

Section 3.26 - Boards and Commissions.

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

Editors Notes -

The amendments proposed by 1980 Legislative Resolve 43 (CSHJR 20 am) (appointment and confirmation of board members) and 2000 Legislative Resolve 54 (CCS SJR 34) (public corporations) were rejected by voters.

Decisions -

Clear nature of provisions. - The provisions of this section and Sec. 25 of this article are clear and unambiguous. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Vesting of powers of appointment and confirmation. - This section vests the power of appointment in the governor and the power to confirm in the legislature in joint session. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Removal is as provided by law. - Removal of board or commission members appointed under this section is as provided by law and, therefore, not necessarily at the governor's pleasure. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Confirmation is part of executive power of appointment. - Confirmation is not a distinct legislative power, but rather a part of the executive power of appointment which has in turn been delegated in some specific instances by constitution to the legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Limitation on legislative checks on governor's power to appoint. - The lack of ambiguity in this section and Sec. 25 of this article mandate that this court interpret these express provisions as embodying not only the maximum parameters of the delegation of the executive appointive authority through the legislative confirmation function but, further, that they delineate the full extent of the constitution's express grant to the legislative branch of checks on the governor's power to appoint subordinate executive officers. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

This section and Sec. 25 of this article mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

The quorum for a joint session of the legislature convened under Article III, Sec. 25 and 26 of the Alaska Constitution is a majority of the members of the legislature, or 31 legislators from either house of the legislature. *Abood v. Gorsuch*, 703 P.2d 1158 (Alaska 1985).

Section 1, ch. 82, SLA 1975, is unconstitutional. - Section 1, ch. 82, SLA 1975, which amends AS 39.05.020 and purports to authorize legislative "meddling" in the exercise of an executive power, i.e., the appointment of executive officials, is unconstitutional because it is violative of separation of powers requirements. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Appointment of members of Alaska State Mortgage Association. - This section does not govern the appointment of members of the Alaska State Mortgage Association. *Walker v. Alaska State Mtg. Ass'n*, 416 P.2d 245 (Alaska 1966).

Applied in *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980); *Kerttula v. Abood*, 686 P.2d 1197 (Alaska 1984).

Cited in *Ault v. Alaska State Mtg. Ass'n*, 387 P.2d 698 (Alaska 1963); *Kohlhaas v. State*, 223 P.3d 105 (Alaska 2010).

Collateral Refs -

63C Am.Jur.2d, Public Officers and Employees, Sec. 88, 89.

67 C.J.S., Officers and Public Employees, Sec. 57; 81A C.J.S., States, Sec. 163.