

By Mr. McKenna of Springfield, petition of Arthur J. McKenna that appointing authorities be authorized to suspend persons from the service of counties, cities, towns and districts during any period such persons are under indictment for misconduct in office. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Two.

AN ACT AUTHORIZING APPOINTING AUTHORITIES TO SUSPEND PERSONS FROM THE SERVICE OF COUNTIES, 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 268A of the General Laws is hereby amended by
2 adding the following section: —
3 *Section 25.* An officer or employee of a county, city, town
4 or district, howsoever formed, including, but not limited to,
5 regional school districts and regional planning districts, or of
6 any department, board, commission or agency thereof may,
7 during any period such officer or employee is under indictment
8 for misconduct in such office or employment or for mis-
9 conduct in any elective or appointive public office, trust or
10 employment at any time held by him, be suspended by the
11 appointing authority, whether or not such appointment was
12 subject to approval in any manner. Notice of said suspension
13 shall be given in writing and delivered in hand to said person or
14 his attorney, or sent by registered mail to said person at his
15 residence, his place or business, or the office or place of
16 employment from which he is being suspended. Such notice so
17 given and delivered or sent shall automatically suspend the
18 authority of such person to perform the duties of his office or
19 employment until he is notified in like manner that his suspen-
20 sion is removed. A copy of any such notice together with an

21 affidavit of service shall filed as follows: in the case of a
22 county, with the clerk of the superior court of the county in
23 which the officer or employee is employed; in the case of a
24 city, with the city clerk; in the case of a town, with the town
25 clerk; in the case of a regional school district, with the secre-
26 tary of the regional school district; and in the case of all other
27 districts, with the clerk of the district.

28 Any person so suspended shall not receive any compensati-
29 or salary during the period of suspension, nor shall the period
30 of his suspension be counted in computing his sick leave or
31 vacation benefits or seniority rights, nor shall any person who
32 retires from service while under such suspension be entitled to
33 any pension or retirement benefits, notwithstanding any con-
34 trary provisions of law, but all contributions paid by him into
35 a retirement fund, if any shall be returned to him.

36 A suspension under this section shall not, in any way, be
37 used to prejudice the rights of the suspended person either
38 civilly or criminally. During the period of any such suspension,
39 the appointing authority may fill the position of the suspended
40 officer or employee on a temporary basis, and the temporary
41 officer or employee shall have all the powers and duties of the
42 officer or employee suspended.

43 Any such temporary officer or employee who is appointed
44 as a member of a board, commission or agency may be desig-
45 nated as chairman.

46 If the criminal proceedings against the person suspended are
47 terminated without a finding or verdict of guilty on any of the
48 charges on which he was indicted, his suspension shall be
49 forthwith removed, and he shall receive all compensation or
50 salary due him for the period of his suspension, and the time
51 of his suspension shall count in determining sick leave, vaca-
52 tion, seniority and other rights, and shall be counted
53 creditable service for purposes of retirement.