

Introduced: 1/27/77
Referred: Rules

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 *CS* HOUSE RESOLUTION NO. 5
3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 Relating to representation of District 16
6 in the Alaska State House of Representa-
7 tives.

8 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES:

9 WHEREAS the general election for representative from House District 16
10 has been set aside by the superior court of the State of Alaska, and as a
11 result of that decision no person has been certified to the House as having
12 been elected to that seat; and

13 WHEREAS the Constitution of the State of Alaska in art. II, sec. 4,
14 states: "A vacancy in the legislature shall be filled for the unexpired term
15 as provided by law. If no provision is made the governor shall fill the
16 vacancy by appointment."; and

17 WHEREAS the statute establishing procedure for appointments provides in
18 AS 15.60.010(19) that:

19 "(19) 'vacancy' exists in an office when the person elected
20 or appointed to the office resigns, retires, dies, is recalled, is
21 rejected by majority vote on the question at an election, is convicted
22 of a corrupt practice, is removed by impeachment or is expelled."; and

23 WHEREAS the contingency of an election being set aside by a court is not
24 included in that definition; and

25 WHEREAS the governor has appointed Martin Severson to fill the District
26 16 seat; and

27 WHEREAS under art. II, sec. 12 of the Constitution of the State of
28 Alaska, which provides that "... Each [house] is the judge of the election
29 and qualifications of its members....", the House has a right and duty to

consider, and has duly considered, the matter;

2 BE IT RESOLVED that the House of Representatives having duly considered
3 the questions relating to the District 16 seat finds:

4 (1) that the superior court of the State of Alaska, First Judicial
5 District in the case of McGill v. Thomas, Docket No. 76-1022, declared the
6 general election to the House of Representatives conducted November 2, 1976
7 void, set aside the election, and ordered that the lieutenant governor con-
8 duct a new election for this seat;

9 (2) that, since the decision of the court was not challenged by the
10 House, a vacancy therefore exists;

11 (3) that the lieutenant governor has informed the House that this
12 election will be conducted on March 1, 1977;

13 (4) that the governor has appointed Martin Severson to fill the interim
14 vacancy until certification of the person elected at the election ordered by
15 the court;

16 (5) that Martin Severson is a qualified voter of the State of Alaska,
17 has been a resident of the state for more than three years, has been a resi-
18 dent of District 16 for more than one year, and is over 21 years of age; and
19 be it

20 FURTHER RESOLVED that the House of Representatives concludes that
21 Martin Severson may sit as the member of the House from District 16 until
22 certification of the person elected at the special election ordered by the
23 court.