

Senate Bill 138

By: Senators Williams of the 25th, Robertson of the 29th, Hatchett of the 50th, Beach of the 21st, Anderson of the 24th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Sections 15-16-8 and 45-5-6 of the Official Code of Georgia Annotated,
2 relating to how vacancies filled, failure to appoint, and certification required and public
3 official investigated by special commission upon indictment, gubernatorial review if
4 commission recommends suspension, suspension, reinstatement, and replacement or
5 temporary officer, respectively, so as to revise the procedure for filling vacancies in the
6 office of sheriff; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 15-16-8 of the Official Code of Georgia Annotated, relating to how vacancies
11 filled, failure to appoint, and certification required, is amended as follows:

12 "15-16-8.

13 (a) ~~Except as otherwise provided by local law, vacancies~~ Vacancies in the office of sheriff
14 shall be filled by the chief deputy sheriff ~~if a chief deputy has been appointed by the elected~~
15 sheriff. In any county in which a chief deputy sheriff has not been appointed ~~by the elected~~
16 sheriff, the ~~probate judge~~ chief judge of the superior court of the circuit of the sheriff's

residence shall, within three days of the vacancy, appoint a ~~qualified person who meets the~~
qualifications for sheriff pursuant to Code Section 15-16-1 to serve as the interim sheriff.

(b)(1) If less than six months of the elected sheriff's term of office remains at the time
the vacancy occurs, ~~either~~ the chief deputy sheriff appointed by the elected sheriff or the
interim sheriff, ~~as the case may be, appointed by the chief judge of the superior court of~~
the circuit of the sheriff's residence shall hold office for the unexpired term of the elected
sheriff.

(2) If more than six months of the elected sheriff's term of office remains at the time the
vacancy occurs, the election superintendent for the county shall call a special election to
fill such vacancy. Such official shall give notice in one or more of the public newspapers
of the county, if any; in the official legal organ of the county; at the courthouse; and at
three or more of the most public places of the county at least 30 days prior to the date of
such special election. Such special election shall be held at the next available special
election date provided in Code Section 21-2-540 that is at least 60 days after the date the
vacancy occurred. The person elected at such special election shall hold office for the
unexpired term. The election shall be conducted in accordance with Chapter 2 of
Title 21.

(c) Notwithstanding the provisions of Code Section 45-5-1, the office of sheriff shall by
operation of law be deemed vacant upon certification by the Georgia Peace Officer
Standards and Training Council to the judge of the probate court of the county that the
certification required to be a peace officer has been revoked for the sheriff of said county,
or if the sheriff pleads guilty to or is convicted of any felony in a trial court of this state or
the United States. Such vacancy shall be filled as provided in this Code section.

(d) The suspension of a sheriff as provided for in Code Sections 15-16-26 and 45-5-6 shall
not constitute a vacancy in the office of sheriff."

SECTION 2.

Code Section 45-5-6 of the Official Code of Georgia Annotated, relating to public official investigated by special commission upon indictment, gubernatorial review if commission recommends suspension, suspension, reinstatement, and replacement or temporary officer, is amended by revising subsection (d) as follows:

"(d)(1) For the duration of any suspension of any elected member of any municipal or consolidated city-county governing authority under this Code section, a replacement officer for the public officer suspended shall be appointed as provided for in any general law, local law, ordinance, or resolution governing the filling of a temporary vacancy in the public office affected. For the duration of any suspension of any other public official under this Code section, a replacement officer for the public official shall be appointed as provided for in any applicable general or local law governing the filling of a temporary vacancy in the public office affected. If no such general law, local law, ordinance, or resolution governing the filling of a temporary vacancy is applicable, then the Governor shall appoint a replacement officer for the public official suspended.

(2) If the public officer is a sheriff, the provisions of Code Section 15-16-26 shall apply for the purpose of temporarily filling said vacancy in office.

(3) Upon the final conviction, the office of the public official shall be vacated immediately without further action. Said vacancy shall be filled in the manner provided by law for filling vacancies in such office."

SECTION 3.

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