

ALASKA STATE LEGISLATURE

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Representative Ben Carpenter **District 29**

HB124 Sponsor Statement

“An Act relating to filling a vacancy in the legislature by appointment.”

Ambiguity exists in AS 15.40.320 regarding the exceptions for filling vacancies in the state legislature within 30 days. This ambiguity led to the 2020 District 30 vacancy taking 171 days to be filled. Since statehood Alaskans have gone without representation in the House of Representatives 21 times because of various delays in the process.

HB124 clarifies the process by rewriting the statute to more clearly communicate the exceptions to the 30-day appointment requirement.

AS 15.40.320 clearly indicates that “When a vacancy occurs in the state legislature, the governor, within 30 days, shall appoint a qualified person to fill the vacancy.” The next sentence provides two exceptions and a qualifying statement to the governor’s 30-day appointment requirement. The first exception refers to the expiration of the remainder of the predecessor’s term and the second exception refers to Senate vacancies filled by special election. The qualifying statement refers to the legislature meeting, convening, or reconvening.

The ambiguity exists because of individual interpretation of whether the qualifying statement refers to both exceptions or just the second one. Governor Dunleavy’s reasoning for not appointing a replacement for District 30 was that he did not have the authority to make the appointment because the term of office would expire before the next legislature would meet, convene, or reconvene.

It is the sponsor’s position that the qualifying statement should refer only to the second exception because the qualifying statement’s impact on the first exception would be to negate the first requirement to fill the vacancy within 30 days.

It may be argued that the vacancy appointment provision was only intended to ensure representation during a legislative session, but the sponsor believes that position would not be in the best interest of the people and is counter to our

representative form of government. The duties and salary of a representative continue during the interim between legislative sessions and the oath of office applies for the entire term of office. There is clear intent that the framers of our representative form of government intended for continuous representation from each district in our state legislature.

HB124 restructures the statute to add clarity and adds the additional language “within 30 days after the vacancy occurs” to more clearly communicate that the exception to the 30-day requirement only applies to appointments where the predecessor’s term will expire within 30 days. The additional language will result in a requirement for the governor to submit a vacancy appointment within 30 days unless the vacancy occurs in the 30 days preceding the start of the first session of a new legislature.

HB124 restructures, but does not change, the statute pertaining to filling Senate vacancies.