

House Bill 367

By: Representative Byrd of the 170<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 45 of the Official Code of Georgia Annotated, relating to  
2 vacation of office by certain public officers and employees, so as to provide a procedure for  
3 the suspension of members of local government authorities upon felony indictment by a  
4 grand jury; to provide for reinstatement in certain circumstances; to provide for removal  
5 upon conviction and after exhaustion of appeals; to limit compensation; to provide for  
6 replacement officials; to provide for applicability and an effective date; to repeal conflicting  
7 laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 5 of Title 45 of the Official Code of Georgia Annotated, relating to vacation of  
11 office by certain public officers and employees, is amended by adding a new Code Section  
12 45-5-6.2 to read as follows:

13 "45-5-6.2.

14 (a) As used in this Code section, the term:

15 (1) 'Authority official' means any appointed member of a governing body of a local  
16 authority.

17 (2) 'Local authority' includes without limitation instrumentalities of one or more local  
18 governments created to fulfill a specialized public purpose or any other legally created  
19 organization that has authority to issue debt for a public purpose independent of a county  
20 or municipality. The term does not include state authorities. Such local authorities may  
21 have been created by local constitutional amendment, general statute, or local law.

22 (b) Unless otherwise provided by general law, upon indictment of an authority official for  
23 a felony offense by a grand jury of this state or by the United States, the governing  
24 authority of the county or municipality that appointed the authority official may, by  
25 resolution entered on the minutes of the governing authority, suspend the authority official  
26 from the appointed office immediately and without further action pending the final

1 disposition of the case or until the expiration of his or her appointed term of office,  
2 whichever occurs first. During the term of the office to which such officer was appointed  
3 and in which the indictment occurred, if a nolle prosequi is entered, if the authority official  
4 is acquitted, or if, after conviction, the conviction is later overturned as a result of any  
5 direct appeal or application for a writ of certiorari, the authority official shall be  
6 immediately reinstated to the office from which he or she was suspended. If the local  
7 authority is a joint authority or regional authority with appointments from more than one  
8 county, municipality, or combination of counties and municipalities, the governing  
9 authority of the county or municipality which was responsible for the appointment shall be  
10 authorized to suspend the indicted authority official.

11 (c) If the suspended authority official is compensated for his or her duties on behalf of the  
12 local authority, the authority official shall continue to receive the compensation from his  
13 or her office until a conviction. After a conviction, the authority official shall not be  
14 entitled to receive the compensation from his or her office. If the authority official is  
15 reinstated to office, he or she shall be entitled to receive any compensation withheld under  
16 the provisions of this Code section. For the purpose of this Code section, a plea of nolo  
17 contendere shall be considered a conviction.

18 (d) For the duration of any suspension of any authority official under this Code section,  
19 a replacement official for the authority official suspended shall be appointed as provided  
20 for in any general law, local law, ordinance, or resolution governing the filling of a  
21 temporary vacancy in the public office affected. If no such general law, local law,  
22 ordinance, or resolution governing the filling of a temporary vacancy is applicable, then  
23 the governing authority of the county or city responsible for the initial appointment shall  
24 appoint a replacement officer for the authority official suspended. Upon final conviction  
25 and after exhaustion of all appeals, if any, the office of the authority official shall be  
26 vacated immediately without further action. Said vacancy shall be filled by the  
27 replacement official appointed pursuant to this subsection for the balance of the appointed  
28 term of the convicted authority official."

## 29 SECTION 2.

30 (a) This Act shall become effective upon its approval by the Governor or upon its becoming  
31 law without such approval.

32 (b) The provisions of this Act shall not apply to any indictment handed down prior to the  
33 effective date of this Act.

## 34 SECTION 3.

35 All laws and parts of laws in conflict with this Act are repealed.