



House of Representatives

General Assembly

File No. 582

January Session, 2009

Substitute House Bill No. 5827

House of Representatives, April 9, 2009

The Committee on Government Administration and Elections reported through REP. SPALLONE of the 36th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE REMOVAL OF MUNICIPAL ELECTED OR APPOINTED OFFICIALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) Any person who
2 holds a municipal office, whether by election or appointment, may be
3 removed from such office pursuant to the provisions of this section if:
4 (1) The term or tenure of such office is fixed by law, and (2) such
5 person: (A) Misappropriated public property or funds, (B) violated the
6 oath of office, (C) was convicted of a felony after such election or
7 appointment, (D) engaged in any act of malfeasance that adversely
8 affected the rights and interests of the public, or (E) failed to perform
9 any duty prescribed by law, to the detriment of the public interest.

10 (b) The Attorney General, the Chief State's Attorney or the state's
11 attorney for the judicial district in which such municipal officer resides
12 may file a petition with the Superior Court seeking the removal of such
13 officer for any reason listed in subdivision (2) of subsection (a) of this

14 section. Any such petition shall be prosecuted on behalf of the citizens
15 of the affected municipality by the Attorney General.

16 (c) Upon receipt of any such petition described in subsection (b) of
17 this section, the clerk of the Superior Court shall issue a summons,
18 together with a copy of such petition, requiring such municipal officer
19 to appear before the court on a date, as specified in such summons,
20 and answer the claim described in such petition. Such summons shall
21 be served not less than thirty days before the return day for such
22 summons and in a manner consistent with the provisions of chapter
23 896 of the general statutes.

24 (d) Immediately following the filing of any petition described in
25 subsection (b) of this section, the Superior Court shall forward a copy
26 of such petition to the Chief Justice of the Supreme Court of the state
27 for the purpose of impaneling a three-judge court that consists of three
28 judges of the Appellate Court of the state. The Chief Justice of the
29 Supreme Court of the state, without delay, shall appoint three
30 Appellate Court judges to hear such petition. At the time of making
31 such appointments, the Chief Justice shall designate the date, time and
32 place for the convening of such three-judge court. Such date shall be
33 not less than thirty days after receipt of such petition by the Chief
34 Justice.

35 (e) Such three-judge court shall hear the claims contained in such
36 petition and all evidence offered in support of such petition and in
37 opposition to such petition. Upon the presentation of clear and
38 convincing evidence in support of the claims contained in such
39 petition, such three-judge court shall issue an order for the removal of
40 such person from municipal office. Any such order that either removes
41 or denies the removal of any such person from municipal office shall
42 contain such findings of fact and conclusions of law as such three-
43 judge court shall deem sufficient to support its decision of all issues
44 presented by such petition.

45 (f) Any such order of removal shall concomitantly order the records,
46 papers and property of such removed municipal officer to the care,

47 custody and control of the Attorney General, Chief State's Attorney or
48 state's attorney, as applicable.

49 (g) An appeal from an order issued pursuant to subsection (e) of this
50 section may be taken to the Supreme Court of the state not later than
51 thirty days after the date of entry of such order. The Supreme Court
52 shall consider and decide any such appeal upon the original papers
53 and documents. The Attorney General shall represent the citizens of
54 the affected municipality in any such appeal.

55 (h) From the date of any order issued pursuant to subsection (e) of
56 this section that removes a person from municipal office, until the final
57 adjudication of any applicable appeal by the Supreme Court, the
58 municipal officer, commission or authority that has power to fill a
59 vacancy for such vacant municipal office may fill such vacant
60 municipal office with a temporary appointment. After the issuance of
61 any final decision by the Supreme Court in such matter, such vacant
62 municipal office shall be filled in accordance with any applicable
63 provision of the general statutes, special act, charter or ordinance.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	Cost	Potential	Potential

Explanation

This bill provides provisions for the removal of municipal elected or appointed officials. There is a potential cost to municipalities to fill any vacancy created by such removal. The rules to fill a vacancy vary with each town charter, some allow the vacancy to be filled by special appointment, other towns would require a special election.

The Office of the Attorney General can accommodate provisions of the bill with existing resources.

The Judicial Department would not require additional resources to handle potential cases brought under the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5827*****AN ACT CONCERNING THE REMOVAL OF MUNICIPAL ELECTED OR APPOINTED OFFICIALS.*****SUMMARY:**

This bill authorizes the attorney general, chief state's attorney, or a state's attorney to initiate an action to remove from office an elected or appointed municipal officer serving a fixed term. A three-judge panel comprised of Appellate Court judges hears the matter and determines whether to remove the officer. The parties have a right to appeal to the state Supreme Court. The attorney general prosecutes the action on behalf of the citizens of the affected municipality.

The body or entity authorized to fill municipal vacancies may appoint someone to fill a temporary vacancy created pursuant to an order of the panel. After a final decision by the state Supreme Court, the vacancy must be filled in accordance with any applicable state law, special act, or municipal charter or ordinance.

EFFECTIVE DATE: October 1, 2009

REMOVAL FROM OFFICE***Grounds***

The grounds for removal under the bill are:

1. misappropriation of public property or funds,
2. violation of the oath of office,
3. any felony conviction after election or appointment to office,
4. any act of malfeasance that adversely affects the rights and interests of the public, or

5. failure to perform any duty prescribed by law to the detriment of the public.

Initiating the Action

Under the bill, the attorney general, chief state's attorney, or the state's attorney for the district where the municipal officer resides may file a petition for removal in Superior Court. Once a petition is received, the court clerk issues a summons, together with the petition, for the officer to appear before the court on a specified date and answer the claim in the petition. The summons must be served in the same manner as other civil matters and afford the municipal officer at least 30 days to appear.

The court must immediately send a copy of the filed petition to the chief justice of the state Supreme Court so that she can impanel three Appellate Court judges to hear the matter and set the date, time, and place for the hearing, which cannot be held sooner than 30 days after she received the petition.

Court Order

After hearing the claims and evidence on both sides, the panel must issue an order that includes its findings and conclusions. The panel may order the removal of an officer if it finds that the attorney general proves his case by clear and convincing evidence. Any order of removal must also order the transfer of the officer's records, paper, and property to the care, custody, and control of the attorney general, chief state's attorney, or the state's attorney for the district.

Appeal

Appeals from an order of the panel must be filed with the state Supreme Court within 30 days after the date the order was entered. The Court must decide the appeal on the record.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 12 Nay 3 (03/25/2009)