

**Title 2**

**LEGISLATIVE**

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**Chapter 01**

**GENERAL PROVISIONS**

**Sections:**

- 2.0101 Legislative journals.**
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**2.0101 Legislative journals.**

- (a) The corrected daily copies of the journals of the Senate and House of Representatives, together with the indexes thereof, constitute and are the official permanent record of the legislative proceedings.
- (b) One copy of the daily permanent journals of the House and Senate must be certified as follows:

I hereby certify that the following house (or senate) journal of the legislative day is correct.

.....  
 Chief Clerk, House of Representatives  
 or  
 Secretary of the Senate

- (c) The certified copies must be filed with the Secretary of American Samoa not later than 30 days following the adjournment of the Legislature. Duly certified copies of the journals must be received in all courts of the Territory as original evidence, and are prima facie evidence of the proceedings.

**History:** 1962, PL 7-28; 1968, PL 10-44.

**2.0102 Compensation of legislators.**

- (a) The annual salary of the President of the Senate and the Speaker of the House is \$30,000.
- (b) The annual salary of other members of the Legislature is \$25,000.

(c) The annual salary of the delegate from Swains Island is \$20,000.

**History:** 1962, PL 7-28;amd 1974, PL 17-51;amd 1977; PL 13-51;amd 1978; PL 14-13 § 1; 1978, PL 15-74;amd 1982, PL 17-51 § 1; amd 1996, PL 24-18.

**Amendments:** 1974 Raised compensation; 1977 Raised compensation; 1978 Amended generally; 1982 Raised compensation.

**Reviser's Comment:**

Section 3 of PL 15-13 provided: "This act is only effective if the Secretary of the Interior approves the amendment to Article II, Section 25 of the Constitution of American Samoa, approved by the qualified electors of American Samoa at the 2 November 1976 election, providing the compensation of legislators be provided by law. This act is effective upon passage and approval due to the emergency necessity of raising the legislators' compensation".

The Secretary approved the amendment 8 April 1977. Section 2 of PL 17-51 provided: "Pursuant to 2.0103 A.S.C.A. (legislature may not raise its own compensation), this act becomes effective 1 January 1983."

**2.0103 Legislature may not raise its own compensation—Exception.**

No Legislature except the 15<sup>th</sup>, may raise its own compensation, but a Legislature may raise the compensation of succeeding Legislatures.

**History:**1977, PL 15-13 § 2.

**Reviser's Comment:**

Section 3 of PL 15-13 provided: This act is only effective if the Secretary of the Interior approves the amendment to Article II, Section 25 of the Constitution of American Samoa, approved by the qualified electors of American Samoa at the 2 November 1976 election, providing the compensation of legislators be provided by law. This act is effective upon passage and approval due to the emergency necessity of raising the legislator's compensation".

The Secretary approved the amendment 8 April 1977.

**2.0104 Office expense fund for legislators.**

(a) There shall be paid in equal biweekly installments an annual expense allowance of:

(1) \$30,000 per annum to each member of the Senate and House of Representatives; and

(2) \$40,000 per annum to the President of the Senate and Speaker of the House of Representatives.

(b) This allowance is for the purpose of defraying expenses relating to or resulting from the discharge of their official duties. An accounting of the expenditures incurred by the member is not required.

Unless the member so elects, the allowance provided in this section is not income and the member is not required to report the amount of the allowance as income for tax purposes. A member may not subsequently claim the allowance as non-income once the election has been made to designate it as taxable income.

**History:** 2001, PL 27-4, 2005, PL 29-2; 2008, PL 30-30.

**2.0105 Administration oaths**

Any member of the Legislature, while acting as a member or as a member of any committee thereof, shall have authority to administer oaths to such persons as shall be examined before the Legislature or any committee thereof.

**History:** 1988, PL 20-78.

## **2.0106 Contempt of the Legislature**

(a) For the purposes of this section, contempt of the Legislature shall consist of any of the following acts:

(1) knowingly arresting a member or officer of the Senate or the House, or procuring such member or officer to be arrested in violation of his privilege from arrest;

(2) disorderly conduct in the immediate view of the Senate, the House, or any legislative committee, directly tending to interrupt its proceedings;

(3) refusing to be examined as a witness before the Senate, the House, or any legislative committee, or before any person authorized to take testimony in legislative proceedings;

(4) giving or offering a bribe to a legislator, or attempting, by menace or other corrupt means or devise, directly or indirectly, to control or influence a legislator's vote, or to prevent his giving the same.

