

CS FOR HOUSE BILL NO. 359(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/19/96

Referred: Rules

Sponsor(s): REPRESENTATIVES PORTER, Green

A BILL

FOR AN ACT ENTITLED

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

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

5 * **Section 1.** AS 08.01.035 is amended to read:

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

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

14 Sec. 08.04.040. VACANCY ON BOARD. A vacancy shall be filled by

1 appointment for the unexpired term, **except as provided in AS 39.05.080(4)**, and all
2 vacancies shall be filled within 60 days. **Except as provided in AS 39.05.080(4), after**
3 **[AFTER]** the expiration of a member's term of office a member continues to serve until
4 a successor is appointed and qualifies, formally advises the board of acceptance of the
5 appointment, and appears at the next meeting of the board.

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

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

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

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

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

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

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

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

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

31 (h) A vacancy on the commission shall be filled through the appropriate
32 appointing method for the position within 30 days after the occurrence of the vacancy.

1 **Except as provided in AS 39.05.080(4), the** [THE] appointee shall serve for the
2 remaining term of the appointee's predecessor.

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

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

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

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

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

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

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

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

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

29 Sec. 39.05.053. TERMS OF OFFICE. The term of office of a position or
30 membership ends on March 1 of the year when the position's or membership's term
31 expires except as otherwise provided in a law relating to positions or memberships on
32 a specific board or commission.

1 * **Sec. 13.** AS 39.05.060(d) is amended to read:

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

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

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

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

29 (2) When appointments are presented to the legislature for confirmation,
30 (A) the presiding officer of each house shall assign the name of
31 each appointee to a standing committee of that house for a hearing, report, and
32 recommendation; standing committees of the two houses assigned the same

1 person's name for consideration may meet jointly to consider the qualifications
2 of the person appointed and may issue either a separate or a joint report and
3 recommendation concerning that person; then

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

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

24 (4) Pending confirmation or rejection of appointment by the legislature,
25 persons appointed shall exercise the functions, [AND] have the powers, and be charged
26 with the duties prescribed by law for the appointive positions or membership. **However,**
27 **the duration of an appointment made during the time period between regular**
28 **sessions of the legislature ends on the first day of the next regular session. An**
29 **appointee whose appointment ends on the first day of the next regular session under**
30 **this paragraph does not serve until a successor is appointed but may be**
31 **reappointed. For the purpose of applying laws that limit the number of terms or**
32 **parts of terms that may be served by a member of a board or commission, the part**

1 of the term of office that is served under an interim appointment immediately
2 before the member is reappointed under this paragraph is considered to be merged
3 with the part of the term of office that is served immediately after reappointment
4 so that the two periods of service constitute only one part of a term. The duration
5 of an appointment made during a regular session of the legislature and not
6 presented to the legislature by the governor during that session ends no later than
7 the last day of that session. The same governor may not again appoint the same
8 person to the same position or membership if the person's appointment ends
9 because of the governor's failure to present the person's name for confirmation.

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

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

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

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

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

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

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

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

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

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

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

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

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