

By: Gonzales

H.B. No. 4352

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 87.013, 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 under 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 prescription of a licensed physician practicing in this state.

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

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

(b) The court rendering a judgment or issuing an order deferring adjudication in such a case shall include an order

1 removing the officer in the judgment or order.

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

6 (d) As soon as practicable after the signing of a judgment
7 that includes an order of removal, the commissioners court of the
8 county in which the officer holds office shall appoint a qualified
9 person to perform the duties of the officer. A person appointed
10 under this subsection shall temporarily perform the officer's
11 duties until the judgment of guilt becomes final or the officer is
12 acquitted of all felonies and misdemeanors involving official
13 misconduct by the highest court to which the judgment is appealed.

14 (e) If an officer's conviction of a felony or misdemeanor
15 involving official misconduct is upheld on appeal, or if a
16 conviction is not appealed and becomes final by operation of law,
17 the office of the removed officer becomes vacant and shall be filled
18 as provided by Subchapter D. A person appointed under Subsection
19 (d) may continue to perform the duties of the office until a
20 successor qualifies for office.

21 SECTION 3. Section 87.032, Local Government Code, is
22 amended to read as follows:

23 Sec. 87.032. APPEAL[~~, — SUSPENSION~~]. (a) If an [~~the~~]
24 officer removed from office under Section 87.031 appeals the
25 judgment, the order of removal is effective until the final
26 resolution of the appeal [~~supersedes the order of removal unless~~
27 ~~the court that renders the judgment finds that it is in the public~~

1 ~~interest to suspend the officer pending the appeal. If the court~~
2 ~~finds that the public interest requires suspension, the court shall~~
3 ~~suspend the officer as provided by this subchapter].~~

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

7 SECTION 4. (a) The change in law made by this Act to Section
8 87.013, Local Government Code, applies only to conduct that occurs
9 on or after the effective date of this Act. Conduct that occurs
10 before the effective date of this Act is governed by the law in
11 effect on the date the conduct occurred, and the former law is
12 continued in effect for that purpose.

13 (b) The changes in law made by this Act to Sections 87.031
14 and 87.032, Local Government Code, apply only to a suit or appeal
15 that begins on or after the effective date of this Act. A suit or
16 appeal that begins before the effective date of this Act is governed
17 by the law in effect on the date the suit or appeal began, and the
18 former law is continued in effect for that purpose.

19 SECTION 5. This Act takes effect September 1, 2009.