(b) A person who is found in contempt of the Legislature is guilty of a class D felony.

**History:** 1988, PL 20-78.

## **2.0107 Appearance of American Samoa's Washington Delegate**

Annually, at a month to be determined by the President of the Senate, the Speaker of the House, and the Congressman, the President and the Speaker shall invite American Samoa's Delegate to the United States House of Representatives to appear before the Legislature and give an address on Federal-Territorial issues.

**History:** 1996, PL 24-15 § 1.

## **Chapter 02**

### **SENATE**

#### **Sections:**

- 2.0201 Membership.**
- 2.0202 Districts.**
- 2.0203 Election-Certification of results.**
- 2.0204 Filling of vacancies-Term.**

#### **2.0201 Membership.**

The Senate has 18 members.

**History:** 1968, PL 10-38.

#### **2.0202 Districts.**

The Senate districts, and the number of Senators to be elected therefrom, shall be as follows:

- District 1: Fitiuta, Faleasao and Ta'u Counties, 2 Senators;
- District 2: Olosega and Ofu Counties, 1 Senator;
- District 3: Sa'ole County, 1 senator;
- District 4: Vaifanua County, 1 Senator;
- District 5: Sua County, 2 Senators;
- District 6: Ma'oputasi County, 3 Senators;
- District 7: Itu'au County, 2 Senators;
- District 8: Ma'upu County, 2 Senators;
- District 9: Leasina County, 1 Senator;
- District 10: Tualatai County, 1 Senator;
- District 11: Fofu County, 1 Senator;

District 12: Lealataua County, 1 Senator.

**History:** 1968, PL 10-38.

**2.0203 Election-Certification of results.**

Senators must be elected in accordance with Samoan custom by the county councils of the county or counties they are to represent. The decision of the members of the county councils must be certified by the county chiefs of such counties.

**History:** 1968, PL 10-38.

**2.0204 Filling of vacancies—Term.**

(a) When vacancies occur in the Senate, the Governor, or the person exercising the functions of Governor, shall issue writs of special election to fill such vacancies, except that if any such vacancy occurs within 3 months of the next regular election, no special election may be held, and the Governor shall appoint a qualified person to fill such vacancy.

(b) Prior to appointing such person, the Governor shall consult with the district governor and the county chief, or county chiefs, in the district concerned.

(c) A person elected to fill a vacancy or appointed by the Governor to fill a vacancy shall hold office during the remainder of the term of his predecessor.

**History:** 1962, PL 7-28; 1968, PL 10-38.

## **Chapter 03**

### **HOUSE OF REPRESENTATIVES**

**Sections:**

- 2.0301 Membership.**
- 2.0302 Districts.**

**2.0301 Membership.**

The House has 20 members.

**History:** 1962, PL 7-28; 1968, PL 10-35.

**2.0302 Districts.**

The House districts, and the number of Representatives to be elected therefrom, shall be as follows:

District 1: Ta'u, Fitiuta and Faleasao, 2 Representatives

District 2: Ofu, Olosega and Sili, 1 Representative;

District 3: Vaifanua, composed of the villages of Alao, Aoa, Onenoa, Tula and Vatia, 1 Representative;

District 4: Saole, composed of the villages of Aunuu, Amouli, Utumea and Alofau, 1 Representative;

Districts: Sua No. 1, composed of the villages of Fagaitua, Amaua, Auto, Avaio, Alega, Aumi and Lau'ii, 1 Representative;

District 6: Sua No. 2, composed of the villages of Sailele, Masausi, Masefau and Afono, 1 Representative;

District 7: Ma'oputasi No. 1, composed of the villages of Fatumafuti, Fagaalu and Utulei, 1 Representative;

District 8: Ma'oputasi No. 2, composed of the village of Fagatogo, 1 Representative;

District 9: Ma'oputasi No. 3, composed of the village of Pago Pago, 1 Representative;

District 10: Ma'oputasi No. 4, composed of the villages of Satala, Atuu and Leloaloa, 1

Representative;

District 11: Ma'oputasi No. 5, composed of the village of Aua, 1 Representative;

District 12: Ituau, composed of the villages of Nu'uuli, Fagasa, Matuu and Faganeanea, 2 Representatives;

District 13: Fofu, composed of the villages of Leone and Amaua, 1 Representative;

District 14: Lealataua, composed of the villages of Fagamalo, Fagalii, Poloa, Amanave, Failolo, Agagulu, Seetaga, Nua, Atauloma, Afao, Amaluia and Asili, 1 Representative;

District 15: Ma'upu, composed of the villages of Tafuna, Mesepe, Faleniu, Mapusaga Fou, Pavaia'i, Iliili and Vaitogi, 2 Representatives;

District 16: Tualatai, composed of the villages of Futiga, Ituau (Malaeloa), Taputimu and Vailoatai, 1 Representative;

District 17: Leasina, composed of the villages of Aitulagi (Malaeloa), Aolou and Asu, 1 Representative.

