

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 9
100TH GENERAL ASSEMBLY

0151H.08C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 106.030, 106.040, 106.070, 106.080, 106.090, 106.100, 106.110, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 106.200, and 106.210, RSMo, and to enact in lieu thereof thirteen new sections relating to the impeachment process, with a contingent effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 106.030, 106.040, 106.070, 106.080, 106.090, 106.100, 106.110, 2 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 106.200, and 106.210, RSMo, are 3 repealed and thirteen new sections enacted in lieu thereof, to be known as sections 106.030, 4 106.040, 106.070, 106.080, 106.100, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 5 106.200, and 106.210, to read as follows:

106.030. The house of representatives shall have the sole power of impeachment. All 2 impeachments shall be tried before the ~~[supreme court, except that the governor or a member of~~ 3 ~~the supreme court shall be tried by a special commission as provided for in sections 106.020 to~~ 4 ~~106.210]~~ **senate, and when the governor or lieutenant governor shall be tried, the chief** 5 **justice of the supreme court shall preside.**

106.040. When the house of representatives shall be satisfied that there is good cause 2 to impeach any officer, they shall cause articles of impeachment to be made out in due form 3 against such officer and shall transmit the same to the ~~[supreme court]~~ **senate**, and immediately 4 elect managers to prosecute such impeachment~~]; provided, however, that in the case of~~ 5 ~~impeachment of the governor or a member of the supreme court, they shall transmit such articles~~

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 of impeachment to the senate who shall, without delay, proceed to the election of a special
7 commission to try such impeachment as provided in section 106.080. In case of death,
8 resignation or failure to serve, of any manager elected by the house as aforesaid, the governor
9 shall, if the house be not in session, fill such vacancy, and the person thus appointed shall have
10 the same power and perform the same duties as if elected by the house].

106.070. When articles of impeachment shall be presented to the ~~[supreme court]~~ **senate**,
2 the ~~[court]~~ **senate** shall immediately appoint some day for the appearance of the accused and
3 cause a summons to be issued, signed by the ~~[chief justice of the court]~~ **president of the senate,**
4 **or the president pro tempore of the senate if the lieutenant governor shall be impeached,**
5 and countersigned by ~~[one of the judges thereof]~~ **the secretary of the senate**, with a copy of the
6 articles of impeachment annexed, requiring the accused to appear on the day appointed for that
7 purpose, and answer the charges exhibited against him **or her**, which shall be served by the
8 ~~[marshal of the court]~~ **sergeant-at-arms of the senate**, or by special messenger by the ~~[court]~~
9 **senate** appointed, a reasonable time before the day set for his **or her** appearance.

106.080. If the governor or ~~[a judge of the supreme court]~~ **lieutenant governor** shall be
2 impeached, the ~~[house of representatives shall immediately transmit such articles of~~
3 ~~impeachment to the senate who shall, without delay, proceed to the election of a special~~
4 ~~commission to try the cause, which commission shall be composed of seven eminent jurists, who~~
5 ~~at the time of their election are judges of the circuit or appellate courts of this state; provided,~~
6 ~~however, that judges of the supreme court shall not be eligible to serve on such special~~
7 ~~commission. The commission shall meet in the City of Jefferson within thirty days after their~~
8 ~~election on a day designated by the senate]~~ **chief justice of the supreme court shall be notified**
9 **by the president pro tempore of the senate of such impeachment, and of the day when his**
10 **or her attendance shall be required, and the chief justice shall attend and preside at the**
11 **trial; and if he or she is sick and unable to attend, the next most senior supreme court**
12 **judge in terms of length of service on the court shall be notified and shall preside at the**
13 **trial.**

106.100. The ~~[notices]~~ **notice** as required by ~~[sections]~~ **section 106.070** ~~[and 106.090]~~
2 shall be served on the accused personally, if he **or she** can be found; and if he **or she** cannot be
3 found, then by leaving a copy of such summons and articles of impeachment at his **or her**
4 dwelling house or usual place of abode, with some member of the family above the age of fifteen
5 years.

106.120. Upon the appearance of the accused, he **or she** shall have reasonable time to
2 answer the impeachment; and when the answer shall be filed, the managers may reply thereto;
3 and when issue shall be joined on any such impeachment, the ~~[court or commission]~~ **senate** shall
4 appoint a time for trial thereof.

106.130. The president ~~[of the commission]~~ **of the senate** or the chief justice of the
 2 supreme court **when the governor or lieutenant governor is being tried**, as the case may be,
 3 on application of the respondent, or any of his **or her** counsel, or either of the managers, shall
 4 issue subpoenas for witnesses and commissions to take depositions where the witness is unable
 5 to attend from sickness or other infirmity, or where the witness is without the state.

