

GOVERNMENT CODE

TITLE 6. PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE B. STATE OFFICERS AND EMPLOYEES

CHAPTER 665. IMPEACHMENT AND REMOVAL

SUBCHAPTER A. IMPEACHMENT BY HOUSE

Sec. 665.001. IMPEACHMENT PROCEEDING. In this subchapter, "impeachment proceeding" includes:

- (1) presenting an article of impeachment;
- (2) investigating a matter relating to a contemplated impeachment; and
- (3) acting on an article of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.002. INDIVIDUALS WHO MAY BE IMPEACHED. An individual may be removed from an office or a position by impeachment in the manner provided by the constitution and this chapter if the individual is:

- (1) a state officer;
 - (2) a head of a state department or state institution;
- or
- (3) a member, regent, trustee, or commissioner having control or management of a state institution or enterprise.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.003. IMPEACHMENT WHEN HOUSE IS IN SESSION.

(a) The house of representatives may conduct an impeachment proceeding at a regular or called session at its pleasure without further call or action.

(b) If the house is conducting an impeachment proceeding at the time a session expires or ends by house or senate adjournment on legislative matters, the house may:

- (1) continue in session to conduct the impeachment proceeding; or
- (2) adjourn to a later time to conclude the impeachment proceeding.

(c) If the house adjourns under Subsection (b)(2), it may continue the impeachment proceeding through committees or agents. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.004. CONVENING HOUSE FOR IMPEACHMENT PURPOSES WHEN HOUSE IS NOT IN SESSION. (a) When the house is not in session it may be convened to conduct an impeachment proceeding:

(1) by proclamation of the governor;

(2) by proclamation of the speaker of the house if the speaker is petitioned in writing by 50 or more members of the house; or

(3) by proclamation in writing signed by a majority of the members of the house.

(b) Each member of the house who is in the state and accessible must be given a copy of the proclamation in person or by registered mail:

(1) by the speaker of the house or under the direction of the speaker; or

(2) by the members signing the proclamation or one or more individuals who signed the proclamation designated by the members that signed the proclamation if the proclamation was issued under Subsection (a)(3).

(c) The proclamation must:

(1) state in general terms the reason for convening the house;

(2) state a time for the house to convene; and

(3) be published in at least three daily newspapers of general circulation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.005. POWERS OF HOUSE DURING IMPEACHMENT PROCEEDING. When conducting an impeachment proceeding, the house or a house committee may:

(1) send for persons or papers;

(2) compel the giving of testimony; and

(3) punish for contempt to the same extent as a district court of this state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.006. PER DIEM AND MILEAGE DURING IMPEACHMENT PROCEEDING. (a) A member of the house is entitled to a per diem when the house is in session for an impeachment proceeding but not for legislative purposes.

(b) A member of a house committee is entitled to a per diem when the committee is meeting for an impeachment proceeding and the house is not in session.

(c) A member of the house is entitled to mileage when the house is convened by proclamation under Section 665.004.

(d) The amount of a per diem and the mileage authorized by this section is the same as the amounts for those items fixed for members of the legislature when in legislative session.

(e) The house may pay agents to assist in conducting an impeachment proceeding.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.007. CUMULATIVE REMEDY. The remedy of impeachment as provided in this chapter is cumulative of all other remedies regarding the impeachment or removal of public officers.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. REMOVAL AFTER IMPEACHMENT

Sec. 665.021. SENATE MEETS AS COURT OF IMPEACHMENT. If the house prefers articles of impeachment against an individual, the senate shall meet as a court of impeachment in a trial of the individual in the manner provided by Article XV of the Texas Constitution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.022. PROCEDURE WHEN SENATE IS IN SESSION. (a) If the senate is in a regular or called session when articles of impeachment are preferred by the house, the senate shall receive the articles when they are presented. The senate shall set a day and time to resolve into a court of impeachment to consider the articles.

(b) The senate may continue in session as a court of impeachment beyond the end of the session for legislative purposes or may adjourn as a court of impeachment to a day and time set by the senate.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.023. PROCEDURE WHEN SENATE IS NOT IN SESSION.

(a) If the senate is not in a regular or called session when articles of impeachment are preferred by the house, the house shall deliver by personal messenger or certified or registered mail a certified copy of the articles of impeachment to the governor, lieutenant governor, and each member of the senate. A record of the deliveries and a copy of the record shall be delivered to the lieutenant governor and the president pro tempore of the senate.

