

ALASKA STATE LEGISLATURE

SENATOR DONALD C. OLSON



ALASKA
STATE CAPITOL
ROOM 514
JUNEAU, ALASKA 99801-1182

(907) 465-3707
FAX (907) 465-4821

SECTIONAL ANALYSIS

CSSB 4 (CRA) Coastal Management Programs

Version 26-LS0019/ R, February 5, 2009

STAFF: Tim Benintendi, 465-4989

(Compared to SB 4)

Section 1: Establishes the ALASKA COASTAL POLICY BOARD, composed of five coastal district members and the commissioners of DNR, F&G, DEC, and COMMERCE. One co-chair will come from the district membership, and one co-chair from the commissioners. This board is smaller than the 17-member panel prior to the 2003 changes. **Differences from SB 4 are: Added one district member, and added commissioner of CCED to Board.**

Section 2: Clarifies that DNR coordinates all project consistency reviews for projects with only departmental permits or for projects that involve two or more other state resource agency permits. **Not included in SB 4.**

Section 3: Allows but does not mandate that regulations approved by the Board may be adopted by DNR. **Same provision is in SB 4, Section 2.**

Section 4: Establishes powers of the Board, including taking reasonable action to carry out provisions of AS 46.39 (administration) and AS 46.40 (ACMP). **Same provision is in SB 4, Section 3.**

Section 5: Provides for the Board to approve statewide ACMP standards and criteria, **as developed by the department**, for district plan approval.

Section 6: Defines "Board" in AS 46.39.900. **Same provisions in SB 4, Section 5.**

Section 7: Provides for approval of ACMP program changes by the Board. **Same provisions in SB 4, Section 6.**

Section 8: Adds "subsistence" to the list of values included in the ACMP objectives. Same provisions in SB 4, Section 7.

Section 9: Subsection (a) removes requirement for district enforceable policies to meet the statewide standards. Clarifies that district enforceable policies apply to all land and water issues subject to the plan. Removes requirement to describe proper and improper uses. Changes the term "areas meriting special attention" to "special management areas." Subsection (b) requires district enforceable policies to be clear and concise, either prescriptive (how to proceed toward goal) or performance-based (goal achievement by various methods), and stricter or more specific policy than state or federal laws. If stricter, support may include traditional, local knowledge. This section was not included in SB 4.

Section 10: Makes conforming changes for Board approval of ACMP regulations. Deletes language in AS 46.40.040(a)(2) – (5); moved to a new subsection (d). Compares to SB 4, Section 8, changing "areas of the coast that merit special attention," to "special management areas."

Section 11: Moves language deleted from Section 10, to a new section outlining responsibilities of the Board. Not included in SB 4.

Section 12: Makes conforming amendments to clarify that district plans must be approved by the Board. Not included in SB 4.

Section 13: Establishes the review and approval process for coastal district plans, including provisions for districts to work with DNR to resolve issues before the Board approves a plan. Allows districts to request mediation of the Board's decision. Not included in SB 4.

Section 14: Establishes criteria for Board approval of district plans and clarifies that district enforceable policies may not address matters pre-empted by state or federal laws. Rewritten from SB 4.

Section 15: Makes conforming changes for Board approval of ACMP regulations governing the consistency review and determination process. Same provision is in SB 4, Section 15.

Section 16: Changes the term "subsequent review" to the commonly used term "elevation" and clarifies that the three state resource agencies make the final decision on a project elevation. Modifies SB 4, Section 18, by allowing more autonomy for state resource agencies in preparing a consistency review and determination.

Section 17: Clarifies that aspects of an activity covered by a general or nationwide permit are excluded from a consistency review (rather than the entire activity). Same provision is in SB 4, Section 19.

Section 18: Makes conforming changes for Board approval of district enforceable policies. Same provision is in SB 4, Section 20.

Section 19: Allows for ACMP consistency reviews of projects inland of the coastal zone, if there would be direct and significant effects to coastal uses or resources. Clarifies that seismic survey activities in federal waters are subject to consistency reviews. Differences from SB 4, Section 21, are the inclusion of activities and impacts "inland from the coastal zone," in federal "waters," and "seismic survey activity" on the Outer Continental Shelf. DNR currently exempts this activity from review.

Section 20: Clarifies that categorically or generally consistent activities are for routine projects. From SB 4, Section 22 of this version, deletes a reference mandating Board approval.

Section 21: Exempts federal activities and federally-permitted projects from the 90-day consistency review time limit. Allows extension of the time limit for adjudication of coastal district permits. Differs from SB 4, Section 23 by adding language for a 30-day extension period for an affected coastal resource district to accommodate the adjudication process.

Section 22: Clarifies that the term "affected coastal resource district" includes districts with a publicly-reviewed draft plan or approved plan. Not included in SB 4.

Section 23: Requires an individual consistency review for each Outer Continental Shelf lease sale. Not included in SB 4. Would make each lease sale a separate consistency review.

Section 24: Gives the Board authority to act on a petition regarding non-implementation of a coastal district plan. Same provision is in SB 4, Section 24.

Sections 25, 27, 28: Make conforming amendments regarding Board action on a petition regarding non-implementation of a coastal district plan. Ties to Section 24. Same provisions are in SB 4, Sections 25, 27, 28.

Section 26: Provides that the Superior Courts have jurisdiction to enforce orders of the Board, as well as the department. Same provision is in SB 4, Section 26.

Section 29: Clarifies that a coastal resource service area (CRSA) may accept new matter submitted by a city or village into its coastal management plan. Not included in SB 4.

Section 30: Clarifies that municipalities are part of a CRSA unless they choose to be excluded. Not included in SB 4. There are currently no 3rd class boroughs in Alaska.

Section 31: Removes language about boroughs that do not exercise planning and zoning authority. Not included in SB 4.

Section 32: Makes a conforming amendment clarifying the board's role in coastal boundary changes. Same provision is in SB 4, Section 30.

Section 33, 34: Make conforming amendments regarding the Board's role in approving district plans and district enforceable policies. Same provisions are in SB 4, Sections 31, 32.

Section 35: Clarifies that the term "project" applies to federal activities and federally-permitted activities, including individual lease sales. Not included in SB 4.

Section 36: Adds new definitions for the terms "Board" and "special management areas." Definition of "special management areas" was not included in SB 4.

Section 37: Repeals the exemption for DEC permits from consistency reviews (eliminates DEC carve-out) (AS 46.40.040(b)–(c), not included in SB 4,

and AS 46.40.096(i)). Only this reference was included in SB 4.

Removes the requirement for re-submittal of district plans every 10 years (AS 46.40.050(a)). Not included in SB 4.

Removes the exemption of shallow gas projects from ACMP reviews (AS 46.40.205). Not included in SB 4.

Removes the definition for “areas meriting special attention” (AS 46.40.210(1)). Not included in SB 4.