

SENATE JOURNAL
ALASKA STATE LEGISLATURE
TWENTY-SEVENTH LEGISLATURE
SECOND SPECIAL SESSION

Juneau, Alaska

Monday

June 27, 2011

First Day

Pursuant to a poll of the legislature resulting in an affirmative vote of more than two-thirds of the membership calling themselves into Special Session, President Stevens called the Senate to order at 11:02 a.m.

The Secretary read the following announcement, stating:

Pursuant to Article II, section 9, of the Constitution of the State of Alaska and AS 24.05.100(a)(2), the presiding officers of the Senate and the House announced they polled the membership of each house as to whether a special session of the Twenty-seventh Alaska State Legislature should be held to consider the Alaska coastal management program. More than two-thirds of the membership responded in the affirmative.

The Senate poll follows:

Alaska State Senate
Special Session Poll

“Shall the Alaska State Legislature call itself into a special session to consider the Alaska coastal management program?”

YEAS: 15 NAYS: 5

The roll showed seventeen members present. Senators Dyson, McGuire, Paskvan were absent.

Senator Meyer moved and asked unanimous consent that Senators Dyson, McGuire, Paskvan be excused from a call of the Senate today. Without objection, Senators Dyson, McGuire, Paskvan were excused.

The prayer was offered by the Chaplain, Senator Meyer. Senator Hoffman moved and asked unanimous consent that the prayer be spread. Without objection, it was so ordered.

Thank you, Heavenly Father, for this beautiful day and for the privilege of serving this great state in the Senate. We pray that you will give us the strength and wisdom to make the right decisions for the people of Alaska, who have placed their trust in us to represent them. Lord, let us not forget those who are sick or have special needs and are not able to communicate their needs to us.

Lord, we need your help and guidance for we are simply twenty Senators who are trying to do our very best, for what is best, for the great State of Alaska. Thank you for the freedom that we enjoy in this country. Please be with those who protect our freedom. Please be with the men and women serving our country. Keep them safe and bring them home soon.

Let us each be an example of how you want the world to be.

In your Name.

Amen.

Senator Wielechowski led the Senate in the Pledge of Allegiance.

Certification

Senator Meyer moved and asked unanimous consent that the journal for the twenty-seventh legislative day of the First Special Session be approved as certified by the Secretary. Without objection, it was so ordered.

Messages from the Governor**HB 28**

Message was received stating the Governor signed the following bill on June 27 and transmitted the engrossed and enrolled copies to the Lieutenant Governor's Office for permanent filing:

SENATE CS FOR CS FOR HOUSE BILL
NO. 28(L&C) "An Act relating to temporary
courtesy licenses for certain nonresident
professionals and to a temporary exemption
from fees and other licensing requirements for
active duty members of the armed forces;
authorizing temporary licenses for
pawnbrokers not currently licensed by a
municipality; and providing for an effective
date."

Chapter 25, SLA 2011
Effective Date: See Chapter

HB 126

Message dated June 17 was read, stating:

Dear President Stevens:

Under the authority vested in me by Article II, Section 15, of the Alaska Constitution, I have vetoed the following bill:

SENATE CS FOR CS FOR HOUSE BILL
NO. 126(FIN) "An Act relating to
qualifications for serving on a state board or
commission; extending the termination dates
of the Board of Nursing, the Board of Dental
Examiners, the Board of Barbers and
Hairdressers, and the Alcoholic Beverage
Control Board; and providing for an effective
date."

While I support the sunset extension provisions of the bill for the Board of Nursing, the Board of Dental Examiners, the Board of Barbers and Hairdressers, and the Alcoholic Beverage Control Board, I have grave concerns over the Legislature's last minute policy call to add a provision prohibiting a person convicted of a felony from serving on a board or commission of State government. While I agree that a person who commits a violent crime and is still a danger to the community should not be considered for appointment to a board or commission, this overly broad provision fails to recognize that a person may be convicted of a nonviolent felony, rehabilitated, and substantially benefit society long after the person's incarceration. If a person may legally be elected to office, like governor or lieutenant governor, who at one time in life was convicted of a felony, why would we forever ban them from serving the community on a commission? Fundamental notions of fairness are implicated as are constitutional directives toward rehabilitation.

