

**ALASKA STATE LEGISLATURE
HOUSE RULES STANDING COMMITTEE**

March 20, 2020

5:01 p.m.

MEMBERS PRESENT

Representative Chuck Kopp, Chair
Representative Jennifer Johnston, Vice Chair
Representative Louise Stutes
Representative Steve Thompson
Representative Lance Pruitt
Representative DeLena Johnson

MEMBERS ABSENT

Representative Bryce Edgmon

COMMITTEE CALENDAR

HOUSE BILL NO. 309

"An Act relating to the procedure for confirmation of the governor's appointments; and providing for an effective date."

- MOVED HB 309 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 309

SHORT TITLE: CONFIRMATION OF APPOINTMENTS

SPONSOR(S): RULES

03/20/20	(H)	READ THE FIRST TIME - REFERRALS
03/20/20	(H)	RLS
03/20/20	(H)	RLS WAIVED PUBLIC HEARING NOTICE, RULE 23 UC
03/20/20	(H)	RLS AT 5:00 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

GRACE ERVINE, Staff
Representative Chuck Kopp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Kopp, chair of the House Rules Standing Committee, sponsor, introduced HB 309.

MEGAN WALLACE, Director
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing of HB 309.

ACTION NARRATIVE

[5:01:33 PM](#)

CHAIR CHUCK KOPP called the House Rules Standing Committee meeting to order at 5:01 p.m. Representatives Stutes, Johnston, Johnson, Thompson, Pruitt, and Kopp were present at the call to order.

HB 309-CONFIRMATION OF APPOINTMENTS

[5:02:01 PM](#)

CHAIR KOPP announced that the order of business would be HOUSE BILL NO. 309, "An Act relating to the procedure for confirmation of the governor's appointments; and providing for an effective date."

[5:02:19 PM](#)

GRACE ERVINE, Staff, Representative Chuck Kopp, Alaska State Legislature, chair of the House Rules Standing Committee, sponsor of HB 309, informed the committee the bill provides if social distancing or early adjournment of the legislature prevents the legislature from meeting in joint session, the governor's appointments will not automatically be declined. Currently, were the legislature to fail to meet in joint session, the confirmations would be considered to be declined by both bodies after adjournment. The bill requires the Thirty-first Alaska State Legislature to reconvene prior to convening of the Thirty-second Alaska State Legislature to approve or decline the confirmations.

REPRESENTATIVE THOMPSON surmised the legislature could meet anytime between now and the next legislative session. He asked whether all of the appointees would be [declined] if the legislature were unable to meet [in joint session for the purpose of confirmation].

5:04:19 PM

MEGAN WALLACE, Director, Legislative Legal Services, Legislative Affairs Agency, explained the legislature is required to approve the governor's appointments; HB 309 amends the statutory procedure directing that if the legislature does not approve the confirmations, by the end of regular session, they are automatically declined. The bill does not contemplate the legislature not reconvening in joint session to confirm appointments because it is constitutionally obligated to do so.

REPRESENTATIVE THOMPSON asked whether the Thirty-first Alaska State Legislature could reconvene on 1/7/21 to confirm appointees.

MS. WALLACE said yes, up until the Thirty-second Alaska State Legislature convenes.

REPRESENTATIVE PRUITT directed attention to the bill on page 2, lines 2-4, which read:

2 (b) After the legislature meets in joint session assembled to act on the appointments presented by the governor during, and after adjournment of, the ...

REPRESENTATIVE PRUITT pointed out the aforementioned language seems to affect not only the normal confirmation process, but anyone appointed prior to reconvening of [the Thirty-first] Alaska State legislature].

MS. WALLACE further explained the legislature would consider any names presented by the governor before the time of the joint session for the purpose of confirmation. The bill is meant to preserve the provision that allows for automatic declination of appointees on which the legislature purposefully fails to take action. She remarked:

If there's a circumstance where the legislature adjourns, adjourns the second regular session, and the governor continues to present names, up until the point that the legislature meets in that joint session, that if the legislature doesn't take up any of those names, that then they would be automatically, it would be tantamount to a declination.

REPRESENTATIVE PRUITT said many appointments take place during interim, for example, to fill vacancies, and those appointments would be addressed when the [Thirty-first Alaska State Legislature was reconvened].

[5:10:12 PM](#)

MS. WALLACE concurred.

REPRESENTATIVE PRUITT asked whether a governor, who has appointed someone to a particular position during interim, can withhold the message of the appointment from the legislature.

MS. WALLACE advised AS 39.05.080(1) provides the governor has until the fifteenth day of session to present names for confirmation; the legislature has until the end of session to act on confirmations. She expressed her understanding names of appointees are withheld during interim and presented after the legislature convenes for its regular session. However, it may be possible for the governor to hold the names of interim appointments. She stated:

The operative language in the bill before you would be, "to act on appointments presented by the governor."

