

House Bill 907 (AS PASSED HOUSE AND SENATE)

By: Representatives Fleming of the 121st, Rynders of the 152nd, and Brockway of the 102nd

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, so as to provide for the appointment and election of a successor in the
3 event of a vacancy in the office of district attorney; to provide for the term of such successor;
4 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 5 of Title 45 of the Official Code of Georgia Annotated, relating to vacation of
9 office, is amended by revising subsection (a) of Code Section 45-5-3, relating to election or
10 appointment of successor to fill unexpired terms, as follows:

11 "(a) In those instances where the law applicable to an elective public office does not
12 provide for filling a vacancy in such office and the Governor fills such vacancy pursuant
13 to the authority of Article V, Section II, Paragraph ~~VIII~~, subparagraph (a) VIII(a) of the
14 Constitution and in those instances where the Governor fills a vacancy in the office of
15 district attorney pursuant to Article VI, Section ~~VIII~~, Paragraph I, subparagraph (a) of the
16 Constitution, the vacancy shall be filled as follows:

17 (1) If the vacancy occurs during the final 27 months of a term of office, the Governor
18 shall appoint a person to fill such vacancy for the remainder of the unexpired term of
19 office; or

20 (2) If the vacancy occurs at any time prior to the time specified in paragraph (1) of this
21 subsection, the Governor shall appoint a person to fill such vacancy until such vacancy
22 is filled for the unexpired term of office at a special election provided for in
23 subsection (b) of this Code section."

24 **SECTION 2.**

25 Said chapter is further amended by adding a new Code section to read as follows:

26 "45-5-3.2.

27 (a) In those instances where the Governor fills a vacancy in the office of district attorney
28 pursuant to Article VI, Section VIII, Paragraph I(a) of the Constitution, the vacancy shall
29 be filled by the Governor appointing a qualified individual to the office of district attorney
30 who shall serve until January 1 of the year following the next state-wide general election
31 which is more than six months after the date of the appointment of such individual, even
32 if such period of time extends beyond the unexpired term of the prior district attorney.

33 (b) A special election shall be held on the same date as the state-wide November general
34 election which is first held following the date of the vacancy which is more than six months
35 after the appointment of an individual to fill the vacancy and shall be held in conjunction
36 with such general election.

37 (c) It shall be the duty of the Secretary of State to call and conduct the special election
38 required by subsection (b) of this Code section in accordance with the applicable provisions
39 of Chapter 2 of Title 21, the 'Georgia Election Code.' Any individual elected at such
40 special election pursuant to subsection (b) of this Code section shall possess the
41 qualifications to seek and hold such office as provided by law.

42 (d) The individual elected in the special election conducted pursuant to subsection (b) of
43 this Code section shall begin a new four-year term of office on January 1 immediately
44 following such special election."

45 **SECTION 3.**

46 This Act shall become effective upon its approval by the Governor or upon its becoming law
47 without such approval.

48 **SECTION 4.**

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