**History:** 1962, PL 7-28; 1968, PL 10-35

## Chapter 04

### OFFICERS AND EMPLOYEES

#### Sections:

- 2.0401 Election of officers-Oath Required-First order of business**
- 2.0402 Senate elective officers**
- 2.0403 House elective officers**
- 2.0404 Terms and duties of Secretary of Senate and clerk of House**
- 2.0405 Appointed officers—Compensation.**
- 2.0406 Removal of officers and employees.**

#### **2.0401 Election of officers—Oath required-First order of business.**

(a) Elective officers of the Legislature must be elected by secret ballot, and by a majority of all the votes cast, at the opening of the Legislature. Before entering upon their duties, they shall take and subscribe the oath prescribed by the Constitution of American Samoa.

(b) Neither the Senate nor the House may transact any business, other than the election of officers, before such officers are elected.

**History:** 1962, PL 7-28

#### **2.0402 Senate elective officers.**

The elective officers of the Senate must be a President of the Senate, who must be a member of that body, one secretary, and one sergeant-at-arms.

**History:** 1962, PL 7-28.

#### **2.0403 House elective officers.**

The elective officers of the House of Representatives must be a Speaker, who must be a member of that body, one chief clerk, and one sergeant-at-arms.

**History:** 1962, PL 7-28.

#### **2.0404 Term and duties of Secretary of Senate and Clerk of the House.**

(a) The Secretary of the Senate and the Chief Clerk of the House serving at the close of a session shall remain in office until the meeting of the next legislative session, to act in their respective capacities until their successors are duly elected and qualified.

(b) It is the duty of the Secretary of the Senate and the Chief Clerk of the House to keep correct daily journals of the proceedings of the Senate and House respectively, to have the custody of all records, accounts and other papers committed to them, and to perform such other duties as are assigned them by the Senate or House respectively.

**History:** 1962, PL 7-28.

**2.0405 Appointed officers—Compensation.**

(a) The President of the Senate shall appoint 1 first assistant to the secretary, 1 bill clerk, 2 trained proofreaders, 2 pages, 2 messengers, 1 tape recorder operator, not more than 5 expert stenographers and typists, and 1 translator to assist the Senate and its various committees.

(b) The Speaker of the House of Representatives shall appoint 1 first assistant clerk, 1 bill clerk, 2 expert proofreaders, who shall be clerks of the committee on correction of the House journals, 2 pages, 2 messengers, 1 tape recorder operator, 1 mimeograph machine operator, who shall perform services for both the Senate and the House of Representatives, not more than 5 expert stenographers and typists, and 1 translator to assist the House and its various committees.

(c) If the persons appointed under subsections (a) and (b) of this section are unable to do the required work, the presiding officer of each House may appoint additional expert stenographers and typists sufficient to do the required work.

(d) The salaries of the appointed officers must be fixed by the appointing authority, but the total of all salaries may not in any event exceed the total amount budgeted for the purpose.

**History:** 1962, PL 7-28; 1966, PL 9-29.

**2.0406 Removal of officers and employees.**

(a) Each branch of the Legislature may remove its elective officers and discharge its employees.

(b) In case of removal of an elective officer, the position shall be filled by secret ballot and by a majority of all the votes cast.

**History:** 1962, PL 7-28.

## Chapter 05

### LEGISLATIVE REFERENCE BUREAU

**Sections:**

- 2.0501 Creation**
- 2.0502 Powers and duties**
- 2.0503 Director-Appointment of staff**
- 2.0504 Prohibited acts**

**2.0501 Creation.**

There is, as an agency within the Legislature, a Legislative Reference Bureau for the use of the members of the Legislature.

