

By: Birdwell

S.B. No. 1105

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the suspension and removal of certain public officers.

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

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

6 CHAPTER 665. SUSPENSION, IMPEACHMENT, AND REMOVAL

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

9 SUBCHAPTER E. SUSPENSION AND REMOVAL OF CERTAIN PUBLIC OFFICERS

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

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

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

17 (3) a county officer; or

18 (4) a municipal officer.

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

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

24 (1) state that the governor has suspended the officer

1 from office for one or more of the following reasons:

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

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

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

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

10 (b) The governor shall:

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

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

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

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

1 pro tempore of the senate.

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

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

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

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

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

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

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