

LEXSEE 988 P2D 604

LEGISLATIVE COUNCIL, Appellant and Cross-Appellee, v. TONY KNOWLES,
Governor for the STATE OF ALASKA, Appellee and Cross-Appellant.

Supreme Court Nos. S-8143, S-8144, No. 5185

SUPREME COURT OF ALASKA

988 P.2d 604; 1999 Alas. LEXIS 132

October 1, 1999, Decided

PRIOR HISTORY: [**1] Appeal from the Superior Court of the State of Alaska, First Judicial District, Juneau, Larry R. Weeks, Judge. Superior Court No. 1JU-96-1276 CI.

DISPOSITION: VACATED the superior court's order declaring C.S.S.B. 162 invalid and REMANDED for entry of an order of dismissal.

COUNSEL: Pamela Finley and James P. Crawford, Legislative Affairs Agency, Division of Legal and Research Services, Juneau, for Appellant and Cross-Appellee.

James L. Baldwin, Assistant Attorney General, and Bruce M. Botelho, Attorney General, Juneau, for Appellee and Cross-Appellant.

JUDGES: Before: Matthews, Chief Justice, Eastaugh, Fabe, Bryner, and Carpeneti, Justices.

OPINION BY: BRYNER

OPINION

[*605] *OPINION*

BRYNER, Justice.

During a special session, the Alaska legislature overrode Governor Tony Knowles's veto of a bill that it had passed in regular session. The governor sued the Legislative Council, claiming that the legislature's override [**2] vote was untimely and did not affect his veto. The superior court agreed, declaring the override vote invalid and the veto effective. The Council argues that the Alaska Constitution barred the governor from filing this suit and that the superior court thus erred in deciding the governor's claim on its merits. We conclude that the

Council's argument has merit. Though formally filed in the governor's name against the Council, this suit is in substance an action brought in the name of the state against the legislature. Because *article III, section 16 of the Alaska Constitution* expressly forbids such actions, we vacate the judgment and direct the superior court to dismiss the action.

I. FACTS AND PROCEEDINGS

On April 26, 1996, during its second regular session, the Nineteenth Alaska Legislature passed Committee Substitute for Senate Bill (C.S.S.B.) 162, an act relating to land used for agricultural purposes.¹ On May 7, after the regular session expired, the governor called a special session, which convened the next day. On May 14 the legislature recessed its special session until June 3. Before recessing, it delivered C.S.S.B. 162 to Governor Knowles for his consideration. [**3] Governor Knowles vetoed the bill on May 30, transmitting his veto message to the legislature a day later. On June 6 the legislature, having resumed its special session, voted to override the governor's veto.

1 C.S.S.B. 162(FIN), 19th Leg. 2d Sess. (1996). The act was printed as Ch. 1, FSSLA 1996.

These events set the stage for the present controversy. The day after the legislature voted to override his veto, Governor Knowles, acting in his own name as governor of Alaska, filed a complaint in superior court alleging that the legislature's vote to override his veto of C.S.S.B. 162 had been untimely under *article II, section 16 of the Alaska Constitution*.² The complaint requested a judgment declaring that the governor's veto of the bill remained in effect and named as defendants the Legislative Council and fourteen individual legislators who compose it.³ The Council counterclaimed against the