

The Senate Committee on State and Local Governmental Operations-General offered the following substitute to HB 691:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated,
2 relating to municipal courts generally, so as to provide for the removal of appointed
3 municipal court judges under certain circumstances; to provide for procedure; to provide for
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

6 Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to
7 municipal courts generally, is amended by revising subsection (a) of Code Section 36-32-2,
8 relating to appointment of judges, as follows:
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10 "(a) Notwithstanding any other provision of this chapter or any general or local Act, the
11 governing authority of each municipal corporation within this state having a municipal
12 court, as provided by the Act incorporating the municipal corporation or any amendments
13 thereto, is authorized to appoint a judge of such court. Any ~~person~~ individual appointed
14 as a judge under this Code section shall possess such qualifications as set forth in Code
15 Section 36-32-1.1 and shall receive such compensation as shall be fixed by the governing
16 authority of the municipal corporation ~~and shall serve at the pleasure of the governing~~
17 ~~authority.~~ Any individual appointed as a judge under this Code section shall serve for a
18 minimum term of one year and until a successor is appointed or if the judge is removed
19 from office as provided in Code Section 36-32-2.2. Such term shall be memorialized in
20 a written agreement between such individual and the governing authority of the municipal
21 corporation or in an ordinance or a charter. With respect to an individual serving as a
22 municipal court judge in a consolidated government, the local Act shall determine the term
23 of such judge."

SECTION 2.

24 Said article is further amended by adding a new Code section to read as follows:
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"36-32-2.2.

(a) As used in this Code section, the term 'judge' means an individual serving as an appointed municipal court judge.

(b)(1) A judge may be removed during his or her term of office by a two-thirds' vote of the entire membership of the governing authority of the municipal corporation for:

(A) Willful misconduct in office;

(B) Willful and persistent failure to perform duties;

(C) Habitual intemperance;

(D) Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or

(E) Disability seriously interfering with the performance of duties, which is, or is likely to become, of a permanent character.

(2) A municipality may define in its charter further conduct that may lead to a judge's removal.

(c) Removal proceedings pursuant to subsection (b) of this Code section may be initiated only by written petition setting forth the grounds for removal of a judge signed by one or more members of the governing authority of the municipal corporation. Upon submission of the petition to remove the judge to such governing authority, the governing authority may consider the petition and determine if the petition relates to and adversely affects the administration of the office of the judge and the rights and interests of the public. If it is determined at a public meeting by a majority vote of the governing authority of the municipal corporation that there is an adverse impact, the judge may be suspended immediately and without further action for up to 60 days pending the final determination pursuant to subsection (e) of this Code section. A judge suspended pursuant to this subsection shall continue to receive the compensation from his or her office until the final determination on the petition or expiration of the suspension.

(d) If by the expiration of the suspension period no formal resolution of the petition has been made, the judge shall be reinstated.

(e) Removal proceedings shall consist of an open and public hearing held by the governing authority of the municipal corporation, provided that the judge against whom such charges have been brought shall be furnished a copy of the charges at least ten days prior to the hearing. At the conclusion of the hearing, the governing authority of the municipal corporation shall determine whether or not to remove the judge from office. The governing authority of the municipal corporation may adopt rules governing the procedures at such hearings, provided that such hearings comport with due process. The right of certiorari from the decision to remove a judge from office shall exist, and such certiorari shall be

62 obtained under the sanction of a judge of the superior court of the circuit in which the
63 governing authority of the municipal corporation is situated.

64 (f) This Code section shall not affect the power and authority of the Judicial Qualifications
65 Commission to discipline, remove, or cause the involuntary retirement of judges.

66 (g) Any vacancy in a judgeship created by the removal of a judge pursuant to this Code
67 section may be temporarily filled by the governing authority of the municipal corporation
68 for a period not longer than 90 days by any individual qualified by law to serve as a
69 municipal court judge. If after the conclusion of the removal proceedings, including the
70 appeal period, there is a vacancy for such judgeship, the governing authority of the
71 municipal corporation may appoint a judge in the same manner as set forth in Code Section
72 36-32-2.

73 (h) The provisions of this Code section shall expressly supersede any conflicting local law
74 of this state; provided, however, that this Code section shall not apply to a local Act
75 creating a municipal court for a consolidated government."

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SECTION 3.

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