

MAY - 4 2006

SENATE RESOLUTION

AMENDING THE SENATE RULES RELATING TO ETHICS.

1 WHEREAS, Senate Rule 72 currently covers the Senate
2 procedures relating to ethics; and

3
4 WHEREAS, this rule could be enhanced by substituting a
5 bipartisan Special Committee on Ethics for the Senate President
6 for the initial review of any complaint; and

7
8 WHEREAS, the current rules do not clearly specify who can bring
9 a complaint against a member, an ambiguity that should be
10 clarified; and

11
12 WHEREAS, the Senate desires to clarify and strengthen its
13 ethics rules; now, therefore,

14
15 BE IT RESOLVED by the Senate of the Twenty-third
16 Legislature of the State of Hawaii, Regular Session of 2006,
17 that the Senate Rules are amended by amending Rule 72 to read as
18 follows:

19
20 **Rule 72. Misconduct; Procedure; Peer Review**

21 No member of the Senate shall be subject to a charge
22 for misconduct, disorderly behavior, or neglect of
23 duty unless [the person] any Senator or member of the
24 public making the charge shall have first given notice
25 of the charge to the [President] Special Committee on
26 Ethics and to the member being charged. The Special
27 Committee on Ethics shall be composed of four members
28 appointed by the Senate President, two from the
29 majority party and two from the minority party. The
30 Senate President shall designate two co-chairs, one
31 from each party. Investigations done and hearings
32 held by the Special Committee shall be confidential.
33 Members of the Special Committee shall recuse
34 themselves if they are the subject of the complaint,
35 have a business or family relationship with either the
36 complainant or the Senator charged, or have a
37 relationship to the Senator, complainant, or nexus of



1 the complaint so that the Senator believes that he or
2 she cannot be impartial. In the case of a recusal,
3 the Senate President shall temporarily appoint another
4 member, except in the situation where the President is
5 the Senator complained of, in which case the choice of
6 replacement shall be made by the next highest-ranking
7 member of the majority caucus who is not involved in
8 the complaint.

9
10 During the pendency of any investigation, there
11 shall be no ex parte oral communications or queries
12 initiated by non-members of the Special Committee to
13 members of that Committee concerning the
14 investigation; provided that any Senator may provide
15 testimony in writing to the Committee concerning the
16 truth or falsity of the allegations.

17
18 Upon receipt of the charge, the [President]
19 Special Committee on Ethics shall attempt to resolve
20 the matter [in an administrative proceeding. If the
21 matter cannot be resolved administratively, the
22 President may appoint a Special Committee to be
23 chaired by the Vice-President or such other member as
24 the President may designate to investigate, hear and
25 report upon the conduct of the member charged for
26 misconduct, disorderly behavior or neglect of duty.].
27 Any member so charged shall be informed in writing of
28 the specific charge or charges made against the member
29 and have opportunity to present evidence and be heard
30 in the member's own defense before the Special
31 Committee.

32
33 (1) If the Special Committee on Ethics finds
34 that it has the ability to review the case, the
35 Special Committee on Ethics shall do so; or

36
37 (2) If the Special Committee finds that
38 investigatory expertise is necessary or the volume or
39 timing of the complaint or complaint exceeds its
40 capacity to review the case in a timely manner, the
41 Special Committee on Ethics shall refer the matter to
42 the Ethics Commission pursuant to section 84-31,
43 Hawaii Revised Statutes. If the Ethics Commission,
44 after investigation, determines that there is



1 sufficient cause to file a complaint, the commission
2 shall issue a complaint and refer the matter back to
3 the Special Committee, pursuant to section 84-32,
4 Hawaii Revised Statutes. The Special Committee shall
5 have fifteen calendar days to review the complaint and
6 file its report.

7 [Following its] If the Special Committee
8 initiates its own investigation and hearing under
9 paragraph (1), the Special Committee shall file its
10 report with the President setting forth its findings
11 and recommendations [.] within thirty calendar days of
12 receipt. If the Special Committee is unable to
13 complete its investigation and file its report within
14 the thirty days, the co-chairs may petition the
15 President for additional time to complete the report,
16 up to an additional thirty calendar days, upon good
17 cause shown. If the Special Committee fails to file
18 its report within the allotted time, notice shall be
19 given to the Senate President and jurisdiction over
20 the matter shall be transferred automatically to the
21 full Senate.

22 The report shall indicate whether the committee
23 recommends dismissal, private censure, public censure,
24 suspension, expulsion, or other disciplinary action.

25 If the committee recommends dismissal of the
26 charge or charges, the President may dismiss the
27 charges without further hearing, or the President may
28 present the report of the committee to the Senate for
29 its consideration.

30 If the committee recommends private censure, the
31 President may concur and permit the private censure to
32 be imposed by the committee, or the President may
33 present the report of the committee to the Senate for
34 its consideration. The Senate, by a majority vote,
35 may dismiss the charge or charges against the member
36 without a hearing.

37 [If there is no dismissal of the charge or
38 charges, or if] If the committee recommends public
39 censure, suspension or expulsion[,] or if the Ethics
40 Commission issues a complaint under paragraph (2), the
41 [President] Special Committee on Ethics shall present
42 the report of the committee to the Senate for its
43 consideration and decision. The member who is
44 charged[,] shall be informed in writing of the



1 presentation of the charge or charges of the committee
2 report to the Senate and be given an opportunity to be
3 heard in the member's own defense. The Senate, by a
4 majority vote, may dismiss the charge or charges
5 without a hearing, or with notice and an opportunity
6 to be heard in the member's own defense, censure a
7 member or, upon a two-thirds vote of all the members
8 of the Senate, suspend or expel a member. The Special
9 Committee on Ethics may act under this rule within its
10 authority regardless of whether the Senate is in
11 session.

12
13 At any stage of the charge against a member, the
14 member shall have a right to be represented by a
15 person or persons of the member's own choosing.; and
16

17 BE IT FURTHER RESOLVED that certified copies of this
18 Resolution be transmitted to President of the Senate and the
19 Clerk of the Senate.
20

21
22 OFFERED BY:

