As Introduced

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Representatives Thomas, D., Mathews, T.

Cosponsors: Representatives Bird, Click, Daniels, Deeter, Fischer, Gross, John, Kishman, Klopfenstein, Lear, Lorenz, McClain, Ritter, Troy, Williams

To amend sections 3.07, 3.17, 305.03, 503.241, and 3313.11 and to enact section 3.171 of the Revised Code to allow an elected official who is deployed on active military duty to retain the official's position and to attend meetings virtually.

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

Section 1. That sections 3.07, 3.17, 305.03, 503.241, and 3313.11 be amended and section 3.171 of the Revised Code be enacted to read as follows:

Sec. 3.07. ~~Any~~ Subject to section 3.171 of the Revised Code, any person holding office in this state, or in any municipal corporation, county, or subdivision thereof, coming within the official classification in Section 38 of Article II, Ohio Constitution, who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed upon ~~him~~the person by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office.

Upon complaint and hearing in the manner provided for in sections 3.07 to 3.10, inclusive, of the Revised Code, such person shall have judgment of forfeiture of said office with all its emoluments entered thereon against ~~him~~the person, creating thereby in said office a vacancy to be filled as prescribed by law. The proceedings provided for in such sections are in addition to impeachment and other methods of removal authorized by law, and such sections do not divest the governor or any other authority of the jurisdiction given in removal proceedings.

Sec. 3.17. ~~Any~~ Except as otherwise provided in section 3.171 of the Revised Code, any member of a board, commission, council, board of trustees of an institution of higher education, or other public body of the state, except a member of the general assembly or a judge of any court in the state, who fails to attend at least three-fifths of the regular and special meetings held by that board, commission, council, board of trustees, or public body during any two-year period forfeits the member's position on that board, commission, council, board of trustees, or public body.

Sec. 3.171. (A) As used in this section:

(1) "Active duty" means full-time duty in the armed forces of the United States or the Ohio national guard, including full-time training duty, annual training duty, and active state duty for members of the national guard.

(2) "Armed forces of the United States" has the same meaning as in section 5907.01 of the Revised Code.

(3) "Elected official" means a person who holds an elective office of the state or a political subdivision.

(4) "Public body" has the same meaning as in section 121.22 of the Revised Code.

(B) When an elected official is an active or reserve member of the armed forces of the United States or the Ohio national guard and is deployed on active duty, all of the following apply:

(1) Notwithstanding section 121.22 of the Revised Code, the elected official may attend any meeting of a public body of which the elected official is a member, and may hear and vote on any matter before the public body, through teleconference, video conference, or any other similar synchronous electronic technology.

(2) The elected official shall not be considered absent from a meeting of any public body of which the elected official is a member for purposes of any provision of law that requires a member of a public body to attend a certain number of meetings of the public body in order to avoid forfeiting the person's office. This division applies regardless of whether the elected official attends any meetings virtually as permitted under division (B)(1) of this section.

(3) The elected official is not considered to be absent from the state or a political subdivision for purposes of any provision of law that specifies that an office becomes vacant when the official is absent.

(4) The elected official is not considered to have committed nonfeasance in office or otherwise failed to perform the duties of the office by reason of the elected official's absence while deployed on active duty.

Sec. 305.03. (A) Whenever any county officer fails to

perform the duties of office for thirty consecutive days, except in case of sickness or injury as provided in divisions (B) and (C) of this section, the office shall be deemed vacant. Performing the duties of office includes a county officer appearing in person at the officer's principal office location on at least one out of thirty consecutive days.

(B) Whenever any county officer is absent because of sickness or injury, the officer shall cause to be filed with the board of county commissioners a certificate from a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner of the officer's sickness or injury. If the certificate is not filed with the board within ten days after the expiration of thirty consecutive days, the office shall be deemed vacant.

(C) Whenever a county officer files a certificate under division (B) of this section, but continues to be absent for an additional thirty days commencing immediately after the last day on which this certificate may be filed under division (B) of this section, the office shall be deemed vacant.

(D) If at any time two county commissioners in a county are absent and have filed a certificate under division (B) of this section, the county coroner, in addition to performing the duties of coroner, shall serve as county commissioner until at least one of the absent commissioners returns to office or until the office of at least one of the absent commissioners is deemed vacant under this section and the vacancy is filled. If the coroner so requests, the coroner shall be paid a per diem rate for the coroner's service as a commissioner. That per diem rate shall be the annual salary specified by law for a county commissioner of that county whose term of office began in the

same year as the coroner's term of office began, divided by the number of days in the year.

