

As Reported by the House State Government Committee

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Sub. H. B. No. 181

Representatives Schaffer, McGregor, Willamowski, Allen, Flowers, Brinkman,
C. Evans, Setzer, Wolpert, Aslanides, G. Smith, Buehrer

A B I L L

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

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
be enacted to read as follows:

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

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

(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 49
otherwise provided in this division, shall be composed of the 50
attorney general and two retired justices or judges of a court of 51

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 charged 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.

(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.

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.

(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 charged 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 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 petition the governor to authorize
reestablishment of the special commission involved to again review
the official's suspension. The governor, in the governor's
discretion, may authorize reestablishment of the commission to
review the suspension. If it is reestablished, the commission,
within fourteen days of the reestablishment, shall make a
determination and file a written report of the determination, its
findings, and its recommendation as described in division (C) of
this section. If the commission recommends that the suspension of
the public official not be continued, the public official shall be
immediately reinstated to office.

(F) Any public official suspended from office under this 116
section shall not exercise any of the rights, powers, or 117
responsibilities of the holder of that office during the period of 118
the suspension. The suspended public official, however, shall 119
retain the title of the holder of that office during the period of 120
the suspension and continue to receive the compensation that the 121
official is entitled to receive for holding that office during the 122
period of the suspension, until the public official pleads guilty 123
to or is found guilty of any felony with which the public official 124
is charged. For the duration of the public official's suspension, 125
a replacement official shall be appointed or elected to perform 126
the public official's duties of office in the manner provided by 127
law for filling a vacancy in that office. The replacement official 128
shall have all of the rights, powers, and responsibilities of, and 129
shall be entitled to the same rate of pay as, the suspended public 130
official. 131

A political subdivision may file a civil action in the 132
appropriate court to recover from any former public official of 133
the political subdivision the amount of compensation paid to that 134
former public official in accordance with this division from the 135
date of the former public official's suspension to the date the 136
former public official pleads guilty to or is found guilty of any 137
felony with which the former public official was charged. 138

Sec. 2961.02. (A) As used in this section: 139

(1) "Disqualifying offense" means an offense that has both of 140
the following characteristics: 141

(a) It is one of the following: 142

(i) A theft offense that is a felony; 143

(ii) A felony under the laws of this state, another state, or 144
the United States, that is not covered by division (A)(1)(a)(i) of 145

this section and that involves fraud, deceit, or theft. 146

(b) It is an offense for which the laws of this state, 147
another state, or the United States do not otherwise contain a 148
provision specifying permanent disqualification, or 149
disqualification for a specified period, from holding a public 150
office or position of public employment, or from serving as an 151
unpaid volunteer, as a result of conviction of the offense, 152
including, but not limited to, a provision such as that in 153
division (C)(1) of section 2921.41 of the Revised Code. 154

(2) "Political subdivision" has the same meaning as in 155
section 2744.01 of the Revised Code. 156

(3) "Private entity" includes an individual, corporation, 157
limited liability company, business trust, estate, trust, 158
partnership, or association that receives any funds from a state 159
agency or political subdivision to perform an activity on behalf 160
of the state agency or political subdivision. 161

(4) "State agency" has the same meaning as in section 1.60 of 162
the Revised Code. 163

(5) "Theft offense" has the same meaning as in section 164
2913.01 of the Revised Code. 165

(6) "Volunteer" means a person who serves as a volunteer 166
without compensation with a state agency or political subdivision 167
or who serves as a volunteer without compensation with a private 168
entity, including, but not limited to, an uncompensated auxiliary 169
police officer, auxiliary deputy sheriff, or volunteer 170
firefighter. 171

(B) Any person who is convicted of a disqualifying offense is 172
incompetent to hold a public office or position of public 173
employment or to serve as a volunteer, if holding the public 174
office or position of public employment or serving as the 175

volunteer involves substantial management or control over the 176
property of a state agency, political subdivision, or private 177
entity. 178

(C) Division (B) of this section does not apply if a 179
conviction of a disqualifying offense is reversed, expunged, or 180
annulled. The full pardon of a person convicted of a disqualifying 181
offense restores the privileges forfeited under division (B) of 182
this section, but the pardon does not release the person from the 183
costs of the person's conviction in this state, unless so 184
specified. 185