Several State boards and commissions, such as the Advisory Board on Alcoholism and Drug Abuse, advise on the development of programs for the prevention, treatment, and rehabilitation of persons with social and medical issues who make up a large portion of the correctional institutions' population. The legislation's provision would eliminate from consideration for appointment persons who may be able to provide invaluable firsthand experience for development of those programs. I raise the questions because no committee record was established for the prohibition, so a full evaluation cannot occur now. Without public testimony or committee discussion of the provision, it is virtually impossible to ferret out the rationale behind this provision.

Without anything further in the record to consider, I believe that a one-size-fits-all approach is not in the State's best interest for this complicated issue. This provision is unusual among states to uniformly ban individuals from serving on State boards and commissions regardless of the linkage to the board's or commission's duties, the length of time since the commission of the felony, and whether the felony was nonviolent in nature. A stigma strong enough to stop most appointments already exists so any such appointment would receive great scrutiny. An outright ban appears to be an overreach without more information to consider.

Accordingly, I would urge the Legislature to pass a clean sunset extension for the Board of Nursing, the Board of Dental Examiners, the Board of Barbers and Hairdressers, and the Alcoholic Beverage Control Board next year. Each of these boards will still have a one year period within which to operate and within which the Legislature can act with me to extend their termination dates.

For these reasons, I have vetoed the bill.

Sincerely,

/s/

Sean Parnell
Governor

Recess

Senator Meyer moved and asked unanimous consent that the Senate stand in recess to a call of the Chair. Without objection, the Senate recessed at 11:09 a.m.

After Recess

The Senate reconvened at 5:02 p.m.

The presence of Senator Paskvan was noted.

Communications

The following was received and is on file in the Office of the Secretary of the Senate:

HB 108

Letter dated June 3 from the Division of Legislative Finance identifying the fiscal notes included in the packet (page 1052) that accompanied CONFERENCE CS FOR HOUSE BILL NO. 108 "An Act making appropriations for the operating and loan program expenses of state government and for certain programs, capitalizing funds, amending appropriations, and making reappropriations; and providing for an effective date" which was adopted by the Senate and House on May 6.

The itemized fiscal notes are as follows:

HB 13 WORKERS' COMPENSATION: MEDICAL FEES

Fiscal Note No. 2, House Finance Committee

HB 16 EXTEND SENIOR BENEFITS/INCOME ALLOWANCES

Fiscal Note No. 4, Department of Health and Social Services

Fiscal Note No. 5, Department of Health and Social Services

Fiscal Note No. 6, Department of Health and Social Services

The following fiscal information was published June 3:

Fiscal Note No. 7, Conference Committee on HB 108

HB 97 EXTEND INVASIVE PLANTS LAW

Fiscal Note No. 1, Department of Natural Resources

HB 106 COASTAL MANAGEMENT PROGRAM

Fiscal Note No. 7, Department of Environmental Conservation

Fiscal Note No. 8, Department of Environmental Conservation

Fiscal Note No. 10, Senate Finance Committee

SB 42 POWER PROJECT; ALASKA ENERGY AUTHORITY

Fiscal Note No. 8, Department of Commerce, Community and
Economic Development

Fiscal Note No. 9, Department of Commerce, Community and
Economic Development

SB 58 INCREASING NUMBER OF SUPERIOR CT JUDGES

Fiscal Note No. 2, Alaska Court System

Fiscal Note No. 3, Department of Administration

Fiscal Note No. 4, Department of Administration

Fiscal Note No. 7, Department of Law

Fiscal Note No. 8, Office of the Governor

Fiscal Note No. 9, Department of Corrections

Fiscal Note No. 10, Senate Finance Committee

Fiscal Note No. 11, Alaska Court System

SB 84 VOC ED & BASIC FUNDING/TAX CREDITS/PILOT

Fiscal Note No. 6, Department of Education and Early Development

Fiscal Note No. 7, Department of Education and Early Development

The following fiscal information was published June 3:

Fiscal Note No. 8, Conference Committee on HB 108

SB 108 SPC. STEPHEN "MAX" CAVANAUGH OVERPASS

The following fiscal information was published June 3:

Fiscal Note No. 2, Conference Committee on HB 108

Standing Committee Reports**SB 45**

Senator Stedman, Cochair, moved and asked unanimous consent that the Finance Committee referral be waived on SENATE BILL NO. 45 "An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities of the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 22, ch. 31, SLA 2005; and providing for an effective date." Senator Coghill objected, then withdrew his objection. There being no further objection, the bill was referred to the Rules Committee.

