

**As Reported by the House Local Government and Townships
Committee**

**124th General Assembly
Regular Session
2001-2002**

Sub. H. B. No. 594

**REPRESENTATIVES Schaffer, G. Smith, Willamowski, Allen, Evans,
Carmichael, Schmidt, Setzer, Lendrum, Carano, Roman, Flowers, White,
Wolpert, Hughes, Sferra, McGregor**

A B I L L

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

<u>Sec. 3.16.</u> (A) <u>As used in this section:</u>	17
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(1) "Prosecuting attorney" means the prosecuting attorney of the county in which the public official serves. 18
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(2) "Public official" means any elected officer of a political subdivision as defined in section 2744.01 of the Revised Code. 20
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(B)(1) If a public official is charged with a felony in a state or federal court and if the attorney general, if the attorney general is prosecuting the case, or prosecuting attorney with responsibility to prosecute the case determines that the felony relates to the public official's administration of, or conduct in the performance of the duties of, the office of the public official, the attorney general, if the attorney general is prosecuting the case, or prosecuting attorney with responsibility to prosecute the case shall transmit a copy of the charging document to the governor with a request that the governor proceed as provided in this section. 23
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Upon receipt of the attorney general's or prosecuting attorney's request, the governor shall provide the public official with a written notice that, not later than fourteen days after the date of the notice, the public official may file with the governor a written statement either voluntarily authorizing the governor to suspend the public official from office or setting forth the reasons why the public official should not be suspended from office. If the public official so authorizes a suspension from office, the governor shall authorize the voluntary suspension, but still proceed with appointing the special commission described in division (B)(2) of this section and follow the other procedures set forth in this section. 34
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(2) Not sooner than fourteen days after receipt of the attorney general's or prosecuting attorney's request, the governor shall appoint a special commission that, except as otherwise provided in this division, shall be composed of the attorney 46
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general and two public officials who hold the same office as the
charged public official. 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 governor shall instead
appoint to the commission a retired justice of the supreme court
or a retired judge of a court of appeals of this state.

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(C) Once appointed, 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,

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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.

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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.

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(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 reappoint the special commission involved to again review the official's suspension. The governor, in the governor's discretion, may reappoint the commission to review the suspension. If it is reappointed, the commission, within fourteen days of the reappointment, 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

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of the public official not be continued, the public official shall
be immediately reinstated to office.

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(F) Any public official suspended from office under this
section shall continue to receive while suspended the compensation
that the official is entitled to receive for holding that office
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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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 or that is a misdemeanor
of the first, second, or third degree the conviction of which
occurred not more than ten years before the holding of the public
office or position of public employment or the serving as a
volunteer;

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(ii) A felony or a misdemeanor under the laws of this state,
another state, or the United States, or under the ordinances of a
municipal corporation of this state or another state, that is not
covered by division (A)(1)(a)(i) of this section, that involves
fraud, deceit, or theft, and, in the case of a misdemeanor, the
conviction of which occurred not more than ten years before the
holding of the public office or position of public employment or

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the serving as a volunteer.

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

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

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(3) "Private entity" includes an individual, corporation, limited liability company, business trust, estate, trust, partnership, or association.

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

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

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(6) "Volunteer" means a person who serves as a volunteer without compensation with a state agency or political subdivision, or who serves as a volunteer without compensation with a private entity that receives any funds from a state agency or political subdivision to perform an activity on behalf of the state agency or political subdivision, including, but not limited to, an uncompensated auxiliary police officer, auxiliary deputy sheriff, or volunteer firefighter.

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(B) Any person who is convicted of a disqualifying offense is incompetent to hold a public office or position of public employment or to serve as a volunteer, if holding the public office or position of public employment or serving as the volunteer involves substantial management or control over the

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property of a state agency, political subdivision, or private 175
entity. 176

(C) Division (B) of this section does not apply if a 177
conviction of a disqualifying offense is reversed, expunged, or 178
annulled. The full pardon of a person convicted of a disqualifying 179
offense restores the privileges forfeited under division (B) of 180
this section, but the pardon does not release the person from the 181
costs of the person's conviction in this state, unless so 182
specified. 183