

A M E N D M E N T

OFFERED IN THE HOUSE
TO: HB 106

BY REPRESENTATIVE SEATON

1 Page 1, line 2, following "**extension**";:

2 Insert "**relating to the development, review, and approval of district coastal**
3 **management plans**;"

4
5 Page 2, following line 5:

6 Insert new bill sections to read:

7 "*** Sec. 2.** AS 46.40.030 is amended to read:

8 **Sec. 46.40.030. Development of district coastal management plans.** (a)

9 Coastal resource districts shall develop and adopt district coastal management plans in
10 accordance with the provisions of this chapter. The plan adopted by a coastal resource
11 district shall be based upon a municipality's existing comprehensive plan or a new
12 comprehensive resource use plan or comprehensive statement of needs, policies,
13 objectives, and standards governing the use of resources within the coastal area of the
14 district. The plan must meet the [STATEWIDE STANDARDS AND] district plan
15 criteria adopted under AS 46.40.040 and must include

16 (1) a delineation within the district of the boundaries of the coastal area
17 subject to the district coastal management plan;

18 (2) a statement, list, or definition of the land and water uses and
19 activities subject to the district coastal management plan;

20 (3) a statement of policies to be applied to **all** [THE] land and water
21 uses subject to the district coastal management plan **as well as policies that apply**
22 **only to special management areas; and**

23 (4) [A DESCRIPTION OF THE USES AND ACTIVITIES THAT

1 WILL BE CONSIDERED PROPER AND THE USES AND ACTIVITIES THAT
 2 WILL BE CONSIDERED IMPROPER WITH RESPECT TO THE LAND AND
 3 WATER WITHIN THE COASTAL AREA; AND

4 (5)] a designation of **any special management** [, AND THE
 5 POLICIES THAT WILL BE APPLIED TO THE USE OF,] areas **under** [WITHIN]
 6 the **district coastal management plan and enforceable policies that will be**
 7 **applicable within those special management areas** [RESOURCE DISTRICT THAT
 8 MERIT SPECIAL ATTENTION].

9 (b) In developing enforceable policies in its coastal management plan under
 10 (a) of this section, a coastal resource district shall **ensure that the enforceable**
 11 **policies are**

12 **(1) clear and concise as to the activities and persons affected by the**
 13 **policies and the requirements of the policies, whether the policies are prescriptive**
 14 **or performance-based;**

15 **(2) necessary given local conditions; and**

16 **(3) supported by evidence, including scientific or local knowledge,**
 17 **if the policies are more specific than state or federal statutes or regulations**
 18 [MEET THE REQUIREMENTS OF AS 46.40.070 AND MAY NOT DUPLICATE,
 19 RESTATE, OR INCORPORATE BY REFERENCE STATUTES AND
 20 ADMINISTRATIVE REGULATIONS ADOPTED BY STATE OR FEDERAL
 21 AGENCIES].

22 * **Sec. 3.** AS 46.40.040(a) is amended to read:

23 (a) Except as provided in (b) of this section and AS 41.17, the department
 24 shall

25 (1) by regulation, adopt, under the provisions of AS 44.62
 26 (Administrative Procedure Act) for the use of and application by coastal resource
 27 districts and state agencies for carrying out their responsibilities under this chapter,
 28 statewide standards and district coastal management plan criteria for

29 (A) identifying the boundaries of the coastal area subject to the
 30 Alaska coastal management program;

31 (B) determining the land and water uses and activities subject

1 to the Alaska coastal management program;

2 (C) developing policies applicable to the land and water uses
3 subject to the Alaska coastal management program;

4 (D) developing regulations applicable to the land and water
5 uses subject to the Alaska coastal management program;

6 (E) developing policies and procedures to determine whether
7 specific proposals for the land and water uses or activities subject to the Alaska
8 coastal management program shall be allowed;

9 (F) designating and developing policies for **special**
10 **management areas** [THE USE OF AREAS OF THE COAST THAT MERIT
11 SPECIAL ATTENTION]; and

12 (G) measuring the progress of a coastal resource district in
13 meeting its responsibilities under this chapter;

14 (2) develop and maintain a program of technical and financial
15 assistance to aid coastal resource districts in the development and implementation of
16 district coastal management plans;

17 (3) undertake review and approval of district coastal management
18 plans in accordance with this chapter;

19 (4) initiate a process for identifying and managing uses of state
20 concern within specific areas of the coast;

21 (5) develop procedures or guidelines for consultation and coordination
22 with federal agencies managing land or conducting activities potentially affecting the
23 coastal area of the state;

24 (6) by regulation, establish a consistency review and determination or
25 certification process that conforms to the requirements of AS 46.40.096.