106.150. If the accused shall not appear after being notified, or, after appearing shall fail
 2 to answer, the ~~[court or commission]~~ **senate** may proceed ex parte.

106.160. At the time and place appointed for trial, and before proceeding thereon, ~~[some~~
 2 ~~person authorized by law so to do]~~ **the president of the senate or the chief justice of the**
 3 **supreme court** shall administer to the ~~[members of the special commission, in cases of~~
 4 ~~impeachment of the governor or a judge of the supreme court, or to the judges of the supreme~~
 5 ~~court, in cases of impeachments of other officers]~~ **members of the senate, and the secretary**
 6 **shall at the same time administer to the president or chief justice**, an oath or affirmation
 7 impartially to try and determine the charges and to do justice according to the law and the
 8 evidence; and no member shall sit or give his **or her** vote until he **or she** shall have taken such
 9 oath or affirmation.

106.170. The members being sworn, the ~~[supreme court or the special commission, as~~
 2 ~~the case may be,]~~ **senate** shall proceed to hear, try and determine such impeachment, and may
 3 adjourn the trial to any other time; and the ~~[court or commission]~~ **president of the senate or**
 4 **chief justice** shall determine all questions of law arising during the trial upon the admissibility
 5 of evidence, the competency of witnesses, or otherwise, and may punish any person for contempt
 6 committed toward it, or for obstructing the administration of justice on such trial, in as full a
 7 manner as any court of record could do for like contempt toward such court. Except as otherwise
 8 provided in sections 106.020 to 106.210, the rules of evidence and procedure applicable in civil
 9 actions before circuit judges in the circuit courts of this state shall be followed in all trials of
 10 impeachment ~~[whether]~~ before the ~~[supreme court or the special commission]~~ **senate**.

106.180. In all such trials the accused shall have a right to be heard by himself **or herself**
 2 and his **or her** counsel, and all matters relating to procedure and the conduct of the trial shall be
 3 determined by a majority vote of the ~~[judges or commissioners]~~ **senate** and shall be entered and
 4 made a part of the record of the proceeding; but no judgment or sentence of conviction shall be
 5 given against any ~~[person]~~ **judge or any elective executive official of the state** upon any
 6 impeachment without concurrence of five-sevenths of ~~[the judges of the supreme court or of the~~
 7 ~~members of the special commission]~~ **all senators elected**.

106.200. The ~~[supreme court or special commission, as the case may be,]~~ **senate** shall
 2 cause a transcript of the proceedings had on any impeachment to be made out, and the judgment
 3 of the ~~[court or commission]~~ **senate**, whether of conviction or acquittal, which shall be signed

4 by the officer presiding at the trial and attested by the secretary of the [~~commission or a judge~~
5 ~~of the court hearing the cause~~] **senate** and deposited in the office of the secretary of state.

106.210. All writs by the [~~court or commission~~] **senate** shall run in the name of the state
2 of Missouri, shall be subscribed by the presiding officer and countersigned by [~~a judge of the~~
3 ~~supreme court or in cases of impeachment of the governor or a judge of the supreme court, by~~
4 ~~the secretary of the commission~~] **the secretary of the senate**, and shall be served by the [~~marshal~~
5 ~~of the court~~] **sergeant-at-arms of the senate** or by a special messenger appointed for that
6 purpose.

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~~[106.090. Immediately upon meeting, the commission shall proceed to
organize by electing a president and a secretary and thereupon shall designate
some day not less than twenty days nor more than thirty days after the service of
the summons for the appearance of the accused and cause a summons to be
issued, signed by the president of the commission and countersigned by the
secretary thereof, with a copy of the articles of impeachment annexed, requiring
the accused to appear on the day designated for that purpose, and answer charges
exhibited against him, which shall be served by a messenger appointed by the
commission, a reasonable time before the day set for his appearance. The
commission shall have power to employ such clerical help and assistants as they
may deem necessary to the proper conduct of the trial.]~~

~~[106.110. Each member of the special commission, provided for in
section 106.080, shall be allowed an amount not to exceed ten dollars per day for
actual and necessary expenses incurred in the performance of his duties, which
allowance shall be in lieu of all other compensation for such service.]~~

Section B. Section A of this act shall become effective only upon approval by the voters
2 of an amendment to article VII of the Constitution of Missouri that modifies which entities are
3 authorized to try impeachments of public officials.

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