

House Resolution 874

By: Representatives Trammell of the 132nd and Clark of the 98th

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Georgia so as to provide for the
 2 suspension of the salary of certain suspended public officials; to provide for related matters;
 3 to provide for the submission of this amendment for ratification or rejection; and for other
 4 purposes.

5 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Article II, Section III of the Constitution is amended by revising Paragraph I as follows:

8 "Paragraph I. *Procedures for and effect of suspending or removing public officials*
 9 *upon felony indictment.* (a) As used in this Paragraph, the term 'public official' means the
 10 Governor, the Lieutenant Governor, the Secretary of State, the Attorney General, the State
 11 School Superintendent, the Commissioner of Insurance, the Commissioner of Agriculture,
 12 the Commissioner of Labor, and any member of the General Assembly.

13 (b) Upon indictment for a felony by a grand jury of this state or by the United States,
 14 which felony indictment relates to the performance or activities of the office of any public
 15 official, the Attorney General or district attorney shall transmit a certified copy of the
 16 indictment to the Governor or, if the indicted public official is the Governor, to the
 17 Lieutenant Governor who shall, subject to subparagraph (d) of this Paragraph, appoint a
 18 review commission. If the indicted public official is the Governor, the commission shall
 19 be composed of the Attorney General, the Secretary of State, the State School
 20 Superintendent, the Commissioner of Insurance, the Commissioner of Agriculture, and the
 21 Commissioner of Labor. If the indicted public official is the Attorney General, the
 22 commission shall be composed of three other public officials who are not members of the
 23 General Assembly. If the indicted public official is not the Governor, the Attorney
 24 General, or a member of the General Assembly, the commission shall be composed of the
 25 Attorney General and two other public officials who are not members of the General
 26 Assembly. If the indicted public official is a member of the General Assembly, the
 27 commission shall be composed of the Attorney General and one member of the Senate and

28 one member of the House of Representatives. If the Attorney General brings the
29 indictment against the public official, the Attorney General shall not serve on the
30 commission. In place of the Attorney General, the Governor shall appoint a retired
31 Supreme Court Justice or a retired Court of Appeals Judge. The commission shall provide
32 for a speedy hearing, including notice of the nature and cause of the hearing, process for
33 obtaining witnesses, and the assistance of counsel. Unless a longer period of time is
34 granted by the appointing authority, the commission shall make a written report within 14
35 days. If the commission determines that the indictment relates to and adversely affects the
36 administration of the office of the indicted public official and that the rights and interests
37 of the public are adversely affected thereby, the Governor or, if the Governor is the indicted
38 public official, the Lieutenant Governor shall suspend the public official immediately and
39 without further action pending the final disposition of the case or until the expiration of the
40 officer's term of office, whichever occurs first. During the term of office to which such
41 officer was elected and in which the indictment occurred, if a nolle prosequi is entered, if
42 the public official is acquitted, or if after conviction the conviction is later overturned as
43 a result of any direct appeal or application for a writ of certiorari, the officer shall be
44 immediately reinstated to the office from which he was suspended. While a public official
45 is suspended under this Paragraph ~~and until initial conviction by the trial court~~, the officer
46 shall ~~continue~~ not be entitled to receive the compensation from his office. ~~After initial~~
47 ~~conviction by the trial court, the officer shall not be entitled to receive the compensation~~
48 ~~from his office.~~ If the officer is reinstated to office, he shall be entitled to receive any
49 compensation withheld under the provisions of this Paragraph.

50 (c) Unless the Governor is the public officer under suspension, for the duration of any
51 suspension under this Paragraph, the Governor shall appoint a replacement officer except
52 in the case of a member of the General Assembly. If the Governor is the public officer
53 under suspension, the provisions of Article V, Section I, Paragraph V of this Constitution
54 shall apply as if the Governor were temporarily disabled. Upon a final conviction with no
55 appeal or review pending, the office shall be declared vacant and a successor to that office
56 shall be chosen as provided in this Constitution or the laws enacted in pursuance thereof.

57 (d) No commission shall be appointed for a period of 14 days from the day the
58 indictment is received. This period of time may be extended by the Governor. During this
59 period of time, the indicted public official may, in writing, authorize the Governor or, if the
60 Governor is the indicted public official, the Lieutenant Governor to suspend him from
61 office. Any such voluntary suspension shall be subject to the same conditions for review,
62 reinstatement, or declaration of vacancy as are provided in this Paragraph for a
63 nonvoluntary suspension.

64 (e) After any suspension is imposed under this Paragraph, the suspended public official
 65 may petition the appointing authority for a review. The Governor or, if the indicted public
 66 official is the Governor, the Lieutenant Governor may reappoint the commission to review
 67 the suspension. The commission shall make a written report within 14 days. If the
 68 commission recommends that the public official be reinstated, he shall immediately be
 69 reinstated to office.

70 (f) The report and records of the commission and the fact that the public official has or
 71 has not been suspended shall not be admissible in evidence in any court for any purpose.
 72 The report and record of the commission shall not be open to the public.

73 (g) The provisions of this Paragraph shall not apply to any indictment handed down prior
 74 to January 1, 1985.

75 (h) If a public official who is suspended from office under the provisions of this
 76 Paragraph is not first tried at the next regular or special term following the indictment, the
 77 suspension shall be terminated and the public official shall be reinstated to office. The
 78 public official shall not be reinstated under this subparagraph if he is not so tried based on
 79 a continuance granted upon a motion made only by the defendant."

80

SECTION 2.

81 The above proposed amendment to the Constitution shall be published and submitted as
 82 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
 83 above proposed amendment shall have written or printed thereon the following:

84 "() YES Shall the Constitution of Georgia be amended so as to provide for the
 85 () NO suspension of the compensation of the Governor, the Lieutenant Governor,
 86 the Secretary of State, the Attorney General, the State School Superintendent,
 87 the Commissioner of Insurance, the Commissioner of Agriculture, the
 88 Commissioner of Labor, and any member of the General Assembly if such
 89 public official is suspended from office as a result of being indicted for a
 90 felony?"

91 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

92 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
 93 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
 94 become a part of the Constitution of this state.