**History:** 1967, PL 10-7.

**2.0502 Powers and duties.**

The Legislative Reference Bureau has the following powers and duties:

(1) to assist the members of the Legislature in the proper performance of their functions by providing them with impartial and accurate information and reports

concerning legislative problems that come or may come before them;

(2) to provide a comprehensive research and reference service on legislative and administrative problems;

(3) to secure reports of various officers and boards of the Territory, and, as far as possible, of the states and of the other Territories of the United States, and such other material, periodicals and books, as will furnish the fullest information practicable upon all matters pertaining to current or proposed legislation and to legislative and administrative problems;

(4) to secure information for the legislators by cooperating with the legislative reference services in the various states and Territories, the National Conference of State Legislatures, and the Council of State Governments;

(5) to furnish, upon the written request of any member of the Legislature, a digest of information and material pertaining to legislative problems;

(6) to draft or aid in drafting bills, resolutions, memorials and amendments thereto, and to render legal services in connection therewith, for any member of the Legislature upon request; and

(7) to codify and continuously recodify the laws of American Samoa, under the guidance of the policies of the Senate and House Committees on Rules, into the American Samoa Code and assemble and publish collections of acts, resolutions, and other measures of the Legislature. The Bureau may not alter the meaning, effect, intent, or substance of any act, but within such limitations, may renumber sections and parts of sections, rearrange sections, change reference numbers to agree with renumbered chapters, sections or other parts, substitute the proper subsections, section or chapter or other division numbers, change capitalization for the purpose of uniformity, and correct manifest clerical or typographical errors.

**History:** 1967, PL 10-7; 1969, PL 11-46; 1970, PL 11-115; amd 1973, PL 13-4; amd 1977, PL 15-30, PL 15-38.

**Amendments:** 1973 Paragraph (8): deleted reference to “Code section” and rephrased paragraph.

1977 Public Law 15-30, in paragraph (4), substituted “the National Conference of State Legislatures, and the Council of State Governments” for “with the National Legislative Conference maintained by the Council of State Governments”, and added the word ‘Territories’.

Public Law 15-38, in paragraph (7), added the words “and continuously recodify”, and the words “under the guidance of the policies of the Senate and House Committees on Rules, into the American Samoa Code”.

### **2.0503 Director—Appointment of staff.**

(a) The Legislative Counsel shall be the Director in charge of the Legislative Reference Bureau.

(b) The Legislative Counsel shall appoint such technical, clerical, and stenographic assistance as may be necessary and as provided for under appropriations made for the bureau.

**History:** 1967, PL 10-7; amd 1974, PL 13-45.

**Amendments:** 1974 Subsection (c): deleted.

### **2.0504 Prohibited acts.**

(a) Neither the person in charge of, any employee of, or any official assigned to work with the Bureau may reveal to any person outside of the Bureau the contents of matters of any request or statement for services except upon request of the person making such request or statement.

(b) Neither the person in charge of, or any employee of the Bureau may urge or oppose any legislation or give to any member of the Legislature advice concerning the

legal, economic, or social effect of any bill or proposed bill except upon the request of such member.

**History:** 1967, PL 10-7.

## **Chapter 06**

### **LEGISLATIVE FINANCIAL OFFICER**

**Sections:**

- 2.0601 Office created**
- 2.0602 Cooperation of government agencies**

**2.0601 Office created.**

(a) There is created a Legislative Financial Office. The head of the office is the Legislative Financial Officer, who is appointed by the President of the Senate and the Speaker of the House and compensated by the Legislature. The office is directly responsible to the Legislature on matters of financial analysis, review, study, or interest. The officer may appoint employees to implement the purposes of this chapter and advise and assist the Legislature in its deliberations, as provided for under appropriations made for the office.

(b) Unless otherwise directed by a Legislator making request for information, the request and the resulting work product shall first be submitted to the Legislator who requested it before it is distributed.

**History:** 1978, PL 15-90 § 2; amd 1983, PL 18-8 § 1.

**Amendments:** 1983 Appointment and duties of Legislative Financial Officer more specifically set forth.

**2.0602 Cooperation of government agencies.**

The agencies of the government shall cooperate with the Legislative Financial Officer in order that he may carry out the investigations, studies, analyses, and reports so directed to him by the Legislature, by opening their records to the officer during normal working hours and times.