The bill is on today's First Supplemental Calendar.

Senator Coghill moved and asked unanimous consent that Senator Huggins be excused from a call of the Senate today. Without objection, Senator Huggins was excused.

Senator Meyer moved and asked unanimous consent for the adoption of the First Supplemental Calendar. Without objection, the First Supplemental Calendar was adopted.

Consideration of the First Supplemental Calendar**Second Reading of Senate Bills****SB 45**

SENATE BILL NO. 45 "An Act extending the termination date of the Alaska coastal management program and relating to the extension;

relating to the review of activities of the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 22, ch. 31, SLA 2005; and providing for an effective date" was read the second time.

Senator Olson, Chair, moved and asked unanimous consent for the adoption of the Community and Regional Affairs Committee Substitute offered on page 748. Without objection, CS FOR SENATE BILL NO. 45(CRA) "An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities and regulations of the Alaska coastal management program; establishing the Alaska Coastal Policy Board; relating to the development, review, and approval of district coastal management plans; relating to the duties of the Department of Natural Resources relating to the Alaska coastal management program; relating to funds provided to coastal resource districts; relating to special management areas; relating to regulations adopted by the department regarding persons authorized to participate in and to receive materials relating to a consistency review; relating to the review of certain consistency determinations; relating to notices given under the Alaska coastal management program; providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch. 31, SLA 2005; and providing for an effective date" was adopted.

Senator Wielechowski offered Amendment No. 1:

Page 1, line 1, through page 16, line 12:

Delete all material and insert:

""An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities and regulations of the Alaska coastal management program; establishing the Alaska Coastal Policy Board; relating to the development, review, and approval of district coastal management plans; relating to the duties of the Department of Natural Resources relating to the Alaska coastal management program; relating to the review of certain consistency determinations; providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch. 31, SLA 2005; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 44.37.020 is amended by adding a new subsection to read:

(c) In administering the Alaska coastal management program under AS 46.39 and AS 46.40, the Department of Natural Resources may consider how subsistence uses may be affected.

* **Sec. 2.** AS 44.66.020(a) is amended to read:

(a) Agency programs and activities listed in this subsection that are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice - January, 1980;

(2) programs in the budget categories of education and the University of Alaska - January, 1981;

(3) programs in the budget categories of health and social services - January, 1982;

(4) programs in the budget categories of natural resources management, development, and transportation - January, 1983;

(5) the Alaska coastal management program (AS 46.40) - January, 2017 [2011].

* **Sec. 3.** AS 46.39 is amended by adding a new section to article 1 to read:

Sec. 46.39.005. Alaska Coastal Policy Board. (a) The Alaska Coastal Policy Board is created in the Department of Natural Resources. The board consists of the following:

(1) five public members appointed by the governor; the public members shall include

(A) one at-large member and an alternate member from any coastal resource district who is a representative of

(i) a Native regional corporation established under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act);

(ii) a mining organization;

(iii) an oil and gas organization; or

(iv) any other resource development or extraction industry;

(B) four members from a list composed of at least three names from each region, and four alternate members from a list

composed of at least three names from each region, nominated and submitted by the coastal resource districts of each region; the governor may reject a list submitted under this subparagraph and request that subsequent lists with different names be submitted; one public member and one alternate member shall be appointed from each of the following regions:

(i) northwest Alaska, including, generally, the area of the North Slope Borough and the Northwest Arctic Borough; and the Bering Strait area, including, generally, the area of the Bering Strait regional educational attendance area;

