

As Passed by the House

**125th General Assembly
Regular Session
2003-2004**

Am. Sub. H. B. No. 181

**Representatives Schaffer, McGregor, Willamowski, Allen, Flowers, Brinkman,
C. Evans, Setzer, Wolpert, Aslanides, G. Smith, Buehrer, Carmichael, Collier,
Daniels, Domenick, D. Evans, Faber, Gibbs, Gilb, Hartnett, Harwood, Key,
Niehaus, Olman, Otterman, Seaver, Sferra**

A B I L L

To enact sections 3.16 and 2961.02 of the Revised 1
Code to permit the Governor to suspend from office 2
in accordance with a specified procedure any 3
elected local government official, other than a 4
judge, charged with a felony related to the 5
official's administration of, or conduct in the 6
performance of the duties of, the office and to 7
prohibit a person who is convicted of certain 8
felony theft offenses, or any other felony 9
involving fraud, deceit, or theft, from holding a 10
public office or position of public employment, or 11
serving in certain unpaid volunteer positions, 12
that involve substantial management or control of 13
certain public or private property. 14

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3.16 and 2961.02 of the Revised Code 15
be enacted to read as follows: 16

Sec. 3.16. (A) As used in this section: 17

(1) "Prosecuting attorney" means the prosecuting attorney of 18
the county in which the public official serves. 19

(2) "Public official" means any elected officer of a 20
political subdivision as defined in section 2744.01 of the Revised 21
Code. "Public official" does not include a judge of a court of 22
record. 23

(B)(1) If a public official is charged with a felony in a 24
state or federal court and if the attorney general, if the 25
attorney general is prosecuting the case, or prosecuting attorney 26
with responsibility to prosecute the case determines that the 27
felony relates to the public official's administration of, or 28
conduct in the performance of the duties of, the office of the 29
public official, the attorney general, if the attorney general is 30
prosecuting the case, or prosecuting attorney with responsibility 31
to prosecute the case shall transmit a copy of the charging 32
document to the governor with a request that the governor proceed 33
as provided in this section. 34

Upon receipt of the attorney general's or prosecuting 35
attorney's request, the governor shall provide the public official 36
with a written notice that, not later than fourteen days after the 37
date of the notice, the public official may file with the governor 38
a written statement either voluntarily authorizing the governor to 39
suspend the public official from office or setting forth the 40
reasons why the public official should not be suspended from 41
office. If the public official so authorizes a suspension from 42
office, the governor shall authorize the voluntary suspension, and 43
follow the applicable procedures set forth in this section; the 44
special commission described in division (B)(2) of this section 45
still shall be established. 46

(2) Not sooner than fourteen days after the governor's 47
receipt of the attorney general's or prosecuting attorney's 48

request, a special commission shall be established that, except as
otherwise provided in this division, shall be composed of the
attorney general and two retired justices or judges of a court of
record of this state appointed by the chief justice of the supreme
court. At least one commission member shall be of the same
political party as the public official. Members of the commission
shall receive no compensation for their services but shall be
reimbursed for any expenses incurred in connection with commission
functions from funds appropriated to the governor's office. If the
attorney general is prosecuting the case against the charged
public official, the attorney general shall not serve on the
commission, and the chief justice of the supreme court shall
additionally appoint to the commission a third retired justice or
judge of a court of record of this state.

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(C) Once established, a special commission shall make the
determination required by this division and file a written report
of its findings and that determination with the governor within
fourteen days, unless the governor grants the commission a longer
period of time to take this action. The commission shall determine
whether the public official's administration of, or conduct in the
performance of the duties of, the official's office, as covered by
the charges, adversely affects the functioning of that office and
whether the rights and interests of the public are adversely
affected thereby. If the commission so determines, it shall
include in its report a recommendation that the public official be
suspended from office.

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Notwithstanding anything to the contrary in section 121.22 of
the Revised Code, all meetings of the special commission shall be
closed to the public. Notwithstanding anything to the contrary in
section 149.43 of the Revised Code, the records of the commission
shall not be made available to the public for inspection or
copying until the commission files its report with the governor.