26 * **Sec. 4.** AS 46.40.070 is amended by adding a new subsection to read:

27 (c) In reviewing and approving a district coastal management plan under (a) of
28 this section, the department may not require a district to designate areas for the
29 purpose of developing an enforceable policy.

30 * **Sec. 5.** AS 46.40.210 is amended by adding a new paragraph to read:

31 (13) "special management area" means a delineated geographic area

1 within the coastal area that is sensitive to change or alteration and that, because of
2 plans or commitments or because a claim on the resources within the area delineated
3 would preclude subsequent use of the resources to a conflicting or incompatible use,
4 warrants special management attention, or that, because of its value to the general
5 public, should be identified for current or future planning, protection, or acquisition;
6 these areas, subject to the board's definition of criteria for their identification, include:

7 (A) areas of unique, scarce, fragile or vulnerable natural
8 habitat, cultural value, historical significance, or scenic importance;

9 (B) areas of high natural productivity or essential habitat for
10 living resources;

11 (C) areas of substantial recreational value or opportunity;

12 (D) areas where development of facilities is dependent upon
13 the utilization of, or access to, coastal water;

14 (E) areas of unique geologic or topographic significance that
15 are susceptible to industrial or commercial development;

16 (F) areas of significant hazard due to storms, slides, flooding,
17 earthquakes, active faults, tsunamis, volcanoes, liquefaction, ice movement or
18 snow avalanches, or erosion; and

19 (G) areas needed to protect, maintain, or replenish coastal land
20 or resources, including coastal flood plains, aquifer recharge areas, beaches,
21 and offshore sand deposits."
22

23 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: HB 106

1 Page 1, line 2, following "**extension**";:

2 Insert "**relating to the review and approval of district coastal management plans**;"

3

4 Page 2, following line 5:

5 Insert a new bill section to read:

6 "*** Sec. 2.** AS 46.40.070 is repealed and reenacted to read:

7 **Sec. 46.40.070. Requirements for department review and approval.** (a) The
8 department shall approve a district coastal management plan submitted for review and
9 approval if the

10 (1) district coastal management plan meets the requirements of this
11 chapter and the statewide standards and district plan criteria adopted by the
12 department; and

13 (2) enforceable policies of the district coastal management plan

14 (A) do not duplicate, restate, or incorporate by reference state
15 or federal statutes or regulations;

16 (B) are not preempted by federal or state law; and

17 (C) do not arbitrarily or unreasonably restrict a use of state
18 concern.

19 (b) In (a)(2)(B) of this section, an enforceable policy of the district coastal
20 management plan is preempted

21 (1) by federal statutes or regulations if the United States Congress
22 expressly declares that local law or regulation is preempted, if the United States
23 Congress demonstrates the intent to occupy the field exclusively, or if there is an

1 actual conflict between federal and local law or regulation;
2 (2) by state law if it is prohibited, either by express legislative
3 direction or direct conflict with a state statute or regulation, or where the management
4 plan substantially interferes with the effective functioning of a state statute or
5 regulation or the underlying purposes of a state statute or regulation."
6

7 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 106

BY REPRESENTATIVE SEATON

1 Page 1, line 3, following "**program**";:

2 Insert "**relating to coastal district plan criteria and consistency reviews and**
3 **determinations**;"

4
5 Page 2, following line 5:

6 Insert new bill sections to read:

7 "*** Sec. 2.** AS 46.40.040(a) is amended to read:

8 (a) Except as provided in [(b) OF THIS SECTION AND] AS 41.17, the
9 department shall

10 (1) by regulation, adopt, under the provisions of AS 44.62
11 (Administrative Procedure Act) for the use of and application by coastal resource
12 districts and state agencies for carrying out their responsibilities under this chapter,
13 statewide standards and district coastal management plan criteria for

14 (A) identifying the boundaries of the coastal area subject to the
15 Alaska coastal management program;

