
By Mr. Sears of Boston, petition of Victor A. Fanikos and John W. Sears for legislation relative to the suspension of employees of cities, towns and districts during periods such persons are under indictment for misconduct in office. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT AUTHORIZING APPOINTING AUTHORITIES TO SUSPEND PERSONS FROM THE SERVICE OF CITIES, TOWNS AND DISTRICTS DURING ANY PERIOD SUCH PERSONS ARE UNDER INDICTMENT FOR MISCONDUCT IN OFFICE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 41 of the General Laws is hereby amended by
2 inserting after section 124 the following section:—
3 *Section 125.* An officer or employee of a city, town or
4 district or of any department, board, commission or agency
5 thereof, may, during any period such officer or employee is
6 under indictment for misconduct in such office or employ-
7 ment or for misconduct in any elective or appointive public
8 office, trust or employment at any time held by him, be
9 suspended by the appointing authority. Notice of said
10 suspension shall be given in writing and delivered in hand to
11 said person or his attorney, or sent by registered mail to said
12 person at his residence, his place of business, or the office or
13 place of employment from which he is being suspended. Such
14 notice so given and delivered or sent shall automatically
15 suspend the authority of said person to perform the duties of
16 his office or employment until he is notified in like manner
17 that his suspension is removed. A copy of any such notice
18 together with an affidavit of service shall be filed with the
19 clerk of the city, town or district.

20 Any person so suspended shall not receive any compensa-
21 tion or salary during the period of such suspension, nor shall
22 the period of his suspension be counted in computing his sick
23 leave or vacation benefits or seniority rights, nor shall any
24 person who retires from service while under such suspension
25 be entitled to any pension or retirement benefits, notwith-
26 standing any contrary provisions of law, but all contributions
27 paid by him into a retirement fund, if any, shall be returned
28 to him.

29 A suspension under this section shall not, in any way, be
30 used to prejudice the rights of the suspended person either
31 civilly or criminally. During the period of any such suspen-
32 sion, the appointing authority may fill the position of the
33 suspended officer or employee on a temporary basis, and the
34 temporary officer or employee shall have all the powers and
35 duties of the officer or employee suspended.

36 Any such temporary officer or employee who is appointed
37 as a member of a board, commission or agency or district
38 thereof, of which the appointing authority is empowered to
39 designate the chairman from time to time, may be designated
40 as such chairman by the appointing authority.

41 If the criminal proceedings against the person suspended
42 are terminated without a finding or verdict of guilty on any
43 of the charges on which he was indicted, his suspension shall
44 be forthwith removed, and he shall receive all compensation
45 or salary due him for the period of his suspension, and the
46 time of his suspension shall count in determining sick leave,
47 vacation, seniority and other rights, and shall be counted as
48 creditable service for purposes of retirement.