

# LEGAL SERVICES

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## MEMORANDUM

April 10, 2011

**SUBJECT:** Sectional Summary of CSHB 106(RES)  
(Work Order No. 27-GH1965\D)

**TO:** Representative Eric Feige  
Co-Chair of the House Resources Committee  
Attn: Linda Hay

**FROM:** Alpheus Bullard *AB*  
Legislative Counsel

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.

**Section 1.** Extends the date that the Alaska coastal management program "is subject to termination" to the first regular legislative session convening in January 2017.

**Section 2.** Establishes the Alaska Coastal Policy Board (board).

**Section 3.** Requires the Department of Natural Resources (department) to prepare an annual report summarizing the department's efforts to draft and adopt regulations under AS 46.39 and AS 46.40. The report must be posted on the department's website.

**Section 4.** Provides that the department may consult and cooperate with the board.

**Section 5.** Provides how, and to whom, the department must provide certain information. Requires the department to annually solicit issues for discussion by the board, summarize the board's discussion of these issues, and, based on the discussions, make recommendations to the commissioner of the department.

**Section 6.** Mandates that, if the department provides funds to a coastal resource district or service area (district) and the department provides a restriction on how the funds may be used by the district, the department must specify the law that authorizes the restriction.

**Section 7.** Provides that changes to a district coastal management plan (plan) may not conflict with statewide standards adopted by the department.

**Section 8.** Provides that a plan may not conflict with statewide standards adopted by the department. Changes what a plan must include and changes the requirements for enforceable policies contained in a plan.

**Section 9.** Changes "the use of areas of the coast that merit special attention" to "special management areas," in a statutory section that directs the department to adopt regulations establishing statewide standards and district plan criteria for the Alaska Coastal Management Program. (The bill repeals the definition of "area which merits special attention" (bill sec. 20) and provides a definition of "special management area" (bill sec. 18)).

**Section 10.** Changes the process by which a plan is reviewed and approved. Removes language that requires, for the department to approve a plan, the plan to meet statewide standards and district plan criteria and not arbitrarily or unreasonably restrict or exclude uses of state concern. The plan must still meet the provisions of AS 46.40 (note that AS 46.40.030 requires a plan to meet district plan criteria and not conflict with statewide standards adopted by the department). Provides that if the department finds that a plan is not approvable, or is approvable only in part, the department shall submit the plan to the board for review and recommendations. After the board has reviewed the plan and submitted recommendations to the department, the department shall enter findings, and may, by order, require that a plan be amended or that a district take other appropriate action.

**Section 11.** Establishes a process by which a person affected by a decision of the department relating to the review and approval of a plan may request the commissioner of the department to reconsider the decision.

**Section 12.** Changes the criteria by which the department will evaluate a plan submitted by a district for approval.

**Section 13.** Requires that the department must, in regulations adopted by the department, (1) permit certain persons to participate in a consistency review, (2) provide certain persons materials relating to the consistency review, (3) make notices relating to proposed projects for which a consistency determination is sought available through the department's internet website.

**Section 14.** Relabels "subsequent reviews" as "elevations." Provides that elevations may only be conducted by the commissioners of the departments of environmental conservation, natural resources, and fish and game, or certain deputies of these commissioners. Provides how an elevation is completed.

**Section 15.** Changes "subsequent review" to "elevation" to conform the section with changes in terminology made in sec. 14 of the bill.

**Section 16.** Adds the commissioners of the departments of environmental conservation, natural resources, and fish and game, or certain deputies of these commissioners, to the list of entities that are "reviewing entit[ies]" for the purposes of the consistency review and determination process for certain projects.

**Section 17.** Changes language in a statutory section relating to the approval of plans in a coastal resource service area, requires that a new material submitted by a city or village may not conflict with statewide standards adopted by the department. Under current law, new material submitted by a village or city must "meet[ ] the statewide standards."

**Section 18.** Establishes definitions for "elevation" and "special management area."

**Section 19.** Repeals the statutory section creating the board. (The repeal is contingent on the repeal of the entire coastal management program (see bill sec. 25)).

**Section 20.** Repeals the definition of "area which merits special attention."

**Section 21.** Provides, in uncodified law, how and when the initial members of the board shall be appointed. Provides that board reviews of coastal resource management plans (see bill sec. 10) will be delayed until all members have been appointed.

**Section 22.** Provides, if the bill does not become law before July 1, 2011, that when the bill becomes law, the bill's provisions will be retroactive in effect to July 1, 2011, and the provisions that constitute the Alaska Coastal Management Program that have been repealed will be revived.

**Section 23.** Provides that the provision establishing the board (see bill sec. 2) will be repealed (see bill sec. 19) if the provisions that constitute the Alaska Coastal Management Program are repealed through the operation of secs. 1 - 13 and 18, ch. 31, SLA 2005)

**Section 24.** Changes the date (from July 1, 2011 to July 1, 2017) in uncodified law that the provisions that constitute the Alaska Coastal Management Program will be repealed under secs. 1 - 13 and 18, ch. 31, SLA 2005.

**Section 25.** Provides an effective date for sec. 19 of the bill.

**Section 26.** Provides, except as provided in sec. 25, an immediate effective date for the bill.