16 (B) determining the land and water uses and activities subject
17 to the Alaska coastal management program;

18 (C) developing policies applicable to the land and water uses
19 subject to the Alaska coastal management program;

20 (D) developing regulations applicable to the land and water
21 uses subject to the Alaska coastal management program;

22 (E) developing policies and procedures to determine whether
23 specific proposals for the land and water uses or activities subject to the Alaska

1 coastal management program shall be allowed;

2 (F) designating and developing policies for the use of areas of
3 the coast that merit special attention; and

4 (G) measuring the progress of a coastal resource district in
5 meeting its responsibilities under this chapter;

6 (2) develop and maintain a program of technical and financial
7 assistance to aid coastal resource districts in the development and implementation of
8 district coastal management plans;

9 (3) undertake review and approval of district coastal management
10 plans in accordance with this chapter;

11 (4) initiate a process for identifying and managing uses of state
12 concern within specific areas of the coast;

13 (5) develop procedures or guidelines for consultation and coordination
14 with federal agencies managing land or conducting activities potentially affecting the
15 coastal area of the state;

16 (6) by regulation, establish a consistency review and determination or
17 certification process that conforms to the requirements of AS 46.40.096.

18 * **Sec. 3.** AS 46.40.096(g) is amended to read:

19 (g) The reviewing entity shall exclude from the consistency review and
20 determination process for a project

21 (1) an activity that

22 [(A)] is authorized under a general or nationwide permit that
23 has previously been determined to be consistent with the Alaska coastal
24 management program; [OR

25 (B) IS SUBJECT TO AUTHORIZATION BY THE
26 DEPARTMENT OF ENVIRONMENTAL CONSERVATION UNDER THE
27 REQUIREMENTS DESCRIBED IN AS 46.40.040(b);]

28 (2) activities excluded from a consistency review under AS 41.17;

29 [AND]

30 (3) the issuance of an authorization or permit issued by the Alaska Oil
31 and Gas Conservation Commission; **and**

1 **(4) the necessity of a completed prevention of significant**
2 **deterioration of air quality permit application.**

3 * **Sec. 4.** AS 46.40.096(k) is amended to read:

4 (k) Except as provided in (g) of this section, AS 41.17, [AS 46.40.040(b),] and
5 AS 46.40.094, the scope of a consistency review of a project, once triggered under (j)
6 of this section, is limited to activities that are located within the areas described in (l)
7 of this section and that either are subject to a state resource agency permit, lease,
8 authorization, approval, or certification or are the subject of a coastal resource district
9 enforceable policy approved by the department under this chapter. The scope of a
10 consistency review subject to 16 U.S.C. 1456 is determined under 16 U.S.C. 1456 and
11 15 C.F.R. Part 930.

12 * **Sec. 5.** AS 46.40.040(b), 46.40.040(c), and 46.40.096(i) are repealed."
13

14 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 106

BY REPRESENTATIVE SEATON

1 Page 1, line 3, following "program;":

2 Insert "relating to the time limitations for a consistency review and determination
3 for certain projects occurring in a coastal resource district;"

4
5 Page 2, following line 5:

6 Insert a new bill section to read:

7 "* Sec. 2. AS 46.40.096(o) is amended to read:

8 (o) The time limitations in (n) of this section

9 (1) do not apply to a consistency review involving

10 (A) the disposal of an interest in state land or resources; or

11 (B) activity requiring an environmental impact statement;

12 (2) are suspended

13 (A) from the time the reviewing entity determines that the
14 applicant has not adequately responded in writing within 14 days after the
15 receipt of a written request from the reviewing entity for additional
16 information, until the time the reviewing entity determines that the applicant
17 has provided an adequate written response;

18 (B) during a period of time requested by the applicant;

19 (C) during the period of time a consistency review is
20 undergoing a subsequent review under (d)(3) of this section."

21

22 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 106

BY REPRESENTATIVE SEATON

1 Page 1, line 3, following "**program;**":

2 Insert "**relating to consistency determinations made under the Alaska coastal**
3 **management program;**"

4

5 Page 2, following line 5:

6 Insert a new bill section to read:

7 "*** Sec. 2.** AS 46.40.096(h) is repealed."