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(D) The governor shall review the findings, determination, and recommendation of the special commission and, if, and only if, the commission recommends the suspension of the public official, may suspend the public official from office immediately, without the need for any further action. That suspension shall continue until one of the following occurs: the public official is reinstated to office by an appeal as provided in division (E) of this section; all charges are disposed of by dismissal or by a finding or findings of not guilty; or a successor is elected and qualified to serve the next succeeding term of the public official's office.

If a special commission does not recommend the suspension of a public official who previously was voluntarily suspended from office under division (B) of this section, or if the governor, after reviewing a special commission's recommendation to suspend, determines not to continue the suspension of a public official who previously was voluntarily suspended from office under division (B) of this section, that public official's voluntary suspension shall end immediately upon the governor's review of the commission's recommendation not to suspend or upon the governor's determination not to continue the voluntary suspension.

(E) If the governor suspends a public official from office under division (D) of this section or continues under that division the suspension of a public official who was voluntarily suspended from office under division (B) of this section, the public official may appeal the governor's decision to the supreme court. The supreme court shall consider the appeal on an expedited basis.

(F) Any public official suspended from office under this section shall not exercise any of the rights, powers, or responsibilities of the holder of that office during the period of the suspension. The suspended public official, however, shall

retain the title of the holder of that office during the period of
the suspension and continue to receive the compensation that the
official is entitled to receive for holding that office during the
period of the suspension, until the public official pleads guilty
to or is found guilty of any felony with which the public official
is charged. For the duration of the public official's suspension,
a replacement official shall be appointed or elected to perform
the public official's duties of office in the manner provided by
law for filling a vacancy in that office. The replacement official
shall have all of the rights, powers, and responsibilities of, and
shall be entitled to the same rate of pay as, the suspended public
official.

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A political subdivision may file a civil action in the
appropriate court to recover from any former public official of
the political subdivision the amount of compensation paid to that
former public official in accordance with this division from the
date of the former public official's suspension to the date the
former public official pleads guilty to or is found guilty of any
felony with which the former public official was charged.

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Sec. 2961.02. (A) As used in this section:

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(1) "Disqualifying offense" means an offense that has both of
the following characteristics:

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(a) It is one of the following:

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(i) A theft offense that is a felony;

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(ii) A felony under the laws of this state, another state, or
the United States, that is not covered by division (A)(1)(a)(i) of
this section and that involves fraud, deceit, or theft.

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(b) It is an offense for which the laws of this state,
another state, or the United States do not otherwise contain a
provision specifying permanent disqualification, or

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disqualification for a specified period, from holding a public 143
office or position of public employment, or from serving as an 144
unpaid volunteer, as a result of conviction of the offense, 145
including, but not limited to, a provision such as that in 146
division (C)(1) of section 2921.41 of the Revised Code. 147

(2) "Political subdivision" has the same meaning as in 148
section 2744.01 of the Revised Code. 149

(3) "Private entity" includes an individual, corporation, 150
limited liability company, business trust, estate, trust, 151
partnership, or association that receives any funds from a state 152
agency or political subdivision to perform an activity on behalf 153
of the state agency or political subdivision. 154

(4) "State agency" has the same meaning as in section 1.60 of 155
the Revised Code. 156

(5) "Theft offense" has the same meaning as in section 157
2913.01 of the Revised Code. 158

(6) "Volunteer" means a person who serves as a volunteer 159
without compensation with a state agency or political subdivision 160
or who serves as a volunteer without compensation with a private 161
entity, including, but not limited to, an uncompensated auxiliary 162
police officer, auxiliary deputy sheriff, or volunteer 163
firefighter. 164

(B) Any person who is convicted of a disqualifying offense is 165
incompetent to hold a public office or position of public 166
employment or to serve as a volunteer, if holding the public 167
office or position of public employment or serving as the 168
volunteer involves substantial management or control over the 169
property of a state agency, political subdivision, or private 170
entity. 171

(C) Division (B) of this section does not apply if a 172

conviction of a disqualifying offense is reversed, expunged, or 173
annulled. The full pardon of a person convicted of a disqualifying 174
offense restores the privileges forfeited under division (B) of 175
this section, but the pardon does not release the person from the 176
costs of the person's conviction in this state, unless so 177
specified. 178