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House Majority Leader

Alaska State Legislature

Sectional Analysis for House Bill 325

“An Act establishing an Alaska Coastal Management Program”

Section 1. Development of Alaska Coastal Management Program. Section 1 establishes and outlines the responsibilities of the Alaska Coastal Policy Board and the method by which the board members are appointed; establishes the requirements of the Department of Commerce, Community and Economic Development (DCCED) under this chapter, including the establishment of the Division of Ocean and Coastal Management; provides for the development of program regulations; provides the objectives with which the program must be consistent; provides the method for the development of district coastal management plans and their implementation; as well as the method for developing and implementing plans in unorganized borough, including the means for establishing coastal resource services areas and electing their boards; and the means for the DCCED to prepare and approve plans when a local board is unable or unavailable to do so.

Section 1 contains three Articles.

Article 1. Development of Alaska Coastal Management Program (ACMP). This article establishes the Coastal Policy Board; establishes the powers and duties of the board; creates a Division of Ocean and Coastal Management within the (DCCED); directs DCCED to make regulations related to the program; provides the objectives with which the program must be consistent; provides for the development of district coastal management plans; provides for the implementation of district coastal management plans; and provides for municipal and state agency enforcement of regulations or controls in conformity with district coastal management plans.

Sec. 46.40.310 creates (a) the **Alaska Coastal Policy Board** in DCCED. The board consists of (1) 9 public members and 9 alternate public members appointed by the Governor from a list of at least three nominees submitted by the coastal districts of each region, and must be appointed from one of each of 9 (A-I) geographic regions. The board also has four designated members who are

(2) the commissioners of Department of Environmental Conservation (DEC), Alaska Department of Fish and Game (ADF&G), Department of Natural Resources (DNR), and DCCED.

Sec. 46.40.320 establishes the **Powers and Duties of the Board**, which include review and approval of regulations necessary to implement the Alaska Coastal Management Program in conformity with the federal Coastal Zone Management Act of 1972. The board will also initiate planning work, approve coastal district management plans, establish coordination among state agencies in the development and implementation of the ACMP, evaluate effectiveness of district coastal management plans and direct the department to apply for grants and other funding that become available for coastal planning and management. The board also has the power to contract for necessary services.

Sec. 46.40.330 establishes the **Division of Ocean and Coastal Management** in the DCCED. The division's responsibilities include rendering all federal consistency determinations authorized by Sec. 307 of the Coastal Zone Management Act of 1972, as well as state consistency determinations for project requiring multiple state permits. The division can also develop and adopt regulations that have been approved by the board, under AS 44.62 (Administrative Procedures Act). The division also ensures that coastal districts have the data and information they need to carry out their responsibilities under this legislation, and develops and maintains a financial assistance program to aid the districts in developing their plans.

Sec. 46.40.340 directs DCCED to develop **Alaska Coastal Management Program Regulations**. These are to include (1) statewide standards for the ACMP and for developing and approving district plans and (2) consistency review procedures, including the circumstances under which projects will be excluded from the requirement of a consistency review.

Sec. 46.40.350 establishes the **Objectives** with which the ACMP must be consistent.

Sec. 46.40.360 provides the requirements of coastal districts in the **Development of District Coastal Management Plans** and requires that districts base plans on existing comprehensive plans or new comprehensive resource plans or resources statements of needs. It also requires that the plan (1) delineate the area subject to the plan, (2) include a statement, list or definition of the land and water uses subject to the plan, (3) state the enforceable policies to be applied to the uses subject to the plan, (4) designate any special management areas and (5) state the enforceable policies relevant to the special management areas. This section also outlines the requirements and limitations of plans that can be approved by the board.

Sec. 46.40.370 describes the process for the **Implementation of District Coastal Management Plans**, with either the state or municipalities implementing the plans depending on whether the municipalities have zoning or other controls on the use of resources within the coastal area.

Sec. 46.40.380, Compliance and Enforcement, establishes (a) the requirement that municipalities and state agencies administer regulations and control in conformity of district coastal management plans, and that (b) the superior courts of the state have jurisdiction to enforce lawful orders of the board and the department under this chapter.

Article 2. Coastal Management Plans in the Unorganized Borough

Article 2 outlines the procedure that allows areas of the coastal regions of the state to organize into Coastal Resource Service Areas for the purposes of developing and implementing Coastal Management Plans.

Sec. 46.40.390 establishes that **Coastal Resource Service Areas (CRSA)** can exercise the duties outlined in this chapter, while **Sec. 46.40.400** outlines the process for establishing these areas. Regional attendance areas (REAs) are to be used as the basis for establishing CRSAs, while the DCCED commissioner has the ability to combine two or more REAs into a single CRSA if the combination meets certain criteria.

Sec. 46.40.410 provides the procedure for the **Establishment of Coastal Resource Service Areas** and includes methods of (1) petition by residents of the proposed CRSA or (2) submission of resolutions by city or tribal councils. Elections on the question of the establishment of the proposed CRSA are to be administered by the lieutenant governor within the time bnfame of 60 to 90 days after receiving a request from the board.

Sec. 46.40.420 provides for the election of **Coastal Resource Service Area Boards**, with provisions for number of members, term length, the role of the lieutenant governor in administering elections, dates of elections (to coincide with elections of members of REA boards under AS 14.08.071, Elections and Advisory Votes); vacancy, recall of members, and per diem and honoraria.

Sec. 46.40.430 establishes that elections will be administered by the lieutenant governor in keeping with AS 15 (Alaska Election Code) and that the state will pay the costs of the election.

Sec. 46.40.440 provides for the DCCED to prepare district coastal management plans in areas where the people have (a) rejected, in an election under AS 46.40.410, the creation of a service

area. This ability is limited to areas where the Alaska Coastal Policy Board finds that a major economic development activity has or will occur in the service area that was proposed in the vote. In addition, the DCCED will prepare plans at the request of the board (b) in areas where CRSAs have failed to make substantial progress in preparation of their program within certain timeframes. This section provides for consultation with residents of the affected area, and (c) requires that the board meet with CRSAs board members before a plan is prepared under (b) of this section to determine whether the plan can be completed within the time limits outlined in (b).

Sec. 46.40.450 provides for a review process before the **Approval of Plans in Coastal Resource Service Areas**, and includes a process for review by city and traditional village councils. City councils are limited to objection to elements of the plan pertaining to areas within their corporate boundaries, and traditional councils are limited to those resources within two miles of the village.

Article 3. General Provisions

Sec. 46.40.460 provides that cities within the coastal area can be included in an adjacent service area unless it formally rejects such an inclusion. It also allows for joint administration of functions between a municipality and a CRSA.

Sec. 46.40.470 provides limitations on this chapter and how it is construed with regard to other state laws and state and municipal functions.

Sec. 46.40.500 provides **Definitions** for the purposes of this chapter.

Sec. 2: Transition

Section 2 provides that coastal districts, CRSAs, coastal district boundaries, and coastal management plans that were in effect on June 30, 2011, are revived and incorporated into the ACMP.

It also provides for review of the district's coastal management plans within one year of the effective date of this legislation.