While the coroner is serving as a county commissioner, the coroner shall be considered an acting county commissioner and shall perform the duties of the office of county commissioner until at least one of the absent commissioners returns to office or until the office of at least one of the absent commissioners is deemed vacant. Before assuming the office of acting county commissioner, the coroner shall take an oath of office as provided in sections 3.22 and 3.23 of the Revised Code. The coroner's service as an acting county commissioner does not constitute the holding of an incompatible public office or employment in violation of any statutory or common law prohibition against the simultaneous holding of more than one public office or employment.

The coroner shall give a new bond in the same amount and signed and approved as provided in section 305.04 of the Revised Code. The bond shall be conditioned for the faithful discharge of the coroner's duties as acting county commissioner and for the payment of any loss or damage that the county may sustain by reason of the coroner's failure in those duties. The bond, along with the oath of office and approval of the probate judge indorsed on it, shall be deposited and paid for as provided for the bonds in section 305.04 of the Revised Code.

(E) Any vacancy declared under this section shall be filled in the manner provided by section 305.02 of the Revised Code.

(F) This section ~~shall~~ does not apply to a county officer ~~while in the active military service of the United States~~ to whom division (B) of section 3.171 of the Revised Code applies.

Sec. 503.241. Whenever any township officer ceases to reside in the township, or is absent from the township for ninety consecutive days, except in case of sickness or injury as provided in this section, the officer's office shall be deemed vacant and the board of township trustees shall declare a vacancy to exist in such office.

Such vacancy shall be filled in the manner provided by section 503.24 of the Revised Code. Whenever any township officer is absent from the township because of sickness or injury, the officer shall cause to be filed with the board of township trustees a certificate from a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner of the officer's sickness or injury. If such certificate is not filed with the board within ten days after the expiration of the ninety consecutive days of absence from the township, the officer's office shall be deemed vacant and the board of township trustees shall declare a vacancy to exist in such office.

This section ~~shall~~ does not apply to a township officer ~~while in the active military service of the United States~~ to whom division (B) of section 3.171 of the Revised Code applies.

Sec. 3313.11. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section does not apply to any joint vocational or cooperative education school district.

~~A~~ Except as otherwise provided in section 3.171 of the Revised Code, a vacancy in any board of education may be caused by death, nonresidence, resignation, removal from office, failure of a person elected or appointed to qualify within ten days after the organization of the board or of appointment or

election, removal from the district, or absence from meetings of the board for a period of ninety days, if such absence is caused by reasons declared insufficient by a two-thirds vote of the remaining members of the board, which vote must be taken and entered upon the records of the board not less than thirty days after such absence.

If the board members are selected by appointment pursuant to division (B) or (F) of section 3311.71 of the Revised Code, the appointing authority responsible for the appointment shall fill any such vacancy by appointment of an individual to serve the remainder of the unexpired term from a slate of at least three persons proposed by the municipal school district nominating panel established under that section. If the member creating the vacancy resides in a municipal school district but not in the municipal corporation containing the greatest portion of the district's territory, the individuals included on such slate shall also reside in the municipal school district but not in the municipal corporation containing the greatest portion of the district's territory.

If the board members are selected by election, the board shall fill any such vacancy at its next regular or special meeting, not earlier than ten days after such vacancy occurs. A majority vote of all the remaining members of the board may fill any such vacancy. Immediately after such a vote, the treasurer of the board of education shall give written notice to the board of elections responsible for conducting elections for that school district that a vacancy has been filled, and the name of the person appointed to fill the vacancy. Each person selected by the board or probate court to fill a vacancy shall hold office for the shorter of the following periods: until the completion of the unexpired term, or until the first day of

January immediately following the next regular board of education election taking place more than ninety days after a person is selected by the board or probate court to fill the vacancy. At that election, a special election to fill the vacancy shall be held in accordance with laws controlling regular elections for board of education members, except that no such special election shall be held if the unexpired term ends on or before the first day of January immediately following that regular board of education election. The term of a person chosen at a special election under this section shall begin on the first day of January immediately following the election, and the person shall serve for the remainder of the unexpired term. Whenever the need for a special election under this section becomes known, the board of education shall immediately give written notice of this fact to the board of elections responsible for conducting the regular board of education election for that school district.

The term of a board of education member shall not be lengthened by the member's resignation and subsequent selection by the board or probate court under this section.

Section 2. That existing sections 3.07, 3.17, 305.03, 503.241, and 3313.11 of the Revised Code are hereby repealed.