

**HB**

**359**

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: March 11, 1996

FURTHER REFERRALS:

Date of Committee Action: 3/18/96

The JUDICIARY Committee considered:

HB 359

HOUSE BILL NO. 359

APPOINTMENT PROCESS FOR BDS & COMM'NS

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

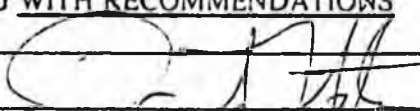
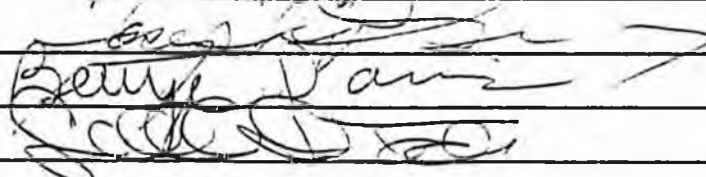
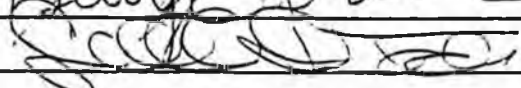
recommends it be replaced with the following committee substitute CSH 3 359 (JUD)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) GOV (3.11.96)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
		<del>✓</del>	X	
Brian Hester	✓			
Brian Hester	✓			
	✓		X	
Brian Hester				
				
Brian Hester				

CHAIR'S SIGNATURE Brian Hester

# LEGAL SERVICES

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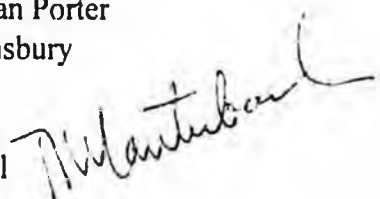
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

March 15, 1996

**SUBJECT:** CSHB 359( ) ("K" version)

**TO:** Representative Brian Porter  
Attn: Patrick Lounsbury

**FROM:** Terri Lauterbach  
Legislative Counsel 

As you have requested, this memorandum contains a description of the changes that would be made under sec. 14 of this bill.

In general, section 14 amends AS 39.05.080 by making a number of changes to the basic law governing the presentment and confirmation process for members of boards and commissions. These changes do not affect other positions for which confirmation may be required (department heads). More particularly, this section's changes may be described as follows:

Sec. 39.05.080 (lead-in language): Provides that any aspect of the general procedure in AS 39.05.080 may be modified by the legislature (by law) for any specific board or commission.

Sec. 39.05.080(1): The first sentence clarifies that a governor is not required to present names of persons appointed by a previous governor and that only a presentment during session satisfies the presentment requirement. In other words, "lame duck" appointments would not have to be presented by the next governor, and there would not be an issue in the future about whether a letter to the clerk or secretary during a legislative interim amounted to presentment. The second sentence of this paragraph requires the governor to present to the legislature within 30 days of its convening the names of persons appointed who have not previously been confirmed and the names of persons to be appointed to fill a position that will expire March 1 of that session. (Section 12 of the bill puts almost all terms on a March 1 basis.) The third sentence provides that an appointment made after 30 days of the session have passed, but while session is still in progress, must be presented within 5 calendar days.

Representative Brian Porter

March 15, 1996

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Sec. 39.05.080(2) and (3): No change from current law except to clarify that the governor is the "appointing authority." Use of the term "appointing authority" has been obsolete for some time. This is just a technical change.

Sec. 39.05.080(4). The first new sentence in this paragraph provides that the duration of an appointment made during the legislature's interim ends when a new regular session convenes, but, under the second new sentence, the appointee can be reappointed and presented for confirmation during that session. This language has the effect of allowing a new governor to appoint new people in the place of "lame duck" interim appointees - or the new governor can reappoint the interim appointees. (When governors don't change, the governor will have the same choice as well). This means that an interim appointee will be removable without cause (by not being reappointed) when session begins, even if cause for dismissal would normally have to be given. The third new sentence clarifies that if an appointee begins service during an interim and is reappointed when the new session starts, those two periods of service will be considered to be service for one part of the term (rather than two parts) for purposes of laws that limit how many terms or parts of terms a person may serve consecutively. The fourth new sentence provides that an unrepresented appointment made during the session expires at the end of the legislative session during which it should have been presented unless it expires sooner (such as when an appointment to fill the end of a term expires on March 1). The fifth sentence prohibits the same governor from reappointing an unrepresented appointee after session adjourns but would allow a future governor to appoint that person.

I hope this clarifies the legal effects of section 14. If you have further questions about this section, please let me know.

TML:klb  
96-196.klb

Enclosure

CS FOR HOUSE BILL NO. 359( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

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.

# Alaska State Legislature

**Representative Brian S. Porter**

CHAIRMAN  
HOUSE JUDICIARY COMMITTEE

MEMBER  
HOUSE LABOR & COMMERCE COMMITTEE  
HOUSE STATE AFFAIRS COMMITTEE  
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**DISTRICT 20**

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## SPONSOR STATEMENT

Lamenting the appointment process for Boards and Commissions the Governor and legislature endured last year, HB 359 is designed to take the politics out of the presentment and appointment process.

