

SECOND REGULAR SESSION

SENATE BILL NO. 718

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4722S.011

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 twelve new sections relating to impeachment trials, 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106.090, 106.100, 106.110, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 106.200, and 106.210, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 106.030, 106.040, 106.070, 106.100, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 106.200, and 106.210, to read as follows:

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

106.040. When the house of representatives shall be satisfied that there is good cause to impeach any officer, they shall cause articles of impeachment to be made out in due form against such officer and shall transmit the same to the [supreme court] **senate**, and immediately elect managers to prosecute such impeachment; provided, however, that in the case of impeachment of the governor [or a member of the supreme court], they shall transmit such articles of impeachment to the [senate who shall, without delay, proceed to the election of a special commission to try such impeachment as provided in section 106.080]

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

9 **the chief justice of the supreme court.** In case of death, resignation or
10 failure to serve, of any manager elected by the house as aforesaid, the governor
11 shall, if the house be not in session, fill such vacancy; and the person thus
12 appointed shall have the same power and perform the same duties as if elected
13 by the house.

106.070. When articles of impeachment shall be presented to the [supreme
2 court] **senate**, the [court] **senate** shall immediately appoint some day for the
3 appearance of the accused and cause a summons to be issued, signed by the [chief
4 justice of the court] **president pro tempore of the senate** and countersigned
5 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
7 appointed for that purpose, and answer the charges exhibited against him, which
8 shall be served by the [marshal of the court] **sergeant-at-arms of the senate**,
9 or by special messenger by the [court] **senate** appointed, a reasonable time before
10 the day set for his appearance.

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

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

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

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

106.160. At the time and place appointed for trial, and before proceeding
2 thereon, some person authorized by law so to do shall administer to the [members

3 of the special commission] **chief justice of the supreme court**, in cases of
4 impeachment of the governor [or a judge of the supreme court], or to the [judges
5 of the supreme court] **members of the senate**, in cases of impeachments of
6 other officers, an oath or affirmation impartially to try and determine the charges
7 and to do justice according to the law and the evidence; and no member shall sit
8 or give his vote until he shall have taken such oath or affirmation.

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

106.180. In all such trials the accused shall have a right to be heard by
2 himself and his counsel, and all matters relating to procedure and the conduct of
3 the trial shall be determined by a majority vote of the [judges or commissioners]
4 **senate or the opinion of the chief justice of the supreme court** and shall
5 be entered and made a part of the record of the proceeding; but no judgment or
6 sentence of conviction shall be given against any person upon any impeachment
7 without concurrence of [five-sevenths of the judges of the supreme court or of the
8 members of the special commission] **two-thirds of all senators present or in
9 the opinion of the chief justice**.

106.200. The [supreme court or special commission] **senate or chief
2 justice of the supreme court**, as the case may be, shall cause a transcript of
3 the proceedings had on any impeachment to be made out, and the judgment of the
4 [court or commission] **senate or chief justice**, whether of conviction or
5 acquittal, which shall be signed by the [officer presiding at the trial] **president
6 pro tempore of the senate** and attested by the secretary of the [commission
7 or a judge of the court hearing the cause] **senate or, in the case of the
8 governor being tried, by the chief justice of the supreme court and**

9 **attested by the secretary of the senate** and deposited in the office of the
10 secretary of state.

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

[106.080. If the governor or a judge of the supreme court
2 shall be impeached, the house of representatives shall immediately
3 transmit such articles of impeachment to the senate who shall,
4 without delay, proceed to the election of a special commission to try
5 the cause, which commission shall be composed of seven eminent
6 jurists, who at the time of their election are judges of the circuit or
7 appellate courts of this state; provided, however, that judges of the
8 supreme court shall not be eligible to serve on such special
9 commission. The commission shall meet in the City of Jefferson
10 within thirty days after their election on a day designated by the
11 senate.]

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

[106.110. Each member of the special commission, provided

2 for in section 106.080, shall be allowed an amount not to exceed ten
3 dollars per day for actual and necessary expenses incurred in the
4 performance of his duties, which allowance shall be in lieu of all
5 other compensation for such service.]

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

Unofficial

Bill

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