

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an Adjunct Professor at McGeorge School of Law. Today's podcast is on impeachment by the California Legislature. California's Government Code in Title 1, Division 4, Chapter 7, Article 2 provides for impeachment of officials by the California Legislature.

Government Code Section 3020 provides that state officers elected on a statewide basis, including members of the State Board of Equalization and judges of state courts, are subject to impeachment for any misconduct in office. Section 3020.5 states that the Senate when sitting as the court of impeachment is a court of record and the officers of the Senate are the officers of this court.

Section 3021 specifies that all impeachments must be by resolution, adopted, originated in, and conducted by managers who are elected by the Assembly. Section 3022 requires that the managers are to prepare articles of impeachment, present them at the bar of the Senate and prosecute them. The trial is before the Senate sitting as a court of impeachment. Section 3023 of the Government Code states that when an officer is impeached by the assembly for a misdemeanor in office, the articles of impeachment must be delivered to the President of the Senate.

Then section 3024 requires the Senate to assign a day for the hearing of the impeachment and inform the assembly of that particular date. Section 3025 requires the Senate President to serve the defendant with a copy of the articles of impeachment with a notice to appear and answer at the appointed time and place. Section 3026 requires the service to be made personally upon the defendant.

Section 3027 states that if the defendant does not appear, then the Senate may assign another day for hearing the impeachment or the Senate may proceed to trial and judgment in the absence of the particular defendant. Section 3028 provides that when the defendant appears that the defendant may object in writing to the sufficiency of the articles of impeachment, or the defendant may answer the articles by an oral plea of not guilty.

Section 3029 requires the defendant to answer these articles. If the defendant pleads guilty or refuses to plead, then the Senate must render judgment of conviction against him or her. Section 3030 provides that if the defendant pleads not guilty, then the Senate must try the impeachment at the time that it makes the appointment. The plea is then entered upon the Senate journal.

Section 3031 states that the Senate Secretary must administer to all members of the Senate an oath truly and impartially to hear, try and determine the impeachment. No member of the Senate can act or vote upon the impeachment or upon any question arising without having taken an oath. Section 3032 specifies that the defendant cannot be convicted on impeachment without the concurrence of two-thirds of the elected members of the Senate.

If two-thirds of the members elected do not concur in a conviction, defendant is acquitted. Section 3033 states that after conviction and at the time appointed by the Senate, that the Members of the Senate must pronounce their judgment in the form of a resolution that's adopted in the Senate journal.

Then section 3034 provides it on the adoption of the resolution by a majority of the members present who voted on the question of acquittal or conviction, it then becomes the judgment of the Senate. Section 3035 specifies that the judgment may be that the defendant be suspended or the defendant be removed from office and disqualified from holding any office of honor, trust or profit in the State of California.

Section 3036 provides that if judgment of suspension is given during the continuance of the judgment then the defendant is disqualified from receiving salaries, fees or anything else of that particular office. Section 3037 notes that whenever articles of impeachment against an officer are presented to the Senate, that the officer is temporarily suspended from his or her office, and cannot act in his or her official capacity until he or she is acquitted.

Section 3038 specifies that upon temporary suspension of any officer other than the Governor, the office must at once be temporarily filled by an appointment made by the Governor with the advice and consent of the Senate. The office is to be filled by the appointee until the acquittal of that particular party who has been allegedly impeached or in the case of his or her removal until the vacancy is filled at the following election.

Section 3039 provides that if the Lieutenant Governor is impeached notice of the impeachment must be immediately given to the Senate by the Assembly in order that another President of the Senate may be chosen. Finally, there is section 3040, which specifies that if the offense for which the defendant is convicted on impeachment is also the subject of an indictment or information, then the indictment or information is not barred. That is a look at the statutory provisions found in the Government Code concerning impeachment by the California legislature. I hope you found this podcast helpful. Thanks for joining.