REPRESENTATIVE PRUITT remarked:

The right once we've decided to vote on that, once we've taken that joint session, the right to determine whether or not those people are confirmed rests on the members that are seated in these positions in the next session, the next regular session. ... So, even if he were to present something to us, I don't really think it's, it's really our right to decide yes or no on those individuals after ... the normal regular session. It's essentially allowing us to take a vote on an interim appointment

REPRESENTATIVE PRUITT suggested there may have been a similar situation addressed [by a special session on 8/10/09 related to the appointment and confirmation of the lieutenant governor].

MS. WALLACE said:

I recall the legislature having to meet in special session ... a one-day special session in Anchorage to

address that appointment. For that reason, I included the language in case there was an emergency need to appoint someone and the governor presented that name to the legislature for appointment, to allow the legislature to take up that name.

REPRESENTATIVE PRUITT questioned whether there are boards to which an [appointee] cannot be seated, or participate in actions of the board without confirmation, such as the board of trustees of the Alaska Mental Health Trust Authority (AMHTA).

MS. WALLACE noted a temporary exception in the bill could address this issue should the legislature choose to do so.

REPRESENTATIVE PRUITT expressed intent to further address this issue.

REPRESENTATIVE STUTES said she is aware of an individual who is sitting and voting on a board to which they have not been confirmed.

[5:15:18 PM](#)

CHAIR KOPP returned attention to the bill on page 2, lines 2-6, which read:

2 (b) After the legislature meets in joint session assembled to act on the appointments presented by the governor during, and after adjournment of, the Second Regular Session of the Thirty-First Alaska State Legislature, the failure of the legislature to act to confirm or decline to confirm an appointment presented will be tantamount to a declination of confirmation on the day the joint session adjourns.

CHAIR KOPP said:

And you could read that word "during" as going back to the legislature meeting, or you could ... read the "during" could be speaking of the governor making the appointments during session or after adjournment. ... In laymen's terms, it looks like we're saying, after the legislature meets in joint session to act on appointments offered by the governor during session and after adjournment of the session. So, we're saying those appointments can happen during session or

after the adjournment of the session. Is that correct?

MS. WALLACE said the language in [subsection (b)] was from underlying statute, AS 39.05.080. She remarked:

The language before you is intended to mean that the names that were presented during the ... second regular session of the thirty-first legislature, that is what the language is intended to capture. So, it's the names presented during the second regular session of the Thirty-first Alaska State Legislature. And then the language of "after the legislature meets" was meant to trigger, it's not until the legislature actually meets in joint session and then either takes up all or some of the appointments that then the failure to take up those names would be tantamount to a declination of those, of those persons.

CHAIR KOPP surmised "after the adjournment" would be a special session.

MS. WALLACE said correct.

[5:18:16 PM](#)

REPRESENTATIVE PRUITT observed most appointees to boards and commissions begin their service immediately following their appointment. However, members appointed to the AMHTA board of trustees cannot participate prior to confirmation, as is the situation for appointee Rhonda Boyles, thus from this time until the legislature reconvenes, there would be an open seat on the AMHTA board of trustees. He questioned whether the open seat should remain open until the legislature reconvenes and votes to confirm.

[5:20:17 PM](#)

The committee took an at-ease from 5:20 p.m. to 5:22 p.m.

[5:22:02 PM](#)

CHAIR KOPP surmised the issue raised by Representative Pruitt could be addressed by a committee substitute for HB 309 or by a floor amendment to the bill.

MS. WALLACE said correct.

REPRESENTATIVE PRUITT returned attention to the issue related to removing the language, "and after adjournment of" and cautioned against action that might affect future legislators, including their right to vote on interim appointments.

[5:23:44 PM](#)

REPRESENTATIVE PRUITT moved Conceptual Amendment 1, which on page 2, line 3, would delete the words, "and after adjournment of,".

[5:24:08 PM](#)

MS. WALLACE opined if the governor did not present a name to the legislature, the legislature has constitutional authority to meet in joint session and consider the appointees absent their presentation by the governor. She advised in Alaska's history similar circumstances have arisen, and remarked:

It would likely be my opinion that even if a name hadn't been presented, if the legislature were aware that someone had been appointed by the governor and wanted to take that matter up, that it likely would have the authority to do so anyway, as long as that appointment was made while this legislature were seated.

[5:25:36 PM](#)

The committee took a brief at-ease.

REPRESENTATIVE PRUITT restated his motion.

CHAIR KOPP objected for discussion purposes. There being no further discussion, the objection was maintained.

[5:27:40 PM](#)

A roll call vote was taken. Representatives Pruitt and Johnson voted in favor of Conceptual Amendment 1. Representatives Stutes, Johnston, Thompson, and Kopp voted against it. Therefore, Conceptual Amendment 1 failed by a vote of 2-4.

[5:27:45 PM](#)

CHAIR KOPP opened public testimony on HB 309. After ascertaining no one wished to testify, public testimony was closed.

CHAIR KOPP noted the bill has no fiscal impact.

[5:28:35 PM](#)

REPRESENTATIVE JOHNSON moved to report HB 309 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 309 was reported out of the House Rules Standing Committee.

[5:29:05 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Rules Standing Committee meeting was adjourned at 5:29 p.m.