88R7416 BEF-D

By:  Birdwell S.B. No. 1105

A BILL TO BE ENTITLED

AN ACT

relating to the suspension and removal of certain public officers.

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

SECTION 1.  The heading to Chapter 665, Government Code, is amended to read as follows:

CHAPTER 665. SUSPENSION, IMPEACHMENT, AND REMOVAL

SECTION 2.  Chapter 665, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. SUSPENSION AND REMOVAL OF CERTAIN PUBLIC OFFICERS

Sec. 665.101.  DEFINITION. In this subchapter, "officer" means:

(1)  a state officer, other than a member of the legislature or an officer listed in Section 2, Article XV, Texas Constitution;

(2)  an officer of the military forces of this state not called into actual service of the United States;

(3)  a county officer; or

(4)  a municipal officer.

Sec. 665.102.  APPLICABILITY. This subchapter applies to the suspension and removal of an officer under Section 10, Article XV, Texas Constitution.

Sec. 665.103.  EXECUTIVE ORDER. (a) An executive order suspending an officer must:

(1)  state that the governor has suspended the officer from office for one or more of the following reasons:

(A)  the office has publicly declared that the officer will not enforce the laws of this state;

(B)  the officer has wilfully neglected the duties of office; or

(C)  the officer has been finally convicted of a felony; and

(2)  describe the officer's conduct that constitutes grounds for the suspension.

(b)  The governor shall:

(1)  file the executive order with the secretary of state; and

(2)  give a copy of the executive order in person or by registered mail to the officer being suspended.

Sec. 665.104.  PROCEDURE WHEN SENATE IS IN SESSION. If the senate is in a regular or called session when the governor files an executive order suspending an officer with the secretary of state, the secretary of state shall deliver by personal messenger a certified copy of the executive order to the secretary of the senate. The senate shall receive the executive order and set a day and time to conduct a vote on the question of removing the officer.

Sec. 665.105.  PROCEDURE WHEN SENATE IS NOT IN SESSION. (a) If the senate is not in a regular or called session when the governor files an executive order suspending an officer with the secretary of state, the secretary of state shall deliver by personal messenger or certified or registered mail a certified copy of the executive order to the lieutenant governor and the president pro tempore of the senate.

(b)  Upon receiving a copy of the executive order from the secretary of state, the lieutenant governor shall issue a proclamation setting a day and time for the senate to convene and conduct a vote on the question of removing the officer. If the lieutenant governor fails to issue the proclamation within five days of receiving the copy, the president pro tempore of the senate shall issue a proclamation setting a day and time for the senate to convene and conduct a vote on the question of removing the officer.

(c)  A copy of the proclamation and the executive order shall be sent by registered or certified mail to each member of the senate.

Sec. 665.106.  VOTE BY SENATE ON REMOVAL. (a) Regardless of whether the legislature is in a regular or called session, the senate shall convene on the day and time set under Section 665.104 or 665.105 unless the governor has reinstated the officer or the officer has resigned from office.

(b)  Before the senate votes on the question of removal, the governor or a person selected by the governor may address the senate to explain the reasons for the suspension and proposed removal.

(c)  If a majority of the members of the senate present vote to remove the officer, the officer is permanently removed from office and disqualified from holding any office of honor, trust, or profit under this state.

(d)  If a majority of the members of the senate present vote in the negative on the question of removal, the suspension is lifted and the officer is reinstated to office immediately.

SECTION 3.  This Act takes effect January 1, 2024, but only if the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, providing for the suspension of certain public officers by the governor and the trial, removal, and reinstatement of certain public officers by the senate is approved by the voters.  If that amendment is not approved by the voters, this Act has no effect.