

By: Gonzales

H.B. No. 2797

A BILL TO BE ENTITLED

AN ACT

relating to the removal of county officers from office.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 87.001, Local Government Code, is amended to read as follows:

Sec. 87.001. NO REMOVAL FOR PRIOR ACTION. An officer may not be removed under this chapter for an act the officer committed before election to office if:

(1) the misconduct was a matter of public record before the election; and

(2) the act would not otherwise disqualify the officer from holding office.

SECTION 2. Section 87.013, Local Government Code, is amended to read as follows:

Sec. 87.013. GENERAL GROUNDS FOR REMOVAL. (a) An officer may be removed for:

(1) incompetency;

(2) official misconduct; or

(3) public intoxication, as defined by Section 49.02, Penal Code, on or off duty [~~caused by drinking an alcoholic beverage~~].

(b) Intoxication is not a ground for removal if it appears at the trial that the intoxication was caused by the use of a substance [~~drinking an alcoholic beverage~~] on the direction and

1 prescription of a licensed physician practicing in this state.

2 SECTION 3. Section 87.031, Local Government Code, is  
3 amended to read as follows:

4 Sec. 87.031. IMMEDIATE REMOVAL. (a) A plea of guilty or  
5 nolo contendere by, or a judgment of guilt [~~The conviction~~] of, a  
6 county officer [~~by a petit jury~~] for any felony or for a misdemeanor  
7 involving official misconduct operates as an immediate removal from  
8 office of that officer.

9 (b) The court rendering a judgment or issuing an order  
10 deferring adjudication in such a case shall include an order  
11 removing the officer in the judgment or order.

12 (c) An officer who pleads guilty or nolo contendere for a  
13 felony or misdemeanor involving official misconduct is considered  
14 to have resigned the office, and the resulting vacancy shall be  
15 filled as provided by Subchapter D.

16 (d) As soon as practicable after the signing of a judgment  
17 that includes an order of removal, the commissioners court of the  
18 county in which the officer holds office shall appoint a qualified  
19 person to perform the duties of the officer. A person appointed  
20 under this subsection shall temporarily perform the officer's  
21 duties until the judgment of guilt becomes final or the officer is  
22 acquitted of all felonies and misdemeanors involving official  
23 misconduct by the highest court to which the judgment is appealed.

24 (e) If an officer's conviction of a felony or misdemeanor  
25 involving official misconduct is upheld on appeal, or if a  
26 conviction is not appealed and becomes final by operation of law,  
27 the office of the removed officer becomes vacant and shall be filled

1 as provided by Subchapter D. A person appointed under Subsection  
2 (d) may continue to perform the duties of the office until a  
3 successor qualifies for office.

4 SECTION 4. Section 87.032, Local Government Code, is  
5 amended to read as follows:

6 Sec. 87.032. APPEAL[~~;~~ ~~SUSPENSION~~]. (a) If an ~~[the]~~  
7 officer removed from office under Section 87.031 appeals the  
8 judgment, the order of removal is effective until the final  
9 resolution of the appeal ~~[supersedes the order of removal unless~~  
10 ~~the court that renders the judgment finds that it is in the public~~  
11 ~~interest to suspend the officer pending the appeal. If the court~~  
12 ~~finds that the public interest requires suspension, the court shall~~  
13 ~~suspend the officer as provided by this subchapter].~~

14 (b) The salary and other emoluments of an officer removed  
15 from office under Section 87.031 continue until a final judgment of  
16 conviction is mandated or a civil judgment of removal is affirmed.

17 SECTION 5. (a) The changes in law made by this Act to  
18 Sections 87.001 and 87.013, Local Government Code, apply only to  
19 conduct that occurs on or after the effective date of this Act.  
20 Conduct that occurs before the effective date of this Act is  
21 governed by the law in effect on the date the conduct occurred, and  
22 the former law is continued in effect for that purpose.

23 (b) The changes in law made by this Act to Sections 87.031  
24 and 87.032, Local Government Code, apply only to a suit or appeal  
25 that begins on or after the effective date of this Act. A suit or  
26 appeal that begins before the effective date of this Act is governed  
27 by the law in effect on the date the suit or appeal began, and the

1 former law is continued in effect for that purpose.

2 SECTION 6. This Act takes effect September 1, 2007.