8

9 Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: HB 106

1 Page 1, line 3, following "**program**;"

2 Insert "**relating to the application of the consistency review and determination**
3 **process for the Alaska coastal management program to activities inland of the coastal**
4 **zone;**"

5

6 Page 2, following line 5:

7 Insert a new bill section to read:

8 **** Sec. 2.** AS 46.40.096(*l*) is amended to read:

9 (*l*) The regulations adopted under (a) of this section apply, as authorized by 16
10 U.S.C. 1456(c), to

11 (1) activities within the coastal zone **or inland of the coastal zone if**
12 **the activities would cause direct and significant impact to a coastal use or**
13 **resource**; and

14 (2) activities on federal land, including the federal outer continental
15 shelf, that would affect any land or water use or natural resource of the state's coastal
16 zone; for purposes of this paragraph, those activities consist of any activity on the
17 federal outer continental shelf and any activity on federal land that are within the
18 geographic boundaries of the state's coastal zone notwithstanding the exclusion of
19 federal land in 16 U.S.C. 1453(1)."

20

21 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 106

BY REPRESENTATIVE SEATON

1 Page 1, line 3, following "**program**;"

2 Insert "**relating to the definition of project under the Alaska coastal management**
3 **program**;"

4

5 Page 2, following line 5:

6 Insert a new bill section to read:

7 "*** Sec. 2.** AS 46.40.210(9) is repealed and reenacted to read:

8 (9) "project" means all activities described in AS 46.40.096(l) and all
9 activities in the list of permits, certifications, leases, approvals, and authorizations that
10 trigger a consistency review developed under AS 46.40.096(m), including a federal
11 agency activity as defined in 15 C.F.R. 930.31;"

12

13 Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: HB 106

1 Page 1, line 3, following "program;":

2 Insert "relating to the duty of the Department of Natural Resources to provide
3 data and information to a coastal resource district; relating to use of consultants by
4 coastal resource districts; relating to regulations adopted by the department regarding
5 distribution of materials relating to a consistency review;"

6

7 Page 2, following line 5:

8 Insert new bill sections to read:

9 "* Sec. 2. AS 46.39.040 is amended to read:

10 **Sec. 46.39.040. Duties of the department.** In conformity with 16 U.S.C. 1451
11 - 1464 (Coastal Zone Management Act of 1972), as amended, the department shall

12 (1) develop statewide standards for the Alaska coastal management
13 program, and criteria for the preparation and approval of district coastal management
14 plans in accordance with AS 46.40;

15 (2) establish continuing coordination among state agencies to facilitate
16 the development and implementation of the Alaska coastal management program; in
17 carrying out its duties under this paragraph, the department shall initiate an
18 interagency program of comprehensive coastal resource planning for each geographic
19 region of the state;

20 (3) assure continued provision of data and information to coastal
21 resource districts to carry out their planning and management functions under the
22 program; in providing data and information to a coastal resource district under
23 this section, the department shall provide the data and information to the person
24 or persons designated by the district.

1 * **Sec. 3.** AS 46.39.040 is amended by adding a new subsection to read:

2 (b) If the department provides funds to a coastal resource district to implement
3 or amend a coastal resource district's district coastal management plan, the department
4 shall permit the coastal resource district to use the funds to employ or retain
5 consultants that, in the judgment of the coastal resource district, are necessary.

6 * **Sec. 4.** AS 46.40.096(c) is amended to read:

7 (c) The regulations adopted by the department under this section must **permit**
8 **a coastal resource district that has requested to participate in a consistency**
9 **review to designate the person or persons who will represent the district and to**
10 **whom the department or reviewing entity shall provide materials relating to the**
11 **consistency review. The regulations must also** include provisions for public notice
12 and provide the opportunity for public comment. **Regulations relating to public**
13 **notice and public comment** [THE REGULATIONS] adopted under this subsection
14 may make distinctions relating to notice based upon differences in project type,
15 anticipated effect of the project on coastal resources and uses, other state or federal
16 notice requirements, and time constraints. However, a notice given under this
17 subsection must contain sufficient information, expressed in commonly understood
18 terms, to inform the public of the nature of the proposed project for which a
19 consistency determination is sought, and must explain how the public may comment
20 on the proposed project. **Notices described in this subsection shall be published on**
21 **the department's Internet website.**"

22
23 Renumber the following bill sections accordingly.