

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 226 be amended to read as follows:

- 1 Page 2, delete lines 9 through 21, begin a new paragraph and insert:
- 2 "Sec. 7. (a) If the legislative body of the unit is notified by the
- 3 prosecuting attorney under section 6 of this chapter, the voters of
- 4 the unit may initiate a referendum on the question of suspending
- 5 the local elected official from office. A referendum may be initiated
- 6 by the filing of a written petition with the circuit court clerk that
- 7 is signed by at least five percent (5%) of the voters of the unit, as
- 8 determined by the vote cast in the county for secretary of state at
- 9 the most recent general election.
- 10 (b) A petition filed under subsection (a) must provide the name,
- 11 telephone number, and electronic mail address (if available) of the
- 12 contact person for the petitioners.
- 13 Sec. 8. (a) If a petition meets the requirements of section 7 of
- 14 this chapter, the circuit court clerk shall certify the petition to the
- 15 legislative body of the unit. Not later than ten (10) days after
- 16 receiving the certified petition from the clerk, the legislative body
- 17 shall adopt a resolution requesting the date for the election as
- 18 follows:
- 19 (1) If the legislative body requests that the public question be
- 20 on the same date as a general election or primary election:
- 21 (A) the resolution must state that the election is to be on
- 22 the same date as a general or primary election, and must
- 23 be certified in accordance with IC 3-10-9-3; and
- 24 (B) the election must be held on the date of the next general

1 election or primary election, whichever is earlier, at which
 2 the question can be placed on the ballot under IC 3-10-9-3.

3 **(2) If the certified petition contains a request for a special**
 4 **election, the legislative body may request that the public**
 5 **question will be on the ballot of a special election. An election**
 6 **may be considered a special election only if it is conducted on**
 7 **a date other than the date of a general election or primary**
 8 **election. The date of the special election must be:**

9 **(A) at least thirty (30) and not more than sixty (60) days**
 10 **after the notice of the election is filed under IC 3-10-8-4;**
 11 **and**

12 **(B) before the date of the next general election or primary**
 13 **election, whichever is earlier, at which the question can be**
 14 **placed on the ballot under IC 3-10-9-3.**

15 **If the public question is on the ballot of a special election, the**
 16 **unit shall pay the costs of holding the special election.**

17 **The legislative body shall file the resolution adopted under this**
 18 **subsection with the county auditor and the county election board.**

19 **(b) The county auditor shall certify the following public question**
 20 **under IC 3-10-9-3 to the county election board of the county. After**
 21 **the public question is certified, the following public question shall**
 22 **be placed on the ballot:**

23 **"Shall (insert name of person) be suspended from holding the**
 24 **office of (insert name of the local elected office)? (A "yes"**
 25 **vote on the public question means the person is suspended**
 26 **from office. A "no" vote on the public question means the**
 27 **person continues to hold the local elected office.)"**

28 **Sec. 9. (a) Only the registered voters who are residents of the**
 29 **unit may vote on the public question.**

30 **(b) The circuit court clerk shall certify the results of a public**
 31 **question under this section to the following:**

- 32 **(1) The county auditor.**
 33 **(2) The state board of accounts.**
 34 **(3) The election division.**

35 **(c) If a majority of the voters voting on a public question under**
 36 **this section vote "yes" to the public question, the local elected**
 37 **official shall be suspended from office until the official is convicted**
 38 **or acquitted, charges against the official are dropped, or the**
 39 **official's term of office ends. If a majority of the voters voting on**
 40 **the public question under this section vote "no" to the public**
 41 **question, the local elected official shall not be suspended from**
 42 **office."**

43 Page 2, line 22, delete "(c)" and insert "Sec. 10. (a)".

44 Page 2, line 23, after "official" insert "to whom a resolution
 45 described in section 8 of this chapter relates".

46 Page 2, line 42, delete "resolution described in" and insert
 47 "resolution.".

1 Page 3, delete lines 1 through 31, begin a new paragraph and insert:
2 **"(b) If the local elected official charged with an eligible offense**
3 **is a member of the legislative body of a unit, the local elected**
4 **official is ineligible to vote on the resolution described in section 8**
5 **of this chapter.**

6 **(c) This subsection applies if the number of members of a**
7 **legislative body of a unit who are:**

- 8 **(1) charged with an eligible offense; or**
 - 9 **(2) ineligible to vote under subsection (a) or (b);**
- 10 **makes it impossible for the legislative body to reach a quorum. If**
11 **this subsection applies, a resolution may be adopted under section**
12 **8 of this chapter by a majority of the voting members.**

13 **Sec. 11. (a) A local elected official may seek judicial review of**
14 **the local elected official's suspension under this chapter by filing a**
15 **petition for review with a circuit court located:**

- 16 **(1) in the county where the local elected official served; or**
- 17 **(2) in a county adjacent to the county where the local elected**
18 **official served;**

19 **not later than thirty (30) days after the date on which the local**
20 **elected official was suspended. The local elected official shall serve**
21 **a copy of the petition on the prosecuting attorney and on the**
22 **legislative body.**

23 **(b) A petition for review filed under this section must be verified**
24 **and must set forth specific facts to demonstrate:**

- 25 **(1) that the prosecuting attorney did not charge the local**
26 **elected official with an eligible offense; or**
- 27 **(2) that a court did not find probable cause to believe that the**
28 **offense was committed."**

29 Page 4, line 2, delete "through" and insert "or".

30 Page 4, line 3, delete "(b)(4)," and insert "(b)(2)".

31 Page 4, line 6, delete "Sec. 9." and insert "Sec. 12.".

32 Page 4, delete lines 12 through 18, begin a new paragraph and
33 insert:

34 **"Sec. 13. (a) This section does not apply if the suspended local**
35 **elected official is a member of the legislative body.**

36 **(b) If a local elected official is suspended under this chapter, the**
37 **legislative body shall ensure that the duties of the suspended local**
38 **elected official are carried out and may appoint an acting**
39 **replacement for the suspended official."**

- 1 Page 4, line 19, delete "11." and insert "**14.**".
- 2 Page 4, line 19, delete "section 7 of".
- 3 Page 4, line 22, delete "12." and insert "**15.**".
- 4 Page 4, line 23, delete "section 7 of".
(Reference is to ESB 226 as printed March 29, 2013.)

Representative McMillin