

Judul : House delays constitutional court bill after govt pulls support
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Discussions to resume after House returns from recess on Jan. 16

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The House of Representatives has backtracked on a plan to amend the 2003 Constitutional Court Law this sitting period after the government declined to sign the bill amid public criticism that the changes could allow lawmakers to unduly influence the judiciary, which has the authority to rule on election disputes.

House Commission III overseeing legal affairs had expected the bill to be passed in the last plenary session of the sitting period on Tuesday. But the government refused to sign the bill, citing transitional provisions that called for justices to be evaluated by their appointing institutions as a deal-breaker.

House Speaker Puan Maharani of the Indonesian Democratic Party of Struggle (PDI-P) said the postponement would allow commission members and the government to find common ground on the proposed revisions.

Coordinating Political, Legal and Security Affairs Minister Mahfud MD, who, along with Law and Human Rights Minister Yasonna Laoly of the PDI-P, represented the government in the discussions, told the press on Monday that the revision should not be detrimental to sitting justices.

Commission III will resume the discussions with the government

sometime after the House returns from recess on Jan. 16, with chairman Bambang Wuryanto of the PDI-P saying on Tuesday, "I'm sure Mahfud will agree eventually."

Observers had criticized lawmakers for rushing to formulate the bill behind closed doors and pass it less than three months before the 2024 general election.

Deal-breaker

The transitional provisions would have required Constitutional Court justices who had served for more than five years to be evaluated and approved by their appointing institutions to retain their posts for another five years or until they reached the age of 65.

The proposed requirement would not have applied to justices who had served for more than 10 years to retain their posts for another five years or until they reached the age of 70.

The bill was to take effect immediately upon its passage into law.

This meant the new requirement would apply to three of the nine sitting Constitutional Court justices: presidential appointees Deputy Chief Justice Saldi Isra and Justice Enny Nurbaningsih as well as Supreme Court appointee Justice Suhartoyo.

All three justices have opposed legislation pushed by the House or the government, including the Job Creation Law, which labor

groups say undermines workers' rights.

Saldi, Enny and Suhartoyo, along with Justice Wahiduddin Adams, dissented from a court ruling in early October that upheld a regulation in lieu of law from President Joko "Jokowi" Widodo on job creation.

Wahiduddin, a House appointee, is retiring next month.

Those four justices, along with then-justice Aswanto, also made up the five-justice majority that ruled the 2020 jobs law "conditionally unconstitutional" in late 2021.

Following the ruling against the jobs law, Aswanto was dismissed in 2022 by the House, his appointing institution, before his tenure was to end in 2029, even though the legislature had no legal authority to do so.

The proposed revisions to the Constitutional Court Law would have also meant that the five other sitting justices, who have typically sided with lawmakers and the government, could retain their posts without being subject to the new requirement. They include Anwar Usman, a Supreme Court appointee who was removed recently from his post as chief justice after being found guilty of an ethics breach related to a petition on the age minimum for presidential and vice presidential candidates.

Lawmakers have revised the

Constitutional Court Law three times since the court was established two decades ago. The latest, passed in 2020, instituted a 15-year term limit for all justices.

Controlling justices

Susi Dwi Harijanti, a constitutional law professor, said she found no sound arguments for why the proposed provision should have applied differently to different Constitutional Court justices. Instead, she suspected that lawmakers had been seeking to gain control over the three justices who were not House appointees.

"Requiring justices to obtain approval from [their appointing] institutions is a form of control over justices," Susi said.

She also emphasized that justices should not face penalties for the rulings they handed down, as this would restrict the court's independence.

Susi was among the dozens of law experts who signed an open letter demanding that lawmakers stop their deliberation of the proposed revisions. The letter was delivered to President Jokowi and House Speaker Puan on Monday.

The lawyers wrote that there was no urgent need to revise the law, and particularly not ahead of next year's February general election and November regional elections. (ipa)