PART V

SUSPENSION, REMOVAL, OR RETIREMENT OF PUBLIC OFFICERS

112.40 Disposition of order of suspension.--An order of suspension by the Governor, upon its execution, shall be delivered to the Department of State. The department shall forthwith deliver copies by registered mail, or otherwise as it may be advised, to the officer suspended, the Secretary of the Senate, and the Attorney General. The order of suspension shall be effective upon the filing of the same with the department of state. No further communication by the Governor with the Senate shall be necessary to permit the Senate to act.

History.--s. 1, ch. 69-277; ss. 10, 35, ch. 69-106.

112.41 Contents of order of suspension; Senate select committee; special magistrate.--

(1) The order of the Governor, in suspending any officer pursuant to the provisions of s. 7, Art. IV of the State Constitution, shall specify facts sufficient to advise both the officer and the Senate as to the charges made or the basis of the suspension.

(2) The Senate shall conduct a hearing in the manner prescribed by rules of the Senate adopted for this purpose.

(3) The Senate may provide for a select committee to be appointed by the Senate in accordance with its rules for the purpose of hearing the evidence and making its recommendation to the Senate as to the removal or reinstatement of the suspended officer.

(4) The Senate may, in lieu of the use of a select committee, appoint a special magistrate to receive the evidence and make recommendations to the Senate.

History.--s. 2, ch. 69-277; s. 60, ch. 2004-11.

112.42 Period during which grounds may have occurred.--The Governor may suspend any officer on any constitutional ground for such suspension that occurred during the existing term of the officer or during the next preceding 4 years.

History.--s. 3, ch. 69-277; s. 1, ch. 71-333.
112.43 Prosecution of suspension before Senate.--All suspensions heard by the Senate, a select committee, or special magistrate in accordance with rules of the Senate shall be prosecuted by the Governor, the Governor's legal staff, or an attorney designated by the Governor. Should the Senate, or the select committee appointed by the Senate to hear the evidence and to make recommendations, desire private counsel, either the Senate or the select committee shall be entitled to employ its own counsel for this purpose. Nothing herein shall prevent the Senate or its select committee from making its own investigation and presenting such evidence as its investigation may reveal. The Governor may request the advice of the Department of Legal Affairs relative to the suspension order prior to its issuance by the Governor. Following the issuance of the suspension order, either the Senate or the select committee may request the Department of Legal Affairs to provide counsel for the Senate to advise on questions of law or otherwise advise with the Senate or the select committee, but the Department of Legal Affairs shall not be required to prosecute before the Senate or the committee and shall, pursuant to the terms of this section, act as the legal adviser only.

History.--s. 4, ch. 69-277; s. 33, ch. 77-104; s. 712, ch. 95-147; s. 61, ch. 2004-11.

112.44 Failure to prove charges; payment of attorney's fees or salary.--In the event any officer suspended by the Governor shall not be removed by the Senate, the officer shall be reinstated, and the Senate may provide that the county, district, or state, as the case may be, shall pay reasonable attorney's fees and costs of the reinstated officer upon his or her exoneration; or the Legislature may at any time after such reinstatement provide for the payment from general revenue funds of reasonable attorney's fees and costs or the salary and emoluments of office from the date of suspension to the date of reinstatement. The appropriation for such fees, costs, and salary and emoluments may be contained in the General Appropriations Act or any other appropriate general act. This part shall constitute sufficient authority for the payment of such attorney's fees and costs as the officer may reasonably have incurred in his or her own defense.

History.--s. 5, ch. 69-277; s. 2, ch. 80-333; s. 713, ch. 95-147.

112.45 Senate's report; results of prosecution.--

(1) The Secretary of the Senate shall, as soon as reasonably possible following the action of the Senate, file with the Department of State a report of the action of the Senate, including an order signed by the President and the Secretary specifying the action taken by the Senate. The action of the Senate shall become effective immediately upon the filing of the order with the Department of State, and the Department of State shall forthwith deliver copies of such order to the Governor, the officer involved, and the governing body of the county, district, or state, as the case may be. Any such order or any certified copy thereof, under the signature of the Secretary of State, may be recorded in the public records of any county in this state.

(2) The date of delivery of the order to the Department of State shall be the effective date of the removal or reinstatement, as the case may be, and, should the official be reinstated, he or she shall be entitled to reimbursement for such pay and emoluments of office from the date of suspension to that date, as though he or she had never been suspended, and the order of the Senate, or a certified copy thereof, shall constitute the authority of the county, district, or state, to make such payment for reimbursement.

