

BILL ANALYSIS

Senate Research Center
89R3338 BEF-D

S.B. 2051
By: Birdwell
State Affairs
4/1/2025
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Impeachment is neither a criminal nor a civil proceeding, but rather a delicate combination of the two. The powers relating to impeachment are a vital check in the balances between the branches of government and are essential in keeping the sovereignty of our state and nation. According to *Ferguson v. Maddox*, "the primary purpose of an impeachment is to protect the state, not punish the offender." Under Texas law, there are two types of impeachment: constitutional and statutory. Constitutional impeachment, under Article 15 of the Texas Constitution, applies to statewide elected officials, but Article 15 provides little to no procedural guidelines on the impeachment process. Statutory impeachment, under Chapter 665 of the Government Code, applies to all other elected officials in the state. While Chapter 665 provides extensive guidelines for the impeachment process, these provisions not only need improvement, but they do not apply to Constitutional impeachments. The depth of clarity in statutory impeachment proceedings and guidelines demonstrates the need for similar guidelines for constitutional impeachments.

This lack of clarity was evidenced during the entire impeachment process of Attorney General Paxton and shed light on insufficiencies within Constitutional impeachments. To align current law with this sentiment and address the insufficiencies identified in 2023, changes need to be made to the Texas Constitution and related statutes.

S.B. 2051 seeks to address insufficiencies in the impeachment process.

S.B. 2501 is the enabling language to S.J.R. 68.

As proposed, S.B. 2051 amends current law relating to the impeachment or removal from office of certain public officers, including procedures governing the impeachment, trial on impeachment, and disqualification of state officers, and to the grounds for which certain public officers may be removed from office.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 665, Government Code, by adding Sections 665.008, 665.009, 665.010, and 665.011, as follows:

Sec. 665.008. TESTIMONY IN IMPEACHMENT PROCEEDING. Requires that all witness testimony in an impeachment proceeding, including testimony by the officer who is the subject of the proceeding, be given under oath and in a session open to all members of the house or, if the proceeding is conducted by a committee, to all members of the committee.

Sec. 665.009. REVIEW OF COMMITTEE MATERIALS. (a) Provides that this section applies to an impeachment proceeding in which an investigation or other portion of the proceeding is conducted by a committee.

(b) Requires the committee to provide to each member of the house the committee's report and other materials related to the impeachment at least 48 hours before the house begins deliberating or votes on the impeachment.

Sec. 665.010. **INELIGIBILITY TO VOTE IN PROCEEDING INVOLVING FAMILY MEMBER.** Provides that a member of the house is ineligible to vote in an impeachment proceeding, including in a portion of the proceeding conducted by a committee, if the member is related within the third degree by consanguinity or affinity as determined under Subchapter B (Relationships by Consanguinity or by Affinity), Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), to the officer who is the subject of the proceeding.

Sec. 665.011. **REPORT OF COSTS OF IMPEACHMENT PROCEEDING.** (a) Requires the house to keep an accounting of all costs incurred by the house in connection with an impeachment proceeding, including investigative costs and costs incurred during the trial by the senate, if applicable.

(b) Requires the house, not later than the 60th day after the conclusion of an impeachment proceeding by the house, to deliver a report of the costs described by Subsection (a) incurred in connection with the proceedings to the Comptroller of Public Accounts of the State of Texas, lieutenant governor, speaker of the house, Legislative Budget Board (LBB), chair of the senate committee on finance, and chair of the house committee on appropriations. Requires the house, if the senate conducts a trial on the impeachment, to update the report to include the additional costs incurred by the house during the trial and deliver the updated report to those entities not later than the 60th day after the conclusion of the trial.

SECTION 2. Amends Subchapter B, Chapter 665, Government Code, by adding Sections 665.029, 665.030, 665.031, and 665.032, as follows:

Sec. 665.029. **PRESIDING OFFICER IN TRIAL OF GOVERNOR OR LIEUTENANT GOVERNOR.** Provides that the presiding officer for the court of impeachment in a trial of the governor or lieutenant governor is the chief justice of the Supreme Court of Texas or, if the chief justice recuses himself or herself, the presiding judge of the Court of Criminal Appeals of Texas.

Sec. 665.030. **TESTIMONY IN IMPEACHMENT TRIAL.** Requires that all witness testimony in a trial on impeachment, including testimony by the officer who is the subject of the trial, be given under oath and in a session open to all members of the senate.

Sec. 665.031. **INELIGIBILITY TO VOTE IN TRIAL INVOLVING FAMILY MEMBER.** Provides that a member of the senate is ineligible to vote on the removal of an individual from office following impeachment or the disqualification of an individual from holding any office of honor, trust, or profit under this state if the member of the senate is related to the individual within the third degree by consanguinity or affinity as determined under Subchapter B, Chapter 573.

Sec. 665.032. **REPORT OF COSTS OF TRIAL.** (a) Requires the senate to keep an accounting of all costs incurred by the senate in connection with the trial of an impeachment, including any costs incurred during the house impeachment proceeding.

(b) Requires the senate, not later than the 60th day after the conclusion of the trial of an impeachment, to deliver a report of all costs described by Subsection (a) to the comptroller, lieutenant governor, speaker of the house, the LBB, chair of the senate committee on finance, and chair of the house committee on appropriations.

SECTION 3. Amends Section 665.081, Government Code, as follows:

Sec. 665.081. **New heading: REMOVAL ONLY FOR ACTS COMMITTED WHILE HOLDING OFFICE.** (a) Provides that an officer in this state is subject to removal from

office only for an act the officer committed while holding an elected or appointed office. Deletes existing text prohibiting an officer in this state from being removed from office for an act the officer may have committed before the officer's election to office.

(b) Provides that the prohibition against the removal from office for an act the officer commits while not an officeholder, rather than before the officer's election, is covered by certain provisions, including Section 21.024, rather than 21.002 (References to Municipal Governing Body and to Members of Municipal Governing Body), Local Government Code, for a mayor or alderman of a general law municipality.

SECTION 4. Amends Section 21.024, Local Government Code, as follows:

Sec. 21.024. New heading: REMOVAL ONLY FOR ACTS COMMITTED WHILE HOLDING OFFICE. Provides that an officer is subject to removal from office under Subchapter B (Judicial Removal of Member of Governing Body of General-Law Municipality), Chapter 21 (General Provisions Affecting Governing Body of Municipality) only for an act the officer committed while holding an elected or appointed office. Deletes existing text prohibiting an officer from being removed from office under this subchapter for an act the officer committed before election to office if the act was a matter of public record or otherwise known to the voters.

SECTION 5. Amends Section 87.001, Local Government Code, as follows:

Sec. 87.001. New heading: REMOVAL ONLY FOR ACTS COMMITTED WHILE HOLDING OFFICE. Provides that an officer is subject to removal under Chapter 87 (Removal of County Officers from Office; Filling of Vacancies) only for an act the officer committed while holding an elected or appointed office, rather than may not be removed from office under this subchapter for an act the officer committed before election to office.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: January 1, 2026, contingent upon approval by the voters of the constitutional amendment relating to clarifying and implementing certain provisions governing the impeachment, trial, removal from office, and disqualification of public officers.