

deadline may be extended by the legislature by the approval of a concurrent resolution"; inserted "regular" before "session" in subparagraph (2)(B) and in four places in paragraph (3); and deleted the former second sentence in paragraph (3), relating to time for presentment to the legislature of the new appointment.

The 2007 amendment, effective January 1, substituted "15 days" for "30 days" in the sentence of paragraph (1), and "15 days after" for "days of" in the third sentence.

#### NOTES TO DECISIONS

**Legislative history of ch. 82, SLA 1975.** — See *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

**Laws requiring bilateral appointments are mandatory.** *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

Paragraph (2) of this section imposes a direct mandate upon the legislature to act upon the nominations of the governor. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

**The reason for dual consideration of prospective officeholders** is the benefit of the considered opinion of the legislators, to avoid the possibility of incompetency and injury to the public which may otherwise be perpetrated. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

**Affirmative rejection not required.** — Paragraph (2) of this section does not demand affirmative rejection. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

**Failure of legislature to act on an appointment is, in effect, rejection.** *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

**And not tacit confirmation.** — In acting upon an appointment, the legislature is not exercising a prerogative granted it in its own interest or that of its members; there can be no waiver of that duty so that inaction would be the equivalent of a tacit approval of

an appointment. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

**Tacit confirmation negated by paragraph (3)** — The language of paragraph (3) of this section to negate any argument of tacit confirmation. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

**The question of confirmation is determined by the first vote** under paragraph (2) of this section. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

**The purpose of paragraph (4)** of this section is to vest authority in necessary interim appointments. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

**An appointment made during a recess** of the legislature was complete when the governor assumed the powers of office; the governor could remove him without complying with the requirements of the statutes, and the legislature could validly reappoint him. *Cook v. Botelho*, 921 P.2d 1126 (Alaska 1996) (decided under former law).

This section does not terminate recess appointments when the legislature convenes. *Cook v. Botelho*, 921 P.2d 1126 (Alaska 1996) (decided under former law).

Recess appointments are of the same duration as other appointments, and subject to legislative confirmation. *Cook v. Botelho*, 921 P.2d 1126 (Alaska 1996) (decided under former law).

**Sec. 39.05.090. Time limits in AS 39.05.080.** The time limitations concerning the submission and resubmission of names as prescribed in AS 39.05.080 do not apply to those appointments that by law require recommendations by professional groups. (AS 39.05.090, 64 SLA 1955)

**Sec. 39.05.100. Qualifications for appointment.** (a) A person appointed to a position or commission of the state government shall be and have been before the last general election, (1) a registered voter in the state, if the appointment is made at large or from a judicial district, if the appointment is made from a judicial district. The student member of the Board of Regents of the University of Alaska appointed under AS 14.40.150(b), the student member of the Alaska Commission on Postsecondary Education appointed under AS 14.42.015(d), and a member of the Human Relations Commission appointed under AS 44.19.600, are exempt from the requirement of this subsection if the member was not old enough to be a registered voter in the last general election.

(b) A member of a board or commission of the state government who ceases to reside in the state during the member's term terminates membership on the board or commission. For the purposes of this section, the acceptance of employment outside the state for a six-month period or longer, or physical absence from the state for a longer period, or registration as a voter in a municipal, county, district, state, or national election in a voting precinct outside the state is considered as discontinuing residence in the state. (§ 5 ch 64 SLA 1955; am § 1 ch 167 SLA 1957; am § 68 ch 14 SLA 1987; am § 16 SLA 1990; am E.O. No. 84 § 6 (1993))

**Revisor's notes.** — In 2008, in subsection (a), "AS 14.42.015(d)" was substituted for "AS 14.42.015(e)" to reflect the 2008 relettering of AS 14.42.015(e).

**Opinions of attorney general.** — An individual is eligible for appointment to a state board or commission where his voter registration was administratively cancelled and he has not reregistered to vote. 1987 Alaska AG Lexis 255; 1987-1 Op (Inf.) Atty Gen. Alas 367.

Where the governor has appointed a person to a state board or commission and that appointee has been confirmed by the legislature, that person is in fact a member of the board or commission even though the appointee's voter registration was administratively cancelled. 1987 Alaska AG Lexis 255; 1987-1 Op (Inf.) Atty Gen. Alas 367.

**Collateral references.** — 63C Am. Jur. 2d, Public Officers and Employees, §§ 48 to 84.

*Sec. 39.05.110. [Renumbered as AS 39.05.200.]*

*Sec. 39.05.150. Information not to be requested of or volunteered by applicant for state employment. [Repealed, § 2 ch 237 SLA 1970.]*

**Sec. 39.05.200. Definitions.** In this chapter,

(1) "confirmation" means confirmation or approval by the legislature of a name submitted for appointment to a position or membership;

(2) "position or membership" means an executive position or membership on a state board, commission, authority, council, or committee that by law requires appointment by the governor and confirmation by the legislature. (§ 2 ch 64 SLA 1955; am §§ 73, 74 ch 59 SLA 1982)

**Revisor's notes.** — Formerly AS 39.05.110. Renumbered in 1984.

## Chapter 10. Conduct of Office.

*Sec. 39.10.010. [Renumbered as AS 39.90.020.]*

## Chapter 15. Official Bonds.

### Section

- 10. Form, amount, and conditions
- 20. Obligation and effect
- 30. Action on bond
- 40. Recovery on defective bond
- 50. Procedure when bond becomes insufficient

### Section

- 60. Number of sureties
- 70. Justification of sureties
- 80. Release of sureties
- 90. Proceedings for release of sureties
- 100. Failure to file new bond

**Sec. 39.15.010. Form, amount, and conditions.** The official bond of an officer or employee of the state required by statute or regulation under authority of law shall be in a form joint and several, and made payable to the state in the penal sum and with the conditions required by law. (§ 11-2-1 ACLA 1949)

**Cross references.** — For surety bonds furnished by the principal executive officer of each department and subordinate officials, see AS 39.05.050.

### NOTES TO DECISIONS

Cited in *Vest v. Schafer*, 757 P.2d 588 (Alaska 1988).

**Collateral references.** — 12 Am. Jur. 2d, Bonds, § 1 et seq.; 63C Am. Jur. 2d, Public Officers and Employees, §§ 130 to 136, 480 to 484. 67 C.J.S., Officers, § 61.

**Sec. 39.15.020. Obligation and effect.** Bonds of state officers and employees are in