History.--s. 6, ch. 69-277; ss. 10, 35, ch. 69-106; s. 714, ch. 95-147.
112.46 Period during which suspension will lie.--Any officer subject to suspension by the Governor pursuant to the State Constitution shall be subject to such suspension from the date provided by law for such officer to take office whether or not the Governor has executed and delivered the commission of office to the said officer. It is the intent of this part to provide that the formal execution of a commission by the Governor and a delivery thereof to the officer is a ministerial duty not necessary either to the performance of the duties of that officer or to the susceptibility to suspension of that officer. However, nothing in this part shall prohibit or preclude any officer claiming title to any office from seeking a judicial determination of his or her right to such office, regardless of the issuance or nonissuance of a commission to such office.

History.--s. 7, ch. 69-277; s. 715, ch. 95-147.

112.47 Hearing before Senate select committee; notice.--The Senate shall afford each suspended official a hearing before a select committee or special magistrate, and shall notify such suspended official of the time and place of the hearing sufficiently in advance thereof to afford such official an opportunity fully and adequately to prepare such defenses as the official may be advised are necessary and proper, and all such defenses may be presented by the official or by the official's attorney. In the furtherance of this provision the Senate shall adopt sufficient procedural rules to afford due process both to the Governor in the presentation of his or her evidence and to the suspended official, but in the absence of such adoption, this section shall afford a full and complete hearing, public in nature, as required by the State Constitution. However, nothing in this part shall prevent either the select committee or the Senate from conducting portions of the hearing in executive session if the Senate rules so provide.

112.48 Suspension when Senate not in session.--The Governor may suspend any officer at any time, whether or not the Senate is in session. However, the Senate need not hear or determine the question of the suspension of the officer during any regular session.

History.--s. 9, ch. 69-277; s. 8, ch. 69-277; s. 716, ch. 95-147; s. 62, ch. 2004-11.

112.49 Persons exercising powers and duties of county officers subject to suspension by Governor.--In the administration of any city-county merger or city-county charter, or any such form of government which provides for the merging of the powers, duties, and functions of any municipal and county governments, any officer, official, or employee of such merged government who exercises the powers and duties of a county officer, whether he or she shall be elected or appointed, shall be deemed to be a county officer and therefore subject to the power of the Governor under the State Constitution to suspend officers. If the charter or other authority under which any city-county merger is accomplished shall provide means for the suspension or removal of such officers, then the power to suspend shall be concurrent in the city-county government and in the Governor.

History.--s. 2, ch. 71-333; s. 717, ch. 95-147.

112.50 Governor to retain power to suspend public officers.--Whenever any state, county, or municipal officer is made subject to suspension or removal by the terms of any statute or municipal charter, the power of the Governor to suspend officers shall not be affected by such statutory or charter provisions, and the power to suspend shall reside concurrently in the Governor and in the statutory or charter authority.

History.--s. 3, ch. 71-333.
112.501 Municipal board members; suspension; removal.--

(1) For the purposes of this section, the term "municipal board member" is defined as any person who is appointed or confirmed by the governing body of a municipality to be a member of a board, commission, authority, or council which is created or authorized by general law, special act, or municipal charter.

(2) By resolution specifying facts sufficient to advise a municipal board member as to the basis for his or her suspension or removal and after reasonable notice to the municipal board member and an opportunity for the member to be heard, a governing body of the municipality may:

(a) Suspend or remove from office any municipal board member for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform his or her official duties.

(b) Suspend from office any municipal board member who is arrested for a felony or for a misdemeanor related to the duties of office or who is indicted or informed against for the commission of any federal felony or misdemeanor.

(3) In addition to the authority granted under subsection (2), the governing body of a municipality may remove from office any municipal board member who is convicted of a federal felony or misdemeanor. For the purposes of this subsection, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding a suspension of sentence or a withholding of adjudication.

(4) A suspended municipal board member may, at any time before his or her removal, be reinstated by the governing body of the municipality in its discretion.

(5) The suspension of a municipal board member by the governing body of a municipality creates a temporary vacancy in such office during the suspension. Any temporary vacancy in office created by the suspension of a municipal board member under the provisions of this section shall be filled by a temporary appointment to such office for the period of the suspension, not to extend beyond the term of the suspended municipal board member. Such temporary appointment shall be made in the same manner and by the same authority as provided by law for the filling of a permanent vacancy in such office. If no provision for filling a permanent vacancy in such office is provided by law, special act, or municipal charter, the temporary appointment shall be made by the governing body of the municipality.

