

JAN 18 2008

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 authorizes the removal of the governor, lieutenant
3 governor, and any appointive officer for whose removal the
4 consent of the senate is required. Article V, section 6 of the
5 Hawaii State Constitution authorizes the removal of the chief
6 legal officer of the State subject to the advice and consent of
7 the Senate. The Hawaii Revised Statutes are absent of any
8 provisions for impeachment of these officers.

9 The purpose of this Act is to clarify by statute the
10 impeachment proceedings as authorized by the Hawaii State
11 Constitution.

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

15 "CHAPTER

16 IMPEACHMENT

17 PART I. IMPEACHMENT GENERALLY



1
2 § -1 Impeachment; causes for. (a) The governor,
3 lieutenant governor, and any appointive officer for whose
4 removal the consent of the senate is required shall be removed
5 from office upon conviction of impeachment for the following
6 causes:

7 (1) Treason, bribery, or other high crimes and
8 misdemeanors;

9 (2) Misfeasance, malfeasance, nonfeasance; or

10 (3) Moral turpitude.

11 (b) Impeachment shall require a majority vote by the
12 members of the house of representatives.

13 PART II. APPOINTIVE OFFICERS

14 § -10 Appointive officers; generally. The house of
15 representatives shall have the sole power of impeachment of
16 appointive officers for whose removal the consent of the senate
17 is required and the senate shall have the sole power to try such
18 impeachments. When sitting for that purpose, the members of the
19 senate shall be under oath or affirmation and the chief justice
20 shall preside.

21 § -11 Investigative committee. The house of
22 representatives shall have the power at any time to appoint a



1 committee to investigate charges against any appointive officer
2 subject to impeachment.

3 § -12 **Disqualification.** An appointive officer impeached
4 by the house of representatives shall be disqualified from
5 performing any official duties until acquitted by the senate,
6 and the governor may fill the office by appointment until
7 completion of the trial.

8 § -13 **Articles of impeachment.** Impeachment shall be
9 instituted in the house of representatives by resolution, passed
10 by a majority of the members, and conducted by managers elected
11 by the house of representatives, who shall prepare articles of
12 impeachment, present them at the bar of the senate, and
13 prosecute them. The impeachment shall be heard before the
14 senate, sitting as a court of impeachment.

15 § -14 **Impeachment hearing; service on accused.** (a) The
16 senate shall assign a day for hearing the impeachment and inform
17 the house of representatives thereof.

18 (b) The president of the senate shall cause a copy of the
19 articles of impeachment, with a notice to appear and answer them
20 at the time and place appointed, to be served on the accused not
21 less than ten days before the day fixed for the hearing. The
22 service shall be made by the sergeant-at-arms of the senate upon



1 the accused personally, or, if the accused cannot upon diligent
2 inquiry be found within the State, the senate, upon proof of
3 such fact, may order publication of the notice to be made in a
4 manner it deems proper.

5 § -15 Court of impeachment; organization. Not later
6 than ten days after the articles of impeachment have been
7 presented to the senate, the senate shall organize as a court of
8 impeachment and, for the purpose of conducting the proceedings
9 of that court, may appoint a clerk, who may be the clerk of the
10 senate. The clerk shall issue all process and keep a record of
11 the proceedings of the court. The court also shall appoint a
12 marshal, who shall be the sergeant-at-arms of the senate, and an
13 assistant marshal. The senate, sitting as a court of
14 impeachment, also may employ any legal, stenographic, clerical,
15 and other assistance as is required and fix their compensation.

16 § -16 Witness fees; execution of process. (a)
17 Witnesses shall receive the same compensation for travel and
18 attendance, and the same exemptions in going, remaining, and
19 returning, as witnesses in civil proceedings conducted in the
20 courts.



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

4 § -17 Absence of senator from hearing. The senate,
5 while sitting as a court of impeachment, shall determine what
6 accumulation of absences of a senator during the hearing shall
7 exclude the senator from voting on the final decision.

8 § -18 Compensation of impeachment personnel. (a) The
9 senators composing the court of impeachment and the managers
10 representing the house of representatives shall be paid during
11 the impeachment trial travel expenses and allowance provided by
12 law for members of the legislature when convened in regular
13 session.

14 (b) The managers shall be allowed the same compensation
15 for the time required in preparing the proceedings for
16 presentation to the court of impeachment together with their
17 actual and necessary expenses; provided that these expenses
18 include the personal or subsistence expenses of the managers.
19 In addition, the managers, during the preparation of the
20 proceedings and the trial, also may employ legal, stenographic,
21 clerical, and other assistance as is required and fix their
22 compensation.



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

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

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

14 § -19 Expenses of impeachment proceedings. The expenses
15 of impeachment proceedings, after the legislature has adjourned,
16 shall be a charge upon the general fund of the State and shall
17 be paid from any money in the general fund not otherwise
18 appropriated upon verified claims, approved and attested as
19 provided in section -18.

20 § -20 Vacancy in board of managers. When a vacancy
21 occurs in the board of managers selected by the house to try
22 impeachment proceedings before the senate, and the house of



1 representatives is not in session, the speaker or the presiding
2 member, or if there is no presiding member, then the vice
3 speaker of the house shall appoint a member of the house to fill
4 the vacancy.

5 § -21 Appearance of accused; plea. (a) If the accused
6 does not appear, the court of impeachment, upon proof of service
7 or publication and upon motion or for cause shown, may assign
8 another day for hearing the impeachment proceedings or may
9 proceed to trial and judgment in the absence of the accused.

10 (b) The accused may object, in writing, to the sufficiency
11 of the articles of impeachment, or the accused may answer them
12 by an oral plea of not guilty. The plea of not guilty shall be
13 entered upon the journal and places in issue every material
14 allegation of the articles of impeachment.

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



1 § -22 **Judgment.** If the accused is convicted, the court
2 of impeachment, at the appointed time, shall pronounce judgment
3 by resolution entered upon the journals of the court, which
4 shall be the judgment of the senate. The judgment of conviction
5 may provide that the accused be removed from office or that the
6 accused be removed from office and disqualified to hold any
7 office of honor, trust, or profit under the constitution and
8 laws of the State.

9 **PART III. GOVERNOR AND LIEUTENANT GOVERNOR;**

10 **LEGISLATIVE RULES**

11 § -31 **Procedures in lieu of rules.** In the case of the
12 governor and the lieutenant governor, until the house of
13 representatives adopts rules for impeachment proceedings and the
14 senate adopts rules for the trial proceedings, pursuant to
15 article III, section 19, of the state constitution, they may
16 apply the procedures of part II to those proceedings; provided
17 that any impeached governor or lieutenant governor shall not be
18 disqualified from performing official duties prior to
19 conviction, notwithstanding section -12."

20 SECTION 3. This Act shall take effect upon its approval.

21 INTRODUCED BY:

[Handwritten Signature]



S.B. NO. 2321

Anna Mercado



Report Title:
Impeachment

Description:
Establishes causes and procedures for impeachment of the governor, lieutenant governor, and appointed officers.

