

Sponsor Statement for HB 331

Presentment Of Governor's Appointees

An Act relating to appointment of persons to positions that require confirmation by the legislature; and providing for an effective date.

Released: January 22, 2002
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HB331 eliminates ambiguities in AS 39.05.080 making it clear that presentment of the governor's appointees to boards and commissions may only occur during regular sessions of the legislature. This bill eliminates the potential for confirmation sessions occurring during special sessions and it also reconciles potentially conflicting language regarding the timing of the appointee's presentation.

This issue arose at the end of the 2001 regular session, following the failed confirmation bid of a Game Board appointee. In response to that event, under paragraph (3), the governor made a new appointment and presented the name to the legislature within 20 days following notification of the failed nomination. As to that Game Board vacancy, the governor was correct under paragraph (3) in appointing and presenting the name, but since the regular session of the legislature had adjourned, under paragraph (1), that presentment was ineffective.

Because joint sessions for confirmation purposes are often held near the end of the regular session, this means that the time for a new appointee's presentment would most likely fall during a special session (if one is held in the interim).

The waters become muddy because the 20-day requirement (that the governor has to name a candidate following a failed confirmation) of paragraph (3) is a direct conflict with paragraph (1), which states that only presentment that occurs during a regular session constitutes presentment. To further complicate the issue, AS 39.05.080 is utterly ambiguous as to whether the legislature is even authorized to confirm appointees during the special session.

HB331 reconciles the two problematic paragraphs of AS 39.05.080 by:

- Removing the 20-day requirement in paragraph (3) and keeping the requirement of paragraph (1) stating that only presentment during a regular session is valid;
- Inserting as appropriate throughout the section, "**regular**;"
- Removing "within five calendar days" from the latter part of paragraph (1) because the five-day presentment requirement in paragraph (1) is just as problematical as the 20-day presentment requirement since the fifth day could be outside the regular session even if the appointment were made during the regular session.

