SENATE CS FOR CS FOR HOUSE BILL NO. 359(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/12/96
Referred: State Affairs

Sponsor(s): REPRESENTATIVES PORTER, Green

A BILL

FOR AN ACT ENTITLED

"An Act relating to the appointment and confirmation process for members of
certain boards, commissions, and similar bodies; relating to terms of certain
appointees; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 08.01.035 is amended to read:

Sec. 08.01.035. APPOINTMENTS AND TERMS. Members of boards subject
to this chapter are appointed for staggered terms of four years. Except as provided in
AS 39.05.080(4), a [A] member of a board serves until a successor is appointed. Except
as provided in AS 39.05.080(4), an [AN] appointment to fill a vacancy on a board is
for the remainder of the unexpired term. A member who has served all or part of two
successive terms on a board may not be reappointed to that board unless four years have
elapsed since the person has last served on the board.

* Sec. 2. AS 08.04.040 is amended to read:

Sec. 08.04.040. VACANCY ON BOARD. A vacancy shall be filled by
appointment for the unexpired term, except as provided in AS 39.05.080(4), and all
vacancies shall be filled within 60 days. Except as provided in AS 39.05.080(4), after
[AFTER] the expiration of a member’s term of office a member continues to serve until
a successor is appointed and qualifies, formally advises the board of acceptance of the
appointment, and appears at the next meeting of the board.

* Sec. 3. AS 08.65.010(b) is amended to read:

(b) The board consists of five members appointed by the governor subject to
confirmation by the legislature in joint session. Members serve for staggered terms of
four years and, except as provided in AS 39.05.080(4), each member serves until a
successor is appointed and qualified. The board consists of two members who are
certified in this state as direct-entry midwives, one physician licensed by the State
Medical Board in this state who has an obstetrical practice or has specialized training in
obstetrics, one certified nurse midwife licensed by the Board of Nursing in this state, and
one public member.

* Sec. 4. AS 14.07.095 is amended to read:

Sec. 14.07.095. TERM OF OFFICE. The members of the board shall be
appointed for overlapping five-year terms commencing on the March 1 following the
date of the member's [FEBRUARY 1 OF THE YEAR OF] appointment. Except as
provided in AS 39.05.080(4), a [A] member appointed to fill a vacancy serves for the
unexpired term of the member whose vacancy is filled. A vacancy occurring during a
term of office is filled in the same manner as the original appointment.

* Sec. 5. AS 14.20.420(a) is amended to read:

(a) The term of office for each member of the commission is three years and,
except as provided in AS 39.05.080(4), each member serves until a successor is
appointed.

* Sec. 6. AS 14.20.420(b) is amended to read:

(b) Vacancies shall be filled by appointment by the governor and, except as
provided in AS 39.05.080(4), an appointment to fill a vacancy is for the unexpired
term.

* Sec. 7. AS 15.13.020(h) is amended to read:

(h) A vacancy on the commission shall be filled through the appropriate
appointing method for the position within 30 days after the occurrence of the vacancy.
Except as provided in AS 39.05.080(4), the [THE] appointee shall serve for the remaining term of the appointee's predecessor.

* Sec. 8. AS 16.05.221(c) is amended to read:

   (c) Members of the Board of Fisheries or Board of Game serve staggered terms of three years and, except as provided in AS 39.05.080(4), each member serves until a successor is appointed. An appointment to fill a vacancy in the membership of the Board of Fisheries or Board of Game shall be made in the same manner as the original appointment and, except as provided in AS 39.05.080(4), an appointment to fill a vacancy is for the balance of the unexpired term.

* Sec. 9. AS 16.43.030(b) is amended to read:

   (b) A vacancy on the commission shall be filled by appointment by the governor and the appointment shall be confirmed by the legislature in joint session. Except as provided in AS 39.05.080(4), a [A] member selected to fill a vacancy shall hold office for the balance of the full term for which the member's predecessor on the commission was appointed.

