failure to perform the judge's duties, violations of the Minnesota and/or federal Constitutions, violations of Minnesota Statutes, incompetence in performing the judge's duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

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.

The Board shall review all petitions made by the Citizens concerning judicial misconduct. The petitions made by the Citizens must state in clear and concise language the facts and events that support the petition.

The Board may require from the petitioner certified court records and transcripts. If the Board finds the petition is sufficient to remove the judge, the judge will reimburse the Citizen the costs of the certified court records and transcripts.

If it is proven by the evidence in the petition and the determination of the Board that the Citizen or counsel for the Citizen made a public record in the court noticing the judge that the judge was violating the Constitutions or the statutes, and the Board finds that the judge did said violation, the Board will permanently remove the judge from office.

If the Citizen or counsel for the Citizen failed to make a public record in the court noticing the judge that the judge was violating the constitutions or the statutes, the Board is authorized only to issue a warning to the judge. After three warnings from the Board to a single judge, said judge is automatically removed from office.

The state government, political subdivisions and corporations do not have the same rights as Citizens. The remedies available for these entities are in the appellate courts.

The Board will respond to all petitions made by the Citizens. Upon making a petition to the Board, the time limits for making an appeal in the courts is suspended until the Board makes a decision on the petition.

Upon receipt of a petition, the Board will, within 3 working days, notice the judge of the petition and include a complete copy of the petition. The judge may respond

to the petition and submit any evidence and argument, within 20 days of receiving notice of the petition.

The Board will make an initial response to the petitioner within two weeks of the Board receiving the petition, and at said time will inform the petitioner what, if any evidence is necessary for the Board to review the petition. If further evidence is necessary, such as certified court records and transcripts, the petitioner will have 30 days from the response of the Board to produce the necessary evidence.

The Board, upon receiving the additional evidence required of the petitioner, will respond to the petition within 45 days.

The petitioner, if needing transcripts, will bring the response letter from the Board to the court reporter for the judge. The court reporter will produce the necessary transcripts within 10 days, at a cost to the petitioner. If the court reporter fails to produce the transcript(s) within 10 days, the court reporter will be suspended from employment, without pay until such time that the requested transcript(s) are given to the petitioner. In this event, the Board will grant an extension of time for the petitioner, until the transcript(s) are produced by the court reporter.

If the original petition is sufficient when submitted to the Board, within 2 weeks of receipt of the petition, the Board will send a response letter to the petitioner stating that the petition is sufficient. The Board will then make a final determination of the petition within 45 days of sending the response letter to the petitioner.

The Office of the Attorney General will respond to any questions set forth by the Board, within 10 days of receiving said question(s).

The Board has the authority to immediately remove a judge if it determines the judge violated constitutional or statutory law, and if the Citizen or counsel for the Citizen made a record in the court of said violation(s). In this event, the decision of the Board will be binding and the ruling(s) made by the judge will have no effect of law.

In the event the Citizen or counsel for the Citizen failed to make a record in the court of constitutional or statutory violations, and in all other petitions that refer to misconduct that did not violate constitutional or statutory violations, the Board is authorized only to issue a warning to the judge. In all cases whereby the Board has issued a warning to a judge, the Citizen reserves the right to appeal the decision of the judge. In these cases, the warning issued by the Board stands as

notice to the appellate court(s) that the Citizens have determined a constitutional or statutory violation occurred in the lower court. When the Board has made such determination, the Board's decision may be included in the Citizen's appeal and the appellate court must remedy the Citizen with reversal, instructions and remand, when the Board's determination has been violations of constitutional or statutory law. If the Citizen demands that the case be remanded to a different judge, the clerk of courts will assign another judge.

Any judge removed by the Board has the right to appeal the decision of the Board to the Legislature. The House of Representatives will hear the initial appeal. If the House of Representatives determine the removal of the judge was unwarranted, then the Senate will also hear the appeal. Both houses must agree that the judge's removal was unwarranted in order to reverse the decision of the Board. During the appeal, the judge will be suspended with pay.

All records concerning the Board are deemed public record. Once a year, the Board will give all records to the legislative branch. Said branch will then publish the petitions, response of the judges and decisions of the Board, including posting said information on the state website.

Subd. 5. Retirement status.

(a) A judge who is retired by the ~~Supreme Court~~ by the Legislature for disability must be considered to have retired voluntarily.

(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. Judges removed by the Board on Judicial Standards are not eligible for state funded pension or retirement benefits.

Subd. 6. Eligibility for judicial office; practice law. A judge removed by the ~~Supreme Court~~ Board 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. The ~~Supreme Court~~ Legislature shall make rules to implement this section.