(6) No municipal board member who has been suspended from office under this section may perform any official act, duty, or function during his or her suspension; receive any pay or allowance during his or her suspension; or be entitled to any of the emoluments or privileges of his or her office during suspension.

(7) If the municipal board member is acquitted or found not guilty or is otherwise cleared of the charges which were the basis of the arrest, indictment, or information by reason of which he or she was suspended under the provisions of this section, the governing body of the municipality shall forthwith revoke the suspension and restore such municipal board member to office; and the member shall be entitled to and be paid full back pay and other emoluments or allowances to which he or she would have been entitled for the full period of time of the suspension. If, during the suspension, the term of office of the municipal board member expires and a successor is either appointed or confirmed, such back pay, emoluments, or
allowances shall only be paid for the duration of the term of office during which the municipal board member was suspended under the provisions of this section, and he or she shall not be reinstated.

(8) This section applies in the absence of a charter provision.

History.--s. 1, ch. 84-245; s. 718, ch. 95-147.
112.51 Municipal officers; suspension; removal from office.--

(1) By executive order stating the grounds for the suspension and filed with the Secretary of State, the Governor may suspend from office any elected or appointed municipal official for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties.

(2) Whenever any elected or appointed municipal official is arrested for a felony or for a misdemeanor related to the duties of office or is indicted or informed against for the commission of a federal felony or misdemeanor or state felony or misdemeanor, the Governor has the power to suspend such municipal official from office.

(3) The suspension of such official by the Governor creates a temporary vacancy in such office during the suspension. Any temporary vacancy in office created by suspension of an official under the provisions of this section shall be filled by a temporary appointment to such office for the period of the suspension. Such temporary appointment shall be made in the same manner and by the same authority by which a permanent vacancy in such office is filled as provided by law. If no provision for filling a permanent vacancy in such office is provided by law, the temporary appointment shall be made by the Governor.

(4) No municipal official who has been suspended from office under this section may perform any official act, duty, or function during his or her suspension; receive any pay or allowance during his or her suspension; or be entitled to any of the emoluments or privileges of his or her office during suspension.

(5) If the municipal official is convicted of any of the charges contained in the indictment or information by reason of which he or she was suspended under the provisions of this section, the Governor shall remove such municipal official from office. If a person was selected to fill the temporary vacancy pursuant to subsection (3), that person shall serve the remaining balance, if any, of the removed official's term of office. Otherwise, any vacancy created by the removal shall be filled as provided by law. For the purposes of this section, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding a suspension of sentence or a withholding of adjudication.

(6) If the municipal official is acquitted or found not guilty or is otherwise cleared of the charges which were the basis of the arrest, indictment, or information by reason of which he or she was suspended under the provisions of this section, then the Governor shall forthwith revoke the suspension and restore such municipal official to office; and the official shall be entitled to and be paid full back pay and such other emoluments or allowances to which he or she would have been entitled for the full period of time of the suspension. If, during the suspension, the term of office of the municipal official expires and a successor is either appointed or elected, such back pay, emoluments, or allowances shall only be paid for the duration of the term of office during which the municipal official was suspended under the provisions of this section, and he or she shall not be reinstated.

History.--s. 1, ch. 67-66; s. 1, ch. 69-256; s. 3, ch. 73-129; s. 2, ch. 84-245; s. 16, ch. 87-224; s. 719, ch. 95-147; s. 50, ch. 2007-30.

Note.--Former s. 166.16.
112.52 Removal of a public official when a method is not otherwise provided.--

(1) When a method for removal from office is not otherwise provided by the State Constitution or by law, the Governor may by executive order suspend from office an elected or appointed public official, by whatever title known, who is indicted or informed against for commission of any felony, or for any misdemeanor arising directly out of his or her official conduct or duties, and may fill the office by appointment for the period of suspension, not to extend beyond the term.

(2) During the period of the suspension, the public official shall not perform any official act, duty, or function or receive any pay, allowance, emolument, or privilege of office.

(3) If convicted, the public official may be removed from office by executive order of the Governor. For the purpose of this section, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding the suspension of sentence or the withholding of adjudication.

(4) If the public official is acquitted or found not guilty, or the charges are otherwise dismissed, the Governor shall by executive order revoke the suspension; and the public official shall be entitled to full back pay and such other emoluments or allowances to which he or she would have been entitled had he or she not been suspended.

History.--s. 1, ch. 80-333; s. 720, ch. 95-147.