(ii) southwest Alaska, including, generally, the area within the Lower Yukon, Lower Kuskokwim, and Southwest regional educational attendance areas and the Lake and Peninsula and Bristol Bay Boroughs; and the Kodiak-Aleutians area, including the area of the Kodiak Island and Aleutians East Boroughs and the Aleutian, Adak, and Pribilof regional educational attendance areas;

(iii) Upper Cook Inlet area, including the Municipality of Anchorage and the Matanuska-Susitna Borough; the Lower Cook Inlet area, including, generally, the Kenai Peninsula Borough; and the Prince William Sound area, including, generally, the area east of the Kenai Peninsula Borough to 141 West longitude; and

(iv) Southeast Alaska, generally the area east of 141 West longitude;

(2) each of the following designated members:

(A) the commissioner of environmental conservation;

(B) the commissioner of fish and game;

(C) a deputy commissioner of natural resources;

(D) the commissioner of transportation and public

facilities.

(b) Public members serve staggered terms of three years. Except as provided by (c) of this section, each member serves until a successor is appointed and qualified. A public member may be reappointed.

(c) The board may recommend that the governor remove a public member for cause. With or without a recommendation from the board, the governor may remove a public member for cause. If a public member is removed, the alternate member shall serve the remainder of the term, and a new alternate shall be appointed under (a)(1) of this

section. In this subsection, "for cause" includes lack of contribution to the board's work, neglect of duty, incompetence, inability to serve, poor attendance, and misconduct in office.

(d) The board shall designate co-chairs, one of whom shall be selected from among the public members appointed under (a)(1) of this section and one from among the members designated in (a)(2) of this section.

(e) If a member serving under (a)(1) of this section is unable to attend, the alternate may attend. The names of alternates serving under (a)(1) of this section shall be filed with the board.

(f) If a member serving under (a)(2) of this section is unable to attend, a deputy commissioner in the same department may attend and act in place of the member. The names of deputy commissioners serving as alternates for members serving under (a)(2) of this section shall be filed with the board.

(g) Three public members and three designated members of the board constitute a quorum. However, action may be taken only upon the affirmative vote of at least two-thirds of the full membership of the board.

(h) The board shall meet at least four times a year and as often as necessary to fulfill its duties under this chapter and AS 46.40. Meetings may be held and members may vote telephonically, except one board meeting a year shall be held in person.

(i) Public members of the board are entitled to per diem and travel expenses authorized by law for members of boards and commissions.

(j) Administrative support for the board shall be provided by the division in the department responsible for coastal and ocean management. The director of the division in the department responsible for coastal and ocean management may contract with or employ persons as necessary to assist the board in carrying out the board's duties and responsibilities.

(k) The board shall

(1) make recommendations to the department relating to the approval or modification of a district coastal management plan under AS 46.40.060(b);

(2) provide a forum for the discussion of issues related to this chapter, AS 46.40, and the coastal uses and resources of the state; and

(3) annually solicit from state and federal agencies information as to whether they implemented any new statutes or regulations affecting coastal uses or resources to determine if existing

enforceable policies duplicate, restate, incorporate by reference, rephrase, or adopt the new state or federal statutes or regulations, and if so, direct a coastal resource district with such enforceable policies to resubmit its coastal management plan for review under this chapter and AS 46.40; and

(4) review and provide comments to the department on regulations proposed under this chapter and AS 46.40.

* **Sec. 4.** AS 46.39.010 is amended by adding a new subsection to read:

(d) Not later than January 20 each year, the department shall prepare an annual report summarizing the department's efforts to draft and adopt regulations under this chapter and AS 46.40 during the prior calendar year. The department shall notify the legislature that the report is available and shall also post the report on the department's Internet website.

* **Sec. 5.** AS 46.39.030 is amended to read:

Sec. 46.39.030. Powers of the department. The department may

(1) apply for and accept grants, contributions, and appropriations, including application for and acceptance of federal funds that may become available for coastal planning and management;

(2) contract for necessary services;

(3) consult and cooperate with

(A) persons, organizations, and groups, public or private, interested in, affected by, or concerned with coastal area planning and management;

(B) agents and officials of the coastal resource districts of the state, **the Alaska Coastal Policy Board established in AS 46.39.005**, and federal and state agencies concerned with or having jurisdiction over coastal planning and management;

(4) take any reasonable action necessary to carry out the provisions of this chapter or AS 46.40.

* **Sec. 6.** AS 46.39.040 is amended to read:

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

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

(2) establish continuing coordination among state agencies to

facilitate the development and implementation of the Alaska coastal management program; in carrying out its duties under this paragraph, the department shall initiate an interagency program of comprehensive coastal resource planning for each geographic region of the state;

(3) assure continued provision of [DATA AND] information to coastal resource districts to carry out their planning and management functions under the program; **in providing information to a coastal resource district and coastal resource service area under this paragraph, the department shall provide the information by electronic transmission, or by mail if the addressee does not have an electronic mail address, to the presiding officer of the governing body of the coastal resource district and to other persons as may be designated in writing by the district;**

(4) summarize the minutes of the board's discussion of issues related to this chapter, AS 46.40, and coastal uses and resources of the state.

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

Sec. 46.40.030. Development of district coastal management plans. (a) Coastal resource districts shall develop and adopt district coastal management plans in accordance with the provisions of this chapter. The plan adopted by a coastal resource district shall be based upon a municipality's existing comprehensive plan or a new comprehensive resource use plan or comprehensive statement of needs, policies, objectives, and standards governing the use of resources within the coastal area of the district. The plan must meet the [STATEWIDE STANDARDS AND] district plan criteria adopted under AS 46.40.040, **may not be inconsistent with the standards adopted under AS 46.40.040,** and must include

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

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

(3) a statement of **enforceable** policies to be applied to the land and water uses subject to the district coastal management plan; **and**

(4) [A DESCRIPTION OF THE USES AND ACTIVITIES THAT WILL BE CONSIDERED PROPER AND THE USES AND ACTIVITIES THAT WILL BE CONSIDERED IMPROPER WITH RESPECT TO THE LAND AND WATER WITHIN THE COASTAL AREA; AND

(5)] a designation of any [, AND THE POLICIES THAT WILL BE APPLIED TO THE USE OF,] areas which merit special attention under [WITHIN] the district coastal management plan and a designation of the enforceable policies that will be applicable within those areas which [RESOURCE DISTRICT THAT] merit special attention.

(b) In developing enforceable policies in its coastal management plan under (a) of this section, a coastal resource district shall meet the requirements of AS 46.40.070 and ensure that the enforceable policies

(1) are clear and concise as to the activities and persons affected by the policies;

(2) use prescriptive or performance-based standards that are written in precise and enforceable language;

(3) address a coastal use or resource of concern to the residents of the coastal resource district and consider the aggregate evidence relating to that concern; and

(4) employ the least restrictive means to achieve the objective of the enforceable policy [MEET THE REQUIREMENTS OF AS 46.40.070 AND MAY NOT DUPLICATE, RESTATE, OR INCORPORATE BY REFERENCE STATUTES AND ADMINISTRATIVE REGULATIONS ADOPTED BY STATE OR FEDERAL AGENCIES].

* **Sec. 8.** AS 46.40.030 is amended by adding new subsections to read:

(c) In determining whether an enforceable policy employs the least restrictive means to achieve its objective, the following factors shall be considered:

(1) alternative methods of achieving the objective of the policy;

(2) the aggregate evidence relating to each alternative method; and

(3) how the alternative methods may affect other existing or potential uses.

(d) Additional factors that the department may require be addressed in determining whether an enforceable policy employs the least restrictive means to achieve its objective are as follows:

(1) the economic effects of alternative methods;

(2) the technological feasibility of the alternative methods;

and

(3) any other relevant factors.

* **Sec. 9.** AS 46.40.040(b) is amended to read:

(b) **Notwithstanding any other provision of law,** AS 46.03, AS 46.04, AS 46.09, AS 46.14, and the regulations adopted under those statutes constitute the exclusive enforceable policies of the Alaska coastal management program for those purposes. For those purposes only,

(1) the issuance of permits, certifications, approvals, and authorizations by the Department of Environmental Conservation establishes consistency with the Alaska coastal management program for those activities of a proposed project subject to those permits, certifications, approvals, and authorizations;

(2) for a consistency review of an activity that does not require a Department of Environmental Conservation permit, certification, approval, or authorization because the activity is a federal activity or the activity is located on federal land or the federal outer continental shelf, consistency with AS 46.03, AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes shall be established on the basis of whether the Department of Environmental Conservation finds that the activity satisfies the requirements of those statutes and regulations.

* **Sec. 10.** AS 46.40.050 is amended by adding a new subsection to read:

(c) A coastal resource district shall resubmit its coastal management plan, as may be directed by the board under AS 46.39.005(k)(3).

* **Sec. 11.** AS 46.40.060(a) is amended to read:

(a) If, upon submission of a district coastal management plan for approval, the department finds that the plan meets the provisions of this chapter [AND THE STATEWIDE STANDARDS AND DISTRICT PLAN CRITERIA ADOPTED BY THE DEPARTMENT AND DOES NOT ARBITRARILY OR UNREASONABLY RESTRICT OR EXCLUDE USES OF STATE CONCERN], the department may approve the district coastal management plan, or may approve portions of the district plan that meet those requirements.

* **Sec. 12.** AS 46.40.060(b) is amended to read:

(b) If the department finds that a district coastal management plan is not approvable or is approvable only in part under (a) of this section, **the department shall explain in writing the basis for its decision. The coastal resource district that submitted the plan may request**

that the department submit the plan or portions of the plan to the board for review. The board shall review the plan or portions of the plan and make recommendations relating to whether the department should approve or modify the district coastal management plan in whole or in part [IT SHALL DIRECT THAT DEFICIENCIES IN THE PLAN SUBMITTED BY THE COASTAL RESOURCE DISTRICT BE MEDIATED. IN MEDIATING THE DEFICIENCIES, THE DEPARTMENT MAY CALL FOR ONE OR MORE PUBLIC HEARINGS IN THE DISTRICT. THE DEPARTMENT SHALL MEET WITH OFFICIALS OF THE COASTAL RESOURCE DISTRICT IN ORDER TO RESOLVE DIFFERENCES].

* **Sec. 13.** AS 46.40.060(c) is amended to read:

(c) **After the board has reviewed the district coastal management plan and submitted recommendations under (b) of this section** [IF, AFTER MEDIATION, THE DIFFERENCES HAVE NOT BEEN RESOLVED], the department shall enter findings and, by order, may [REQUIRE]

(1) **approve the plan or portions of the plan;**

(2) **require** that the district coastal management plan be amended to **meet** [SATISFY] the provisions of this chapter [OR MEET THE STATEWIDE STANDARDS] and district plan criteria adopted by the department;

(3) **require** [(2)] that the district coastal management plan be revised to accommodate a use of state concern; or

(4) **require the coastal resource district to submit additional information if, in the judgment of the department, additional information is necessary for the department to approve the plan or portions of the plan** [(3) ANY OTHER ACTION BE TAKEN BY THE COASTAL RESOURCE DISTRICT AS APPROPRIATE].

* **Sec. 14.** AS 46.40.060 is amended by adding new subsections to read:

(e) Only a coastal resource district affected by a decision of the department under this section may request reconsideration of the decision. The request must be made within 15 days after the decision, must be in writing, and must include a statement of the specific issues and material facts that the coastal resource district contends that the department overlooked, failed to consider, or misconceived. The commissioner of natural resources may review the department's

decision on the basis of the request and determine whether the decision should be changed. The commissioner may issue a determination in writing within 20 days after the issuance of the decision. If the commissioner has not issued a written decision within the 20-day period, the request for reconsideration shall be considered as denied. Denial of a request for reconsideration is a final administrative order and decision of the department.

(f) The superior courts of the state have jurisdiction to enforce orders of the department entered under (c) and (e) of this section.

* **Sec. 15.** AS 46.40.070 is repealed and reenacted to read:

Sec. 46.40.070. Requirements for department review and approval. (a) The department shall approve a district coastal management plan submitted for review and approval if, as determined by the department, the

(1) district coastal management plan meets the requirements of this chapter and the district plan criteria adopted by the department; and

(2) enforceable policies of the district coastal management plan

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

(B) are not preempted by or in conflict with state or federal statutes or regulations;

(C) employ the least restrictive means to achieve the objective of the enforceable policies;

(D) do not arbitrarily or unreasonably restrict uses of state concern; and

(E) meet the requirements of (b) and (c) of this section.

(b) The enforceable policies in a district coastal management plan submitted for review under this section that meet the requirements of (a) of this section may establish new standards or requirements that are within the authority of a state or federal agency unless

(1) a state agency specifically objects to the proposed new standards or requirements on the grounds that the proposed standards or requirements

(A) are based on aggregate evidence that is relied upon by the coastal resource district to satisfy the requirements of AS 46.40.030 but that conflicts with the agency's interpretation of the aggregate evidence within the agency's area of expertise;

(B) conflict with the agency's allocation of existing or

planned agency resources to meet state policies and objectives; or
(C) conflict with agency priorities or objectives, or other state policies;

(2) the proposed new standards or requirements address discharges, emissions, contaminants, conditions, risks, or other matters that fall within the authority of the Department of Environmental Conservation under AS 46.03, AS 46.04, AS 46.09, AS 46.14, and regulations adopted under those statutes.

(c) An approval of a district coastal management plan with enforceable policies may not affect a person's rights or authorizations under an unexpired permit, lease, or other valid existing right to explore or develop natural resources that predates the date that the enforceable policy becomes final. An enforceable policy becomes final when its adoption is no longer subject to further review through either a judicial or administrative process.

(d) Notwithstanding AS 46.40.030(a)(4), in reviewing and approving a district coastal management plan under (a) of this section, the department may not require a district to designate areas for the purpose of developing an enforceable policy.

(e) In this section, "specifically objects" means that, during a review of a district coastal management plan under AS 46.40.050 or 46.40.060 and their implementing regulations, a written objection to the enforceable policy that establishes the new standards or requirements is filed with the department by

(1) the commissioner or deputy commissioner of a state agency; or

(2) the attorney general of the state.

(f) Notwithstanding any other provision of this chapter, an enforceable policy that establishes requirements within the authority of a state or federal agency shall be superseded upon the enactment of a law or adoption of a regulation that is inconsistent with the enforceable policy.

* **Sec. 16.** AS 46.40.096(d) is amended to read:

(d) In preparing a consistency review and determination for a proposed project, the reviewing entity shall

(1) request consistency review comments for the proposed project from state resource agencies, affected coastal resource districts, and other interested parties as determined by regulation adopted by the department;

(2) prepare proposed consistency determinations;

(3) conduct an elevated review [COORDINATE SUBSEQUENT REVIEWS] of proposed consistency determinations prepared under (2) of this subsection; an elevated [A SUBSEQUENT] review of a proposed consistency determination under this paragraph

(A) shall be conducted [IS LIMITED TO A REVIEW] by the commissioners or deputy commissioners of the resource agencies [DEPARTMENT];

(B) may occur only if requested by

(i) the project applicant;

(ii) a state resource agency; or

(iii) an affected coastal resource district; and

(C) shall be completed with the issuance of a written order signed by at least two of the commissioners or deputy commissioners of the resource agencies [BY THE DEPARTMENT] within 60 [45] days after the initial request for an elevated [SUBSEQUENT] review under this paragraph; if a written order is not issued in accordance with this subparagraph, the proposed consistency determination under (2) of this subsection is the final consistency determination and certification; and

(4) render the final consistency determination and certification consistent with this subsection.

* **Sec. 17.** AS 46.40.096(o) is amended to read:

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

(1) do not apply to a consistency review involving the disposal of an interest in state land or resources;

(2) are suspended

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

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

(C) during the period of time a consistency review is undergoing an elevated [A SUBSEQUENT] review under (d)(3) of this section.

* **Sec. 18.** AS 46.40.096(q)(2) is amended to read:

(2) "reviewing entity" means the

(A) Department of Natural Resources, for a consistency

review subