

JAN 23 2015

A BILL FOR AN ACT

RELATING TO IMPEACHMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Article III, section 19, of the Hawaii State
2 Constitution requires the legislature to establish laws
3 providing for the manner and procedures of impeachment of the
4 governor, lieutenant governor, and appointive officers.

5 The legislature finds that current law is absent of
6 statutory provisions establishing the causes, manner, and
7 procedure of removal of the governor, lieutenant governor, and
8 appointive officers by impeachment.

9 The purpose of this Act is to establish the causes, manner,
10 and procedures of impeachment of the governor, lieutenant
11 governor, and appointive officers for whose removal the consent
12 of the Senate is required.

13 SECTION 2. The Hawaii Revised Statutes is amended by
14 adding a new chapter to be appropriately designated and to read
15 as follows:

16 "CHAPTER
17 IMPEACHMENT



PART I. IMPEACHMENT GENERALLY

§ -1 Impeachment; causes for. (a) The governor, lieutenant governor, and any appointive officer for whose removal the consent of the senate is required shall be removed from office upon conviction of impeachment for the following causes:

(1) Treason, bribery, or other high crimes and

misdemeanors;

(2) Misfeasance, malfeasance, or nonfeasance; or

(3) Moral turpitude.

(b) Two-thirds concurrence of the members of the senate shall be required for conviction of impeachment in accordance with article III, section 19, of the Hawaii State Constitution.

PART II. APPOINTIVE OFFICERS

§ -10 Appointive officers; generally. The house of representatives shall have the sole power of impeachment of appointive officers for whose removal the consent of the senate is required, and the senate shall have the sole power to try such impeachments. When sitting for that purpose, the members of the senate shall be under oath or affirmation, and the chief justice shall preside.



1 § -11 Investigative committee. The house of
2 representatives shall have the power at any time to appoint a
3 committee to investigate charges against any appointive officer
4 subject to impeachment.

5 § -12 Disqualification. An appointive officer impeached
6 by the house of representatives shall be disqualified from
7 performing any official duties until acquitted by the senate,
8 and the governor may fill the office by appointment until
9 completion of the trial.

10 § -13 Articles of impeachment. Impeachment shall be
11 instituted in the house of representatives by resolution, passed
12 by a majority of the members, and conducted by managers elected
13 by the house of representatives, who shall prepare articles of
14 impeachment, present them at the bar of the senate, and
15 prosecute them. The impeachment shall be heard before the
16 senate, sitting as a court of impeachment.

17 § -14 Impeachment hearing; service on accused. (a) The
18 senate shall assign a day for hearing the impeachment and inform
19 the house of representatives thereof.

20 (b) The president of the senate shall cause a copy of the
21 articles of impeachment, with a notice to appear and answer them



1 at the time and place appointed, to be served on the accused not
2 less than ten days before the day fixed for the hearing. The
3 service shall be made by the sergeant-at-arms of the senate upon
4 the accused personally, or, if the accused cannot upon diligent
5 inquiry be found within the State, the senate, upon proof of
6 such fact, may order publication of the notice to be made in a
7 manner it deems proper.

8 § -15 Court of impeachment; organization. No later than
9 ten days after the articles of impeachment have been presented
10 to the senate, the senate shall organize as a court of
11 impeachment and, for the purpose of conducting the proceedings
12 of that court, may appoint a clerk, who may be the clerk of the
13 senate. The clerk shall issue all process and keep a record of
14 the proceedings of the court. The court also shall appoint a
15 marshal, who shall be the sergeant-at-arms of the senate, and an
16 assistant marshal. The senate, sitting as a court of
17 impeachment, also may employ any legal, stenographic, clerical,
18 and other assistance as is required and fix their compensation.

19 § -16 Witness fees; execution of process. (a)
20 Witnesses shall receive the same compensation for travel and
21 attendance, and the same exemptions in going, remaining, and



1 returning, as witnesses in civil proceedings conducted in the
2 courts.

3 (b) Officers executing the process and orders of the court
4 of impeachment shall receive the fees allowed sheriffs for
5 similar service in the courts.

6 § -17 Absence of senator from hearing. The senate,
7 while sitting as a court of impeachment, shall determine what
8 accumulation of absences of a senator during the hearing shall
9 exclude the senator from voting on the final decision.

10 § -18 Compensation of impeachment personnel. (a) For
11 the duration of the impeachment trial, the senators composing
12 the court of impeachment and the managers representing the house
13 of representatives shall be paid travel expenses and allowances
14 provided by law for members of the legislature when convened in
15 regular session.

16 (b) The managers shall be allowed the same compensation
17 for the time required in preparing the proceedings for
18 presentation to the court of impeachment together with their
19 actual and necessary expenses; provided that these expenses
20 shall include the personal or subsistence expenses of the
21 managers. In addition, the managers, during the preparation of



1 the proceedings and the trial, also may employ legal,
2 stenographic, clerical, and other assistance as is required and
3 fix their compensation.

4 (c) The members, officers, employees of the court of
5 impeachment, managers, and all employees of the managers shall
6 be paid on verified claims approved by the presiding justice of
7 the court of impeachment and attested by its clerk.

8 (d) Court reporters employed by the court of impeachment
9 may be paid the compensation provided by law for reporting
10 proceedings before the courts and shall also receive from the
11 party ordering a transcript of the proceedings, the compensation
12 provided by law for the services.

13 (e) In lieu of the procedures prescribed by subsection
14 (d), the court of impeachment may provide by contract for the
15 reporting and transcription of the proceedings.

16 § -19 Expenses of impeachment proceedings. The expenses
17 of impeachment proceedings, after the legislature has adjourned,
18 shall be a charge upon the general fund of the State and shall
19 be paid from any money in the general fund not otherwise
20 appropriated upon verified claims, approved and attested as
21 provided in section -18.



1 § -20 **Vacancy in managers.** When a vacancy occurs among
2 the managers selected by the house of representatives to try
3 impeachment proceedings before the senate, and the house of
4 representatives is not in session, the speaker or the presiding
5 member, or if there is no presiding member, then the vice
6 speaker of the house shall appoint a member of the house of
7 representatives to fill the vacancy.

8 § -21 **Appearance of accused; plea.** (a) If the accused
9 does not appear, the court of impeachment, upon proof of service
10 of the articles of impeachment or publication and upon motion or
11 for cause shown, may assign another day for hearing the
12 impeachment proceedings or may proceed to trial and judgment in
13 the absence of the accused.

14 (b) The accused may object, in writing, to the sufficiency
15 of the articles of impeachment within thirty days of having been
16 served the articles of impeachment or within thirty days of the
17 last publication of the articles of impeachment pursuant to
18 section -14, or the accused may answer the articles of
19 impeachment by an oral plea of not guilty. The plea of not
20 guilty shall be entered upon the journal and shall place in
21 issue every material allegation of the articles of impeachment.



(c) If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the court of impeachment who heard the argument, the accused shall be ordered to answer the articles of impeachment. If the accused then pleads guilty or refuses to plead, the court of impeachment shall render judgment of conviction against the accused. If the accused pleads not guilty, the court of impeachment shall try the impeachment at the time it appoints.

§ -22 Judgment. If the accused is convicted, the court of impeachment, at the appointed time, shall pronounce judgment by resolution entered upon the journals of the court, which shall be the judgment of the senate. The judgment of conviction may provide that the accused be removed from office or that the accused be removed from office and disqualified to hold any office of honor, trust, or profit under the constitution and laws of the State.

PART III. GOVERNOR AND LIEUTENANT GOVERNOR; LEGISLATIVE RULES

§ -31 Procedures in lieu of rules. In the case of the governor and the lieutenant governor, until the house of representatives adopts rules for impeachment proceedings and the senate adopts rules for the trial proceedings, pursuant to


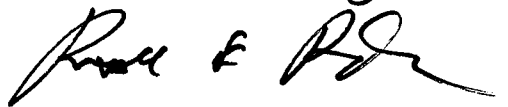


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1 article III, section 19, of the state constitution, the house of
2 representatives and the senate may apply the procedures of part
3 II to those proceedings; provided that any impeached governor or
4 lieutenant governor shall not be disqualified from performing
5 official duties prior to conviction, notwithstanding section
6 -12."

7 SECTION 3. This Act shall take effect upon its approval.
8

INTRODUCED BY:



S.B. NO. 241

Report Title:

Impeachment; Governor; Lieutenant Governor; Appointed Officers

Description:

Enacts the statute to implement the constitutional provision on impeachment by establishing qualifying causes, manner, and procedures for impeachment of the governor, lieutenant governor, and appointive officers.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