**History:** 1978, PL 15-90 § 2.

## **Chapter 07**

**(RESERVED)**

## **Chapter 08**

**(RESERVED)**

## **Chapter 09**

**(RESERVED)**

## **Chapter 10**

### **INVESTIGATIONS**

**Sections:**

- 2.1001 Code of fair procedures-Establishment-Purpose.**
- 2.1002 Definitions.**
- 2.1003 Establishment of investigating committees.**



- 2.1004 Adoption of rules.**
- 2.1005 Additional staff may be employed.**
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- 2.1007 Hearings.**
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- 2.1009 Notice to witnesses.**
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- 2.1011 Rights to counsel and submission of questions.**
- 2.1012 Testimony.**
- 2.1013 Appearance of interested persons.**
- 2.1014 Contempt of an investigating committee.**
- 2.1015 Limitation of chapter.**
- 2.1016 Contempt of an investigating committee.**
- 2.1017 Committee reports.**
- 2.1018 Violation—Penalty.**

**2.1001 Code of fair procedures—Establishment—Purpose.**

A code of fair procedures for legislative investigating committees is established to provide for their operation in a manner which will enable them to execute properly the powers and duties vested in them, including the conduct of hearings in a fair and impartial manner, consistent with protection of the constitutional rights of persons involved in the proceedings and the preservation of the public good.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

**2.1002 Definitions.**

(a) “Investigating committee” means a committee created by law or resolution to inquire, research, or explore any matter on which the Legislature may act. All standing committees and their subcommittees are considered an investigating committee.

(b) “Hearing” means any meeting in the course of an investigatory proceeding (other than a preliminary conference or interview at which no testimony is taken under oath) conducted by an investigating committee for the purpose of taking or adducing testimony or receiving other evidence. A hearing may be open to the public or closed to the public.

(c) “Relevant” in reference to any form of information sought by an investigating committee means any information which tends to clarify or settle the establishment of any facts or matters under investigation or which may lead to further information which tends to clarify or settle such facts or matters.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

**2.1003 Establishment of investigating committees.**

(a) An investigating committee may be established by law or by resolution. It may exercise its powers during sessions of the Legislature, and also in the interim between sessions when so provided by law or by the resolution by which the committee was established or from which it derives its investigatory powers.

(b) The resolution or statute establishing an investigating committee shall state the committee’s purposes, powers, duties, duration, the subject matter and scope of its investigatory authority, and number of members.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

**Case Notes:**

A Committee of one house is a committee “of the Legislature.” Senate Select Investigating Committee v. Horning, 3A.S.R.2d 14 (1986).

Committee created by one House of the Legislature is a committee “of the Legislature” within the

meaning of Territorial statute authorizing committees to subpoena witnesses. A.S.C.A. § 2.1003 et seq. Senate Select Investigating Committee v. Horning, 3 A.S.R. 2d 14 (1986).

Territorial statute requiring legislative committees to adopt rules to govern their procedures, and requiring that person served with subpoenas also be served with a copy of the rules, was not satisfied by a committee's decision to adopt as "rules" the provisions of the statute itself. A.S.C.A. § 2.1003 et seq. Senate Select Investigating Committee v. Horning, 3 A.S.R.2d 14 (1986).

#### **2.1004 Adoption of rules.**

Each investigating committee shall adopt rules, not inconsistent with law or any applicable rules of the Legislature, governing its procedures, including the conduct of hearings.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

#### **Case Notes:**

Adoption of statutory provisions of this chapter does not constitute adoption of rules: set of separately written and adopted rules required by this section. Senate Select Investigating Committee v. Horning, 3 A.S.R.2d 14 (1986).

#### **2.1005 Additional staff may be employed.**

(a) Each investigating committee may employ for the duration of the investigation professional, technical, clerical, or other personnel as necessary for the proper performance of its duties. Funds shall be made available to it by the house or houses which passed the law or resolution establishing the committee subject to the restrictions and procedures relating to the investigating committee as may be provided by law or any applicable rules of the Legislature.

(b) Counsel for the investigating committee is fully authorized to represent it or its members in any legal action by or against the committee or member during the course of an investigation.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

#### **2.1006 Membership-Quorum-Action by majority vote.**

(a) An investigating committee shall consist of not less than 5 members.

(b) A quorum shall consist of a majority of the total authorized membership of the committee.

(c) No action may be taken by a committee at any meeting unless a quorum is present. Unless it is specified in this chapter or any other statute that action must be taken by a majority or greater vote of all of the members of the committee, action may be taken by a majority vote of the members present and voting at a meeting at which there is a quorum.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

#### **Case Notes:**

Committee's failure to comply with a statute requiring it to adopt rules and to serve a copy of these rules on person served with subpoena justified the refusal of a person served with subpoena to testify. A.S.C.A. §§ 2.1006, 2.1011, 2.1018. Senate Select Investigating Committee v. Horning, 3 A.S.R.2d 14 (1986).