Simply stated the Governor would present to the legislature within 30 days of convening the names of persons appointed who have not previously been confirmed and the names of persons to be appointed. An appointment made after 30 days of the session, but while session is still in progress, must be presented within 5 calendar days. Concurrently, the duration of an appointment made during the interim ends when a new regular session convenes, but can be reappointed and presented for confirmation during that session. For example, when governors change this feature allows the new governor to appoint new people or reappoint the interim appointees selected by the previous governor.

9-LS1242\F  
Lauterbach  
2/22/96

CS FOR HOUSE BILL NO. 359( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE PORTER

A BILL

FOR AN ACT ENTITLED

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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  
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18 date of the member's [FEBRUARY 1 OF THE YEAR OF] appointment. Except as  
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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.

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23 (a) The term of office for each member of the commission is three years and,  
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25 appointed.

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31 (h) A vacancy on the commission shall be filled through the appropriate  
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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  
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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  
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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.

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

27 (2) When appointments are presented to the legislature for confirmation,

28 (A) the presiding officer of each house shall assign the name of  
29 each appointee to a standing committee of that house for a hearing, report, and  
30 recommendation; standing committees of the two houses assigned the same  
31 person's name for consideration may meet jointly to consider the qualifications  
32 of the person appointed and may issue either a separate or a joint report and

1 recommendation concerning that person; then

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

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

22 (4) Pending confirmation or rejection of appointment by the legislature,  
23 persons appointed shall exercise the functions, [AND] have the powers, and be charged  
24 with the duties prescribed by law for the appointive positions or membership. However,  
25 the duration of an appointment made during the time period between regular  
26 sessions of the legislature ends on the first day of the next regular session. An  
27 appointee whose appointment ends on the first day of the next regular session under  
28 this paragraph does not serve until a successor is appointed but may be  
29 reappointed. The duration of an appointment made during a regular session of the  
30 legislature and not presented to the legislature by the governor during that session  
31 ends on the last day of that session. The governor may not again appoint the same  
32 person to the same position or membership if the person's appointment ends

1 because of the governor's failure to present the person's name for confirmation.

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

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

12 \* Sec. 16. AS 41.35.330 is amended to read:

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

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

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

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

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

32 \* Sec. 19. AS 46.15.200 is amended to read:

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

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

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

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

# LEGAL SERVICES

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Juneau, Alaska 99801-2105

## MEMORANDUM

February 19, 1996

**SUBJECT:** Sectional Summary of CSHB 359( ).  
(Confirmation of Board Members)

**TO:** Representative Brian Porter  
Attn: Patrick Lounsbury

**FROM:** Terri Lauterbach  
Legislative Counsel

*TLauterbach*

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Sections 1 - 6 and 10 - 14 make technical changes in existing laws in order to conform to the changes made in AS 39.05 in secs. 7 - 9 of the bill. Under the changes in AS 39.05.080(4), members would not necessarily serve until replaced and vacancies would not be filled for the unexpired term because interim appointees would lose office when a new legislative session begins.

Section 7 adds a new section that specifies that the term of office of each member of a board or commission for which confirmation is required ends on March 1 of the year when the term expires. Allows an exception for when the legislature wants to provide a different termination date for a specific board or commission.

Section 8 modifies the general law on vacancies in AS 39.05.060 so that it conforms to the changes made in sec. 9 of the bill. Also clarifies that, in general, confirmed members of boards and commissions serve at the pleasure of the governor even though terms are set by law, but allows the legislature to provide for a different result, such as removal only for cause, for specific boards and commissions.

Section 9 makes a number of changes to the basic law governing the presentment and confirmation process for members of boards and commissions. These changes do not affect other positions for which confirmation may be required (department heads).

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Sec. 39.05.080 (lead-in language): Provides that any aspect of the general procedure may be modified by the legislature (by law) for any specific board or commission.

Sec. 39.05.080(1): Requires the governor to present to the legislature within 30 days of its convening the names of persons appointed who have not previously been confirmed and the names of persons to be appointed to fill a position that will expire March 1 of that session. An appointment made after 30 days of the session, but while session is still in progress, must be presented within 5 calendar days.

Sec. 39.05.080(2) and (3): No change from current law except to clarify that the governor is the "appointing authority." Use of the term "appointing authority" has been obsolete for some time. This is just a technical change.

Sec. 39.05.080(4). The first new sentence in this paragraph provides that the duration of an appointment made during the legislature's interim ends when a new regular session convenes, but, under the second new sentence, the appointee can be reappointed and presented for confirmation during that session. When governors change, this feature allows the new governor to appoint new people or reappoint the interim appointees selected by the previous governor. When governors don't change, the governor can simply reappoint the interim appointee (or change the appointee, just as if a new governor were taking office).

The third new sentence provides that an unrepresented appointment expires at the end of the legislative session during which it should have been presented. The fourth sentence prohibits the governor from reappointing an unrepresented appointee after session adjourns.

Section 15 repeals laws that conflict with the changes made by this bill.

Section 16 sets up the March 1 cycle of terms of office by extending current terms to March 1 following when they otherwise would have expired.

Section 17 gives the bill a January 1, 1997, effective date.

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