* Sec. 10. AS 31.05.007(b) is amended to read:

   (b) A vacancy arising in the office of a commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session, and, except as provided in AS 39.05.080(4), an appointee selected to fill a vacancy shall hold office for the balance of the full term for which the predecessor on the commission was appointed.

* Sec. 11. AS 38.06.025(e) is amended to read:

   (e) Vacancies in public membership shall be filled in the same manner as original appointment. Except as provided in AS 39.05.080(4), an [AN] appointee to fill a vacancy shall hold office for the balance of the term for which the predecessor on the board was appointed. A vacancy in board membership does not impair the authority of a quorum of the board members to exercise all the powers and duties of the board.

* Sec. 12. AS 39.05 is amended by adding a new section to read:

Sec. 39.05.053. TERMS OF OFFICE. The term of office of a position or membership ends on March 1 of the year when the position's or membership's term expires except as otherwise provided in a law relating to positions or memberships on a specific board or commission.
* Sec. 13. AS 39.05.060(d) is amended to read:

  (d) A vacancy occurring during a term of office is filled in the same manner as the original appointment is made and, except as provided in AS 39.05.080(4), is filled for the balance of the unexpired term. Except as otherwise provided by law, each [EACH] member holds office at the pleasure of the governor notwithstanding the member's term.

* Sec. 14. AS 39.05.080 is amended to read:

  Sec. 39.05.080. PROCEDURE FOR ALL APPOINTMENTS. Except as otherwise provided in a law relating to the positions or memberships on a specific board or commission, appointment to a position or membership [APPOINTMENTS] shall be made in the following manner:

  (1) Each governor shall present to the legislature the names of the persons appointed by that governor; each governor may present the name of a person appointed by a previous governor; only presentment that occurs during the time that the legislature is in regular session constitutes presentment under this section. The governor [APPOINTING AUTHORITY] shall, within the first 30 days after [OF THE CONVENING OF] the legislature convenes in regular session, present to the legislature for confirmation the names of the following persons: (A) persons appointed to a position or membership who have not previously been confirmed by the legislature, and (B) [OR EITHER HOUSE OF IT; (B) PERSONS APPOINTED SUBJECT TO CONFIRMATION TO FILL AN EXISTING POSITION OR MEMBERSHIP VACANCY; (C)] persons to be appointed [SUBJECT TO CONFIRMATION] to fill a position or membership the term of which will [SHALL] expire March 1 during that [BEFORE JULY 2, FOLLOWING THE] session of the legislature. If an appointment is made after the first 30 days of the convening of the regular session [DEADLINE] but while the legislature is in regular session, the governor [APPOINTING AUTHORITY] shall, within five calendar days after the appointment is made, present to the legislature for confirmation the name of the person appointed. The deadline may be extended by the legislature by the approval of a concurrent resolution.

  (2) When appointments are presented to the legislature for confirmation, (A) the presiding officer of each house shall assign the name of
each appointee to a standing committee of that house for a hearing, report, and recommendation; standing committees of the two houses assigned the same person's name for consideration may meet jointly to consider the qualifications of the person appointed and may issue either a separate or a joint report and recommendation concerning that person; then

(B) the legislature shall, before the end of the session in which the appointments are presented, in joint session assembled, act on the appointments by confirming or declining to confirm by a majority vote of all of the members the appointments presented.

(3) When the legislature declines to confirm an appointment, the legislature shall notify the governor [APPOINTING AUTHORITY] of its action and a vacancy in the position or membership exists which the governor [APPOINTING AUTHORITY] shall fill by making a new appointment. The new appointment shall be presented for confirmation to the legislature within 20 calendar days following receipt by the governor [APPOINTING AUTHORITY] of the legislature's notification of its refusal to confirm the prior appointment. The governor [IF THE NAME OF A PERSON IS SUBMITTED AND IS NOT CONFIRMED, THE APPOINTING AUTHORITY] may not appoint [ UPON RESUBMISSION OF APPOINTMENTS, SUBMIT] again the same [NAME OF THE] person whose confirmation was refused for the same position or membership during the session of the legislature at which confirmation was refused. The person whose name is refused for appointment by the legislature may not thereafter be appointed to the same position or membership during the interim between legislative sessions. Failure of the legislature to act to confirm or decline to confirm an appointment during the session in which the appointment was presented is tantamount to a declaration of confirmation on the day the session adjourns.

