

JAN 21 2011

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 the causes, manner, and proceedings for impeachment of
4 the 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 impeachment
10 causes, manner, and procedure of impeachment of the governor,
11 lieutenant governor, and appointive officers.

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

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

8 (2) Misfeasance, malfeasance, or nonfeasance; or

9 (3) Moral turpitude.

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

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) For
9 the duration of the impeachment trial, the senators composing
10 the court of impeachment and the managers representing the house
11 of representatives shall be paid travel expenses and allowances
12 provided by law for members of the legislature when convened in
13 regular 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 shall include the personal or subsistence expenses of the
19 managers. In addition, the managers, during the preparation of
20 the proceedings and the trial, also may employ legal,
21 stenographic, clerical, and other assistance as is required and
22 fix their 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 the 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 of
4 representatives to fill 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 of the articles of impeachment or publication and upon motion or
8 for cause shown, may assign another day for hearing the
9 impeachment proceedings or may proceed to trial and judgment in
10 the absence of the accused.

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

19 (c) If the objection to the sufficiency of the articles of
20 impeachment is not sustained by a majority of the members of the
21 court of impeachment who heard the argument, the accused shall
22 be ordered to answer the articles of impeachment. If the



1 accused then pleads guilty or refuses to plead, the court of
2 impeachment shall render judgment of conviction against the
3 accused. If the accused pleads not guilty, the court of
4 impeachment shall try the impeachment at the time it appoints.

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

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

14 **LEGISLATIVE RULES**

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



1 official duties prior to conviction, notwithstanding section
2 -12."

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

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INTRODUCED BY:

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Report Title:

Impeachment

Description:

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

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