

Offered: 3/10/64
Referred: Rules

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 178

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRD LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for continuity of govern-
7 ment under attack; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 39 is amended by adding a new chapter to read:
11 CHAPTER 40. CONTINUITY OF GOVERNMENT.

12 Sec. 39.40.010. ESTABLISHMENT OF ORDER OF SUCCESSION TO
13 GOVERNOR. (a) If there is an attack and the governor is not
14 available, the available person whose name appears highest on
15 the following list becomes acting governor:

- 16 (1) the secretary of state,
17 (2) the officer appointed under AS 44.19.120,
18 (3) the president of the senate,
19 (4) the speaker of the house of representatives.

20 (b) The acting governor holds office until

- 21 (1) the governor becomes available,
22 (2) a new governor takes office under the consti-
23 tution and other provisions of law, or
24 (3) a person whose name appears higher on the list
25 in (a) of this section becomes available.

26 (c) An emergency interim successor to an office named
27 in (a) of this section is not entitled to become acting
28 governor.

29 Sec. 39.40.020. ESTABLISHMENT OF ORDER OF SUCCESSION

1 FOR PRINCIPAL DEPARTMENT HEADS. (a) If there is an attack
2 and a principal department head is not available, the avail-
3 able person whose name appears highest on the list of
4 emergency interim successors established by the department
5 head under (c) of this section becomes acting department
6 head.

7 (b) The acting department head holds office until

8 (1) the governor or acting governor appoints a
9 person as principal department head to fill a vacancy,

10 (2) the principal department head becomes avail-
11 able,

12 (3) a person whose name appears higher on the list
13 established under (c) of this section becomes available.

14 (c) Each principal department head shall establish a
15 list of emergency interim successors, in accordance with the
16 order in which they are to succeed. He shall keep the list
17 current and may change the names and order of succession of
18 designees at will. He shall designate not less than three
19 nor more than five emergency interim successors.

20 (d) A person who has been acting principal department
21 head is entitled, upon ceasing to act for any of the reasons
22 set out in (b) of this section, to resume his former position
23 and duties.

24 Sec. 39.40.030. EMERGENCY INTERIM SUCCESSORS TO LOCAL
25 GOVERNMENT OFFICERS. The legislative body of a city or
26 borough may by ordinance establish a plan for emergency
27 interim successors to local government offices.

28 Sec. 39.40.040. EMERGENCY EXERCISE OF JUDICIAL
29 FUNCTIONS. (a) If there is an attack and any justice of the

1 supreme court is not available, the remaining justice or
2 justices of the supreme court may act for the full court. If
3 no justice of the supreme court is available, the governor or
4 acting governor shall immediately appoint one from the list
5 prepared according to (c) of this section.

6 (b) If there is an attack, and the unavailability of a
7 judge or judges in a judicial district is impairing the
8 administration of justice, the district magistrate court
9 accedes to the jurisdiction and power of the superior court
10 in that area. The determination of whether the administration
11 is being impaired shall be made by the supreme court, and the
12 enlarged jurisdiction and powers become effective upon the
13 proclamation of this finding by the supreme court.

14 (c) The judicial council shall make nominations of
15 persons to be appointed as emergency interim successor
16 justices of the supreme court. It shall provide the governor
17 with a list of these nominations, and shall keep the list
18 current.

19 (d) An emergency interim successor to a supreme court
20 justice serves until the supreme court has been returned to
21 its normal strength by the justices becoming available, or
22 by new judges being appointed.

23 Sec. 39.40.050. PREREQUISITES TO INTERIM SUCCESSORS
24 TAKING OFFICE. Notwithstanding any other provision of law,
25 no person, as a prerequisite to the exercise of the powers or
26 the discharge of the duties of an office to which he succeeds
27 under this chapter, is required to comply with any provision
28 of the law relative to taking office except that he must take
29 the oath prescribed by sec. 5, art. XII of the Constitution

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of Alaska.

Sec. 39.40.060. REGULATIONS. The governor shall adopt regulations to establish procedures for the execution of this chapter.

Sec. 39.40.070. TERMINATION OF AUTHORITY. (a) The authority of the acting governor, acting department heads, and interim successor judicial officers may be terminated by

(1) the proper appointment and qualification of another person to the office, or

(2) a joint resolution receiving the affirmative vote of a majority of those voting on the resolution in both houses.

(b) A person who has served as acting governor, acting department head, or interim successor to a judicial office is entitled, upon another person's being appointed, to resume the position which he formerly held in the state government.

Sec. 39.40.080. DISPUTES. Any dispute concerning a question of fact arising under this chapter with respect to an office in the executive branch of the state government (except a dispute of fact relative to the office of the governor) shall be adjudicated by the governor or acting governor, whose decision is final.

Sec. 39.40.090. DEFINITIONS. In this chapter

(1) "available" means present in the state, either personally or through a deputy established by law with the power to exercise all powers and discharge all the duties of the office, and able in fact to exercise the powers and discharge the duties of the office;

(2) "attack" means an attack by any nation or

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nations upon the United States causing or intended to cause
destruction of or injury to persons or property by any
means.

* Sec. 2. This Act takes effect on July 1, 1964.