#### **2.1007 Hearings.**

(a) An investigating committee may hold hearings as it considers appropriate for the performance of its duties, at such times and places as the committee determines.

(b) The committee shall provide by its rules that its members be given at least 2 days written notice of any hearing to be held when the Legislature is in session and at least 4 days' written notice of any hearing to be held when the Legislature is not in session. The notices shall include a statement of the subject matter of the hearing. A hearing, and any

action there taken, shall not be considered invalid solely because notice was not given in accordance with this requirement.

(c) A hearing may not be conducted by an investigating committee unless a quorum is present.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

### **2.1008 Issuance of subpoenas and filing of suit.**

(a) By majority vote of all its members, an investigating committee may issue subpoenas, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records, and the giving of relevant testimony.

(c) An investigating committee is authorized to file any action in the High Court, which is directly related to the conduct and purpose of its investigation. Such action must be approved by a majority vote of all its members and be duly recorded in the minutes of a committee meeting.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

#### **Case Notes:**

A Committee of one house is a committee "of the Legislature." Senate Select Investigating Committee v. Horning, 3 A.S.R.2d 14 (1986).

### **2.1009 Notice to witnesses.**

(a) Service of a subpoena authorized by this chapter shall be made in the manner provided by law for the service of subpoenas in civil actions at least 7 days prior to the time fixed in the subpoena for appearance or production of records unless a shorter period of time is authorized by majority vote of all of the members of the committee in a particular instance when, in their opinion, the giving of 7 days' notice is not practicable; but if a shorter period of time is authorized, the person to whom the subpoena is directed shall be given reasonable notice consistent with the particular circumstances involved.

(b) Any person who is served with a subpoena also shall be served with a copy of the resolution or statute establishing the committee, a copy of the rules under which the committee functions, a general statement informing him of the subject matter of the committee's investigation or inquiry and, if personal appearance is required, a notice that he may be accompanied by counsel of his own choosing.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

### **2.1010 Conduct of hearings.**

(a) All hearings of an investigating committee shall be public unless the committee, by majority vote of all its members, determines that a hearing should not be open to the public in a particular instance.

(b) The chairman of an investigating committee, if present and able to act, shall preside at all hearings of the committee and shall conduct the examination of witnesses or supervise examination by other members of the committee, committee counsel and members of the committee's staff who have been authorized to examine witnesses. In the chairman's absence or disability, the vice-chairman shall serve as presiding officer. The committee shall provide by its rules for the selection of a presiding officer to act in the absence or disability of both the chairman and the vice-chairman.

(c) No hearing, or part thereof, shall be televised, filmed or broadcast except upon approval of the committee by a majority vote of all of its members.

(d) Public television shall be made available to the committee when directed by the committee chairman after approval by majority vote of all committee members. Hearings shall then be televised live or taped as directed by the committee for later broadcast.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

### **2.1011 Rights to counsel and submission of questions.**

(a) Every witness at a hearing of an investigating committee may be accompanied by counsel of his own choosing. Counsel's role is limited to advising the witness as to his rights; provided, that limitations may be prescribed by the committee to prevent obstruction of or interference with the orderly conduct of the hearing.

(b) Any witness at a hearing, or his counsel, may submit to the committee proposed questions to be asked of the witness or any other witness relevant to the matters upon which there have been questions or submission of evidence, and the committee shall ask such of the questions as it may deem appropriate to the subject matter of the hearing.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

#### **Case Notes:**

Committee's failure to comply with a statute requiring it to adopt rules and to serve a copy of these rules on person served with subpoena justified the refusal of a person served with subpoena to testify. A.S.C.A. §§ 2.1006, 2.1011, 2.1018. Senate Select Investigating Committee v. Horning, 3 A.S.R.2d 14 (1986).

### **2.1012 Testimony.**

(a) An investigating committee shall cause a record to be made of all proceedings in which testimony or other evidence is received or adduced, which record shall include rulings of the chair, questions of the committee and its staff, the testimony or responses of witnesses, sworn written statements which the committee authorizes a witness to submit, and such other matters as the committee or its chairman may direct.

(b) All testimony given at a hearing shall be under oath or affirmation unless the requirement is dispensed with in a particular instance by majority vote of the committee members present at the hearing.

(c) Any member of an investigating committee may administer an oath or affirmation to a witness.

