

CHAPTER 67

SUSPENSION OF STATE OFFICERS

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67.1 Commission to examine accounts.

The governor shall, when of the opinion that the public service requires such action, appoint, in writing, a commission of three competent accountants and direct them to examine the books, papers, vouchers, moneys, securities, and documents in the possession or under the control of any state officer, board, commission, or of any person expending or directing the expenditure of funds belonging to or in the possession of the state.

[R60, §46, 47, 55, 56; C73, §759; C97, §1259; C24, 27, 31, 35, 39, §1119; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.1]

67.2 Power of commission.

Said commissioners while in session shall have power to issue subpoenas, to call any person to testify in reference to any fact connected with their investigation, and to require such persons to produce any paper or book which the district court might require to be produced. Each commissioner shall have power to administer oaths.

[R60, §54; C73, §765; C97, §1260; C24, 27, 31, 35, 39, §1120; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.2]

67.3 Refusal to obey subpoena — fees.

If any witness, duly subpoenaed, refuses to obey said subpoena, or refuses to testify, said commission shall certify said fact to the district court of the county where the investigation is being had and said court shall proceed with said witness in the same manner as though said refusal had occurred in a legal proceeding before said court or judge.

Witnesses shall be paid in the manner provided for witnesses before the executive council and from the same appropriation.

[C24, 27, 31, 35, 39, §1121; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.3]

[P] Contempts, chapter 665

[P] Payment of witnesses before council, §66.28

[P] Witness fees, §622.69 – 622.75

67.4 Nature of report.

Such accountants shall make out a full, complete, and specific statement of the transactions of said officer with, for, or on behalf of the state, showing the true balances in each case, and report the same to the governor, with such suggestions as they may think proper.

[R60, §46, 47, 55, 56; C73, §759; C97, §1259; C24, 27, 31, 35, 39, §1122; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.4]

67.5 Duty of governor.

The governor, if the governor finds from said report that matters exist which would be grounds for removing said officer from office, shall proceed as follows:

1. If the officer is an elective state officer, not removable under impeachment proceedings, or if said officer is an appointive state officer, the governor shall lay a copy of said report before the attorney general.

2. If the officer is an appointive state officer, the governor shall also lay a copy of said report before the executive council.

3. If the officer is one who is removable only under impeachment proceedings the

governor shall, by written order, forthwith suspend such officer from the exercise of the office, and require the officer to deliver all the moneys, books, papers, and other property of the state to the governor, to be disposed of as hereinafter provided.

[R60, §48; C73, §760; C97, §1261; C24, 27, 31, 35, 39, §1123; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.5]

[P] Failure to keep proper accounts, §11.5

[P] Impeachable officers, Iowa Constitution, Art. III, §20; also §68.1

[P] Removal by executive council, §66.26

[P] Suspension of member of state board of regents, §262.5

67.6 Effect of order — penalty.

It shall be unlawful for such officer, after the making of such order of suspension, to exercise or attempt to exercise any of the functions of the office until such suspension shall be revoked; and any attempt by the suspended officer to exercise such office shall constitute a serious misdemeanor.

[R60, §49; C73, §761; C97, §1261; C24, 27, 31, 35, 39, §1124; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.6]

67.7 Salary pending charge.

An order of the governor suspending an impeachable state officer from the exercise of the office shall, from the date of said order, automatically suspend the further payment to said officer of all official salary or compensation, except as herein provided. If articles of impeachment are duly voted against said officer during the general assembly first convening after said order, and the accused is convicted thereon, all right to said suspended salary or compensation shall be deemed forfeited by said officer. If said articles are not so voted, or if the said officer be acquitted on duly voted articles, the said suspended salary or compensation shall be forthwith paid to said officer, unless an indictment or its equivalent, growing out of the officer's misconduct while in office, is then pending against the said officer, in which case said salary or compensation shall be paid to said officer only on the officer's acquittal or the dismissal of the charges.

[C35, §1124-e1; C39, §1124.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.7]

67.8 Temporary appointment.

On the making of such order, the governor shall appoint a temporary incumbent of said office. Such appointee, after qualifying, shall perform all the duties and enjoy all the rights belonging to the said office, until the removal of the suspension of the appointee's predecessor, or the appointment or election of a successor.

[R60, §51; C73, §762; C97, §1262; C24, 27, 31, 35, 39, §1125; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.8]

[P] Qualification by temporary officer, §63.9, 68.5

67.9 Governor to protect state.

When the governor shall suspend any public officer, the governor shall direct the proper legal steps to be taken to indemnify the state from loss.

[R60, §52; C73, §763; C97, §1263; C24, 27, 31, 35, 39, §1126; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.9]

67.10 Governor to report to general assembly.

Forthwith after the organization of the general assembly first convening after the making of said order of suspension, the governor shall lay before it the order and all information and evidence relating thereto in the governor's possession.

[C24, 27, 31, 35, 39, §1127; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.10]

67.11 Failure to impeach or convict.

The adjournment of such assembly without voting articles of impeachment against such officer or a verdict of "not guilty" on such articles duly preferred, shall work a revocation of such order of suspension.

[C24, 27, 31, 35, 39, §1128; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.11]

67.12 Compensation and expenses of commissioners.

These commissioners shall be paid a per diem as specified in section 7E.6 and be reimbursed for actual and necessary expenses, which sum shall be paid out of any unappropriated funds in the state treasury.

[R60, §53; C73, §764; C97, §1264; C24, 27, 31, 35, 39, §1129; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.12]

90 Acts, ch 1256, §25

67.13 Reports revealing grounds of removal.

When any report as to the condition of a state office, other than the report of said commission, is made and filed under authority of law, and said report reveals grounds for the removal from office of a public officer, the person filing said report shall also file a copy thereof with the governor and with the attorney general.

[C24, 27, 31, 35, 39, §1130; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §67.13]