

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

654N0073

SENATE ENGROSSED NO. **SB 153** - 02/01/2007

Introduced by: Senators Lintz, Gray, and McCracken and Representatives Rounds, Moore, and Pitts

1 FOR AN ACT ENTITLED, An Act to provide for the suspension of certain county officials
2 pending completion of criminal prosecutions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 3-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If any officer is arrested for or charged with any offense against the laws of this state or the
7 United States of America, and the board of county commissioners is informed that criminal
8 proceedings are pending before any court or officer, the board of county commissioners may in
9 the case of a misdemeanor charge that is relevant to the responsibilities and duties of the office
10 and shall in the case of a felony charge suspend that officer from office until such charge is
11 prosecuted. The officer who is suspended pursuant to this section is relieved from all
12 responsibilities provided by law which are pertinent to that office. The county commission shall
13 appoint one of the officer's assistants or a suitable person to discharge the duties of the office
14 during any suspension imposed in accordance with the provisions of sections 1 to 3, inclusive,
15 of this Act. If it is determined during the criminal proceeding that the officer suspended is not



1 guilty of the offense charged, the court shall so notify the board of county commissioners. If the
2 term for which the officer was elected or appointed has not expired, the suspended officer shall
3 be restored to that office by the board of county commissioners. For the purposes of sections 1
4 to 3, inclusive, of this Act, the term, officer, includes the county auditor, county treasurer, and
5 county register of deeds.

6 Section 2. That chapter 3-17 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Any officer who is suspended from employment in accordance with the provisions of section
9 1 of this Act shall assume leave of absence status and shall receive the same salary and
10 employment benefits to which the officer would otherwise be entitled to be paid by the county.
11 Except as otherwise provided in sections 1 to 3, inclusive, of this Act, an officer who is
12 suspended pursuant to section 1 of this Act has the same rights, benefits, and obligations as any
13 county employee who is on a leave of absence status for any other purpose. Notwithstanding any
14 other provision of law, an officer shall receive credit for the period of suspension toward any
15 retirement benefit afforded by the county, if the officer is reinstated pursuant to section 1 of this
16 Act.

17 Section 3. That chapter 3-17 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 The county in which an officer is temporarily appointed pursuant to this section 1 of this Act
20 shall pay the appointee for services and expenses in an amount determined and fixed by the
21 board of county commissioners for such office. Any person temporarily appointed as an officer
22 may discharge all the duties of such office.

23 Section 4. That chapter 3-17 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 If any county commissioner is arrested for or charged with any offense against the laws of
2 this state or the United States of America, and the board of county commissioners is informed
3 that criminal proceedings are pending before any court or officer, the remaining board of county
4 commissioners may in the case of a misdemeanor charge that is relevant to the responsibilities
5 and duties of the office and shall in the case of a felony charge suspend that county
6 commissioner from office until such charge is prosecuted. The county commissioner who is
7 suspended pursuant to this section is relieved from all responsibilities provided by law which
8 are pertinent to that office. If it is determined during the criminal proceeding that the county
9 commissioner suspended is not guilty of the offense charged, this fact shall be certified to the
10 board of county commissioners. If the term for which the county commissioner was elected or
11 appointed has not expired, the suspended county commissioner shall be restored to that office
12 by the remaining board of county commissioners.

13 Section 5. That chapter 3-17 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 This Act does not affect the provisions of law relating to the removal from office of any
16 county commissioner, county auditor, county treasurer, or county register of deeds.