(d) The presiding officer at a hearing of an investigating committee may direct a witness to answer any relevant question or furnish any relevant book, paper, or other document. Unless the direction is overruled by majority vote of the committee members present, disobedience shall constitute grounds of citation for contempt, except that production of any book, paper, or other document may be required only by subpoena.

(e) A witness at a hearing, or his counsel, with the consent of a majority of the committee members present at the hearing, may file with the committee for incorporation into the record of the hearing sworn written statements relevant to the purpose, subject matter, and scope of the committee's investigation or inquiry.

(f) A witness at a hearing, upon his advance request and at his own expense, shall be furnished a certified transcript of his testimony.

(g) Testimony and other evidence given or adduced at a hearing closed to the public may not be made public unless authorized by majority vote of all of the members of the committee, which authorization shall also specify the form and manner in which the testimony or other evidence may be released. Nothing herein may be construed to prevent a witness or other supplier of evidence from disclosing such of his own testimony or other evidence concerning which only he could claim a privilege against disclosure.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

### **2.1013 Appearance of interested persons.**

(a) Any person whose name is mentioned or who is otherwise identified during a hearing of an investigating committee and who, in the opinion of the committee, may be adversely affected thereby, may, upon his request or upon the request of any member of the committee, appear personally before the committee and testify in his own behalf, or,

with the committee's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing.

(b) Upon the consent of a majority of its members, an investigating committee may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance or submission of evidence shall limit in any way the investigating committee's power of subpoena.

**History:** 1977, PL 15-56; amd 1988, PL 20-78.

#### **2.1014 Committee reports.**

Every investigating committee shall produce an official report of its investigation. Unless otherwise required by resolution or law, such report shall be approved by a majority of the entire committee and shall be, without further approval of either house of the Legislature, considered the official report of the Legislature.

**History:** 1988, PL 20-78; amd 1988, PL 20-78.

#### **2.1015 Limitations of chapter.**

Nothing contained in this chapter shall be construed to limit or prohibit the acquisition of evidence or information by an investigating committee by any lawful means not provided for herein.

**History:** 1977, PL 15-56.

#### **2.1016 Contempt of an investigating committee.**

(a) A person shall be in contempt if he:

- (1) fails or refuses to appear before the committee in compliance with a subpoena or, having appeared, fails or refuses to testify under oath or affirmation;
- (2) fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper, or other document subpoenaed by or on behalf of an investigating committee;
- (3) commits any other act or offense against an investigating committee which, if committed against the Legislature or either house thereof, would constitute a contempt.

(b) An investigating committee may, by majority vote of all of its members, apply for a contempt citation to the single House which created it or, in the case of a joint committee or a committee created by law, to both Houses. The application shall be considered as though the alleged contempt had been committed in or against the entire House or Houses of the Legislature itself. If the investigating committee is an interim committee, its application shall be made to the High Court.

**History:** 1977, PL 15-56; amd 1980, PL 16-90 § 4; amd 1988, PL 20-78.

**Amendments:** 1980 Amended to conform to penalties provided for in Title 46, Criminal Justice.

#### **Case Notes:**

Committee's failure to comply with rule requiring separate written rules constitutes justification for refusal of witness to answer questions, despite the fact that refusal was based on relevancy, not on lack of rules, and court's lack of finding that such non-compliance was either material or prejudicial Senate Select Investigating Committee v. Horning. 3 A.S.R.2d 14 (1986).

#### **2.1017 Immunity in legislative investigation**

(a) When a witness refuses to testify or provide requested information of any form or description, on the basis of the privilege against self incrimination, before an investigating committee of either or both houses of the Legislature the witness may be

compelled to testify or provide other information only upon the issuance of an order under this section.

(b) In the case of an individual who refuses to testify or provide information on the basis of the privilege against self-incrimination, an investigating committee may, upon request of a committee member, issue an order compelling such individuals to testify and provide information, such order becoming effective upon personal service on the witness at a hearing of the investigating committee.

(c) Before issuing such an order, the issuing body shall make findings that the request for such an order has been approved by a majority vote of all the members of the investigating committee requesting the order except that in the case of a committee of a whole House or both Houses, approval is required by a majority of all members present at a meeting called for the purpose of deciding on the request.