(b) After the deliveries are made as required by Subsection (a), the senate shall be convened to consider the articles of impeachment:

(1) by proclamation of the governor; or

(2) if the governor fails to issue the proclamation within 10 days from the date the articles of impeachment are preferred by the house, by proclamation of the lieutenant governor; or

(3) if the lieutenant governor fails to issue the proclamation within 15 days from the date the articles of impeachment are preferred by the house, by proclamation of the president pro tempore of the senate; or

(4) if the president pro tempore of the senate fails to issue the proclamation within 20 days from the date the articles of impeachment are preferred by the house, by proclamation signed by a majority of the members of the senate.

(c) A proclamation issued under Subsection (b) must:

(1) be in writing;

(2) state the purposes for which the senate is to be convened;

(3) fix a date not later than the 20th day after the date of the issuance of the proclamation for convening the senate; and

(4) be published in at least three daily newspapers of general circulation.

(d) A copy of the proclamation shall be sent by registered or certified mail to each member of the senate and the lieutenant governor.

(e) The senate shall convene on the day set in the proclamation and receive the articles of impeachment. The senate shall then act as a court of impeachment to consider the articles of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.024. ADOPTION OF RULES. The senate shall adopt rules of procedure when it resolves into a court of impeachment. After the senate has adopted the rules it shall consider the articles of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.025. CONVENING AND ADJOURNING SENATE. The senate may recess or adjourn during the impeachment trial to a time to be set by the senate. The senate may condition reconvening on the occurrence of an event specified in the motion.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.026. ATTENDANCE OF SENATORS. Each member of the senate shall be in attendance when the senate is meeting as a court of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.027. POWERS OF SENATE MEETING AS A COURT OF IMPEACHMENT. (a) The senate may:

(1) send for persons, papers, books, and other documents;

(2) compel the giving of testimony;

(3) punish for contempt to the same extent as a district court;

(4) meet in closed session for purposes of deliberation; and

(5) exercise any other power necessary to carry out its duties under Article XV of the Texas Constitution.

(b) The senate may employ assistance to enforce and execute the lawful orders, mandates, writs, process, and precepts of the senate meeting as a court of impeachment.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.028. PER DIEM WHILE SENATE IS MEETING AS A COURT OF IMPEACHMENT. (a) When meeting as a court of impeachment the members of the senate and the lieutenant governor receive the same mileage and per diem as is provided for members of the legislature when it is in legislative session.

(b) If the senate is not in session as a court of impeachment for more than four consecutive days because of recess or adjournment, the members of the senate and the lieutenant governor are not entitled to the per diem for those days.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. REMOVAL BY ADDRESS

Sec. 665.051. INDIVIDUALS SUBJECT TO REMOVAL. Only the following individuals are subject to removal from office by address under this subchapter:

- (1) a justice of the supreme court;
- (2) a judge of the court of criminal appeals;
- (3) a justice of a court of appeals;
- (4) a judge of a district court;
- (5) a judge of a criminal district court;
- (6) the commissioner of agriculture;
- (7) the commissioner of insurance; and
- (8) the banking commissioner.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.052. CAUSES FOR REMOVAL. (a) An individual may be removed from office by address for:

- (1) wilful neglect of duty;
- (2) incompetency;
- (3) habitual drunkenness;

(4) oppression in office;
(5) breach of trust; or
(6) any other reasonable cause that is not a sufficient ground for impeachment.

(b) In this section, "incompetency" means:

(1) gross ignorance of official duties;
(2) gross carelessness in the discharge of official duties; or

(3) inability or unfitness to discharge promptly and properly official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.053. NOTICE AND HEARING. (a) Notice of the reason for removal by address must be given to the officer who is to be removed.

(b) The officer must be allowed to appear at a hearing in the officer's defense before the vote for removal by address is taken.

(c) The cause for removal shall be stated at length in the address and entered in the journal of each house.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 665.054. REMOVAL VOTE. (a) The governor shall remove from office a person on the address of two-thirds of each house of the legislature.

(b) The vote of each member shall be recorded in the journal of each house.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. OTHER REMOVAL PROVISIONS

Sec. 665.081. NO REMOVAL FOR ACTS COMMITTED BEFORE ELECTION TO OFFICE. (a) An officer in this state may not be removed from office for an act the officer may have committed before the officer's election to office.

(b) The prohibition against the removal from office for an act the officer commits before the officer's election is covered by:

(1) Section 21.002, Local Government Code, for a mayor or alderman of a general law municipality; or

(2) Chapter 87, Local Government Code, for a county or precinct officer.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.