

SCS CSHB 106(FIN) Version \H
Relating to the Alaska Coastal Management Program

Sectional Analysis

The following is a sectional analysis of the above referenced bill. Please note that while this summary reflects the bill contents, for authoritative interpretation of the draft you should refer to the bill itself.

Section 1 - Requires the Department of Natural Resources to consider the effects on subsistence uses, when administering the Alaska coastal management program under AS 46.39 and AS 46.40;

Section 2 - Extends the sunset date for the Alaska coastal management program to January, 2017 or a period of six years;

Section 3 - Creates the Alaska Coastal Policy Board; establishes the board's membership, terms of office, quorum and voting requirements, and duties; provides that board members can be removed for cause only, strictly prescribing the removal process whereas limiting accountability

Section 4 - Establishes an annual reporting requirement concerning the drafting and adoption of regulations; requires notice of the report be given to the legislature;

Section 5 - Allows the Department of Natural Resources to consult and cooperate with the Alaska Coastal Policy Board;

Section 6 - Requires the Department of Natural Resources to (1) provide certain information to coastal resource districts by electronic transmission or by mail; and (2) to summarize board minutes relating to the Alaska coastal management program along with recommendations to the commissioner of the Department of Natural Resources based on the board's discussions;

Section 7 - Amends provisions relating to the development of district coastal management plans including provisions relating to a statement of enforceable policies, description of proper and improper uses, designation of areas meriting special attention, and enforceable policy requirements;

Section 8 - Provides that in determining whether an enforceable policy employs the least restrictive means to achieve its objective, factors listed in subsection (c) "shall" be considered and factors under subsection (d) "may" be required to be considered;

Section 9 - Provides that the provisions of this subsection apply notwithstanding any conflicting provisions in another provision of law;

Section 10 - Requires a coastal resource district to resubmit its coastal management plan as required under AS 46.39.005(k)(3);

Section 11 - Repeals a provision of law requiring that a coastal management plan meet statewide standards and district plan criteria;

Section 12 - Requires that a district coastal management plan that the department finds is not approvable or not approvable in part the department shall explain in writing the basis for the decision; the district submitting the plan may request the plan be submitted to the Alaska Coastal Policy Board for review; requires the board to review the plan and make recommendations regarding approval or modification of the plan;

Section 13 - Repeals references to mediation and requires the department to enter findings as required by this subsection after the board has reviewed the district coastal management plan and made recommendations; allows the Department to require additional information necessary in review of a plan or portion of a plan.

Section 14 - Provides that only a coastal resource district affected by the decision of the department has the right to request reconsideration of the decision; requires the request be made within 15 day, be in writing, and include a statement of issues and facts; allows the commissioner to review the decision and to issue a determination; provides that failure to issue a determination within 20 days, constitutes denial and that denial is a final administrative order; provides that the superior court has jurisdiction to enforce orders of the commissioner of natural resources entered under AS 46.40.060(c) and (e) and that;

Section 15 - Establishes requirements for review and approval of a district coastal management plan by the Department of Natural Resources, including approval criteria and limits for enforceable policies; removes a tool from the department that can limit potential restrictions on coastal uses and resources by prohibiting the use of designated areas.

Section 16 - Amends reviews of proposed projects by requiring the commissioner or deputy commissioner of the resource agency to conduct an elevated review of a proposed consistency determination; also establishes timeframes for elevated reviews;

Section 17 - Provides that time limits imposed under AS 46.40.096(n) do not apply to a consistency review of a project undergoing elevated review;

Section 18 - Amends the definition of “reviewing entity” for purposes of elevated consistency review and determinations to “commissioners or deputy commissioners of the resource agencies for an elevated review”;

Section 19 - Provides that new matter submitted by a city or village for a coastal management plan that is not inconsistent with the standards adopted under AS 46.40.040 and that meets district plan criteria shall be accepted and used to modify the district coastal management plan accordingly;

Section 20 - Adds definitions of “board”, “commissioners” and “elevated review”, for purposes of AS 46.40; Deletes definitions of “local knowledge” and “scientific evidence”

(from House Version \T) used for analysis to determine whether an enforceable policy should be approved.

Section 21 - Repeals AS 46.39.005, the Alaska coastal policy board;

Section 22 - Repeals AS 46.40.060(d), a conflicting reference to Superior Court jurisdiction;

Section 23 - Transition provision for the membership of the Alaska Coastal Policy Board;

Section 24 - Transition provision for pending district coastal management plans;

Section 25 - Requires a review and report of recommendations by the Alaska Coastal Policy Board, due February 1, 2013, on new regulations to be written and implemented after July 1, 2011, as well as related federal and state statutes and regulations. Requires a review and report of recommended changes to statutes and regulations on or before January 1, 2015.

Section 26 - Retroactivity and revival provisions intended to make the extension of the coastal management program effective on January 1, 2011;

Section 27 - Conditional effective date for sec. 21;

Section 28 - Technical amendment;

Section 29 - Technical amendment;

Section 30 - Effective date for all sections except for section 29.