(d) Once an order is properly issued and served on a witness at a hearing, the witness may not refuse to testify or provide information on the basis of the privilege against self-incrimination, but no testimony or other information compelled under the order, nor evidence derived from such testimony or information, may be used against the witness in any criminal case, except for prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

**History:** 1988, PL 20-78.

**Case Notes:**

Committee's failure to comply with a statute requiring it to adopt rules and to serve a copy of these rules on person served with subpoena justified the refusal of a person served with subpoena to testify. A.S.C.A. §§ 2.1006, 2.1011, 2.1018. Senate Select Investigating Committee v. Horning, 3 A.S.R.2d 14 (1986).

**2.1018 Violation—Penalty.**

(a) A person guilty of contempt under the provisions of this chapter shall be sentenced as for a D felony.

(b) If an investigating committee fails in any material respect to comply with the requirements of this chapter, any person subject to a subpoena who is substantially prejudiced by such failure shall be relieved of any requirements of compliance. Such failure and prejudice shall be a complete defense in any proceeding against such person for contempt or other punishment.

(c) Either or both Houses may discipline a member or employee of the committee or Legislature and impose a penalty upon such member or employee who causes any unauthorized disclosure of testimony or evidence.

**History:** 1988, PL 20-78.

## Chapter 14

### Future Political Status Study Commission

**Sections:**

- 2.1401 Creation of a Future Political Status Study Commission and membership.**
- 2.1402 Functions of the Commission.**
- 2.1403 Powers of the Commission.**

**2.1401 Creation of a Future Political Status Study Commission and membership.**

There is created a Future Political Status Study Commission, which shall consist of eleven members:

- (a) Two members shall be chosen from among the Senate membership by the

President of the Senate.

(b) Two members shall be chosen from among the House membership by the Speaker of the House of Representatives.

(c) The Governor shall appoint 4 members from among the community.

(d) The Board of Higher Education shall choose one member.

(e) The Delegate at Large from American Samoa shall choose one member.

(f) The Chief Justice of the High Court of American Samoa shall choose one member.

The members shall elect a chairman and a vice-chairman by majority vote. In no event shall the commission exist beyond December 31, 2006.

**History:** 1969, PL 11-39; 1970, PL 11-102; 1972, PL 12-47; 2005, PL 29-6; amd PL 29-24, 2006; 2006, PL 29-25.

**Reviser's comments:** PL 11-39, PL 11-102; 1972, PL 12-47 were not codified

PL 12-47 (amends 2.1201 – 2.1202) Current ASCA missing sections 2.1201 – 2.1202

### **2.1402 Functions of the commission.**

(a) The commission shall study alternative forms of future political status open to American Samoa and shall assess the advantages and disadvantages of each.

(b) The commission shall study and appraise the history, the development and the present status of political units comparable or relevant to American Samoa, both within and without the jurisdiction of the United States and shall assess the advantages and disadvantages of each.

(c) To determine whether a single document is needed to set forth American Samoa's political status and relationship with the United States; and

(d) To study and evaluate the impact of American Samoa's political status and relationship with the United States as to the economic, cultural, land tenure, health, safety and social needs of American Samoa and the need for a comprehensive study to include Swains Island.

(e) The commission shall present its final complete report of its findings and recommendations to the Governor, the Legislature, the Judiciary and the people of American Samoa as soon as possible but no later than December 31, 2006.

**History:** 1969, PL 11-39; 1970, PL 11-102; 1972, PL 12-47; 2005, PL 29-6; 2006, PL 29-24, 2006, PL 29-25.

**Reviser's comments:** PL 11-39, PL 11-102, PL 12-47 were not codified.

### **2.1403 Powers of the Commission.**

The Commission shall have power:

(a) To hold hearings, to compel the attendance and testimony of witnesses, to order the production of documents and other tangible evidence, to administer oaths, and to cite for contempt;

(b) To employ necessary staff, including consultants, and experts, to purchase necessary materials and supplies, to make necessary publications and to engage in necessary travel with American Samoa and abroad, and to take other necessary action for the performance of the functions assigned in section 2.1402 of this Chapter, respecting functions of the commission.

(c) The basic pay for each member shall be paid, to the extent that amounts are available, \$75 for each day during which the member is engaged in the actual performance of the duties of the commission.

(d) A majority of the members present shall constitute a quorum, but a lesser number may hold hearings.

(e) The Chairman shall call the meetings or a majority of the members of the commission shall call any meeting or hearing after the initial meeting of the commission.

**History:** 1969, PL 11-39; 1970, PL 11-102; 1972, PL 12-47; 2005, PL 29-6.

**Reviser's comments:** PL 11-39, PL 11-102, PL 12-47 were not codified.