(4) Pending confirmation or rejection of appointment by the legislature, persons appointed shall exercise the functions, [AND] have the powers, and be charged with the duties prescribed by law for the appointive positions or membership. However, the duration of an appointment made during the time period between regular sessions of the legislature by a person who is not still the governor on the first day of the next regular session ends on the date during the next regular session that the sitting governor presents for confirmation an appointment to the office. For
the purpose of applying laws that limit the number of terms or parts of terms
that may be served by a member of a board or commission, the part of the term
of office that is served under an interim appointment immediately before the
member is reappointed under this paragraph is considered to be merged with the
part of the term of office that is served immediately after reappointment so that
the two periods of service constitute only one part of a term. The duration of an
appointment made during a regular session of the legislature and not presented
to the legislature by the governor during that session ends no later than the last
day of that session. The duration of an appointment made during an interim by
a governor who is not in office at the beginning of the next regular session of the
legislature ends no later than the last day of that regular session unless the
governor who is in office during that session presents the person's name for
confirmation. The same governor may not appoint the same person to the same
position or membership if the person's appointment ends because of the
governor's failure to present the person's name for confirmation.

* Sec. 15. AS 39.23.200(a) is amended to read:

(a) The State Officers Compensation Commission is established. The
commission is composed of seven members appointed by the governor subject to
confirmation by a majority of the legislature in joint session. Members serve for
staggered terms of four years. Commission membership shall include at least one
business executive, one representative of a nonpartisan voters' organization, one person
with experience in public administration, and one representative of a labor
organization. Except as provided in AS 39.05.080(4), a [A] vacancy shall be filled
for the balance of the unexpired term. A commission member may serve no more than
two complete consecutive terms.

* Sec. 16. AS 41.35.330 is amended to read:

Sec. 41.35.330. TERM OF OFFICE. The term of office for a member of the
commission is three years, except for those who are members by virtue of their
positions with the state, who serve for as long as they remain in the position by virtue
of which they are members of the commission. Except as provided in
AS 39.05.080(4), a [A] member appointed to fill a vacancy serves for the unexpired
term of the member succeeded.

* Sec. 17. AS 42.05.030(b) is amended to read:

(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session. Except as provided in AS 39.05.080(4), an appointee selected to fill a vacancy shall hold office for the balance of the full term for which the appointee's predecessor on the commission was appointed.

* Sec. 18. AS 42.40.040(a) is amended to read:

(a) Except for the commissioner of commerce and economic development and the commissioner of transportation and public facilities, a vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of the legislature in joint session. Except as provided in AS 39.05.080(4), a member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

* Sec. 19. AS 46.15.200 is amended to read:

Sec. 46.15.200. TERM OF OFFICE. The term of office for members of the board is four years. If a vacancy occurs, the governor shall fill it by appointment for the unexpired term, subject to AS 39.05.080(4). The appointment shall be submitted to the legislature for confirmation at the next regular [OR SPECIAL] session.

* Sec. 20. AS 08.36.020; AS 08.80.020; and AS 08.88.026 are repealed.

* Sec. 21. TRANSITIONAL PROVISIONS. In order to implement the changes made in this Act, and notwithstanding other provisions of law that may limit the years or terms of positions or memberships, the terms of office of positions or memberships, as defined in AS 39.05.200, that exist on the effective date of this Act are extended to the March 1 next following the date that the term would have expired without the changes made in this Act. This section does not apply to terms of office that would have expired on March 1 even if this Act had not taken effect.

* Sec. 22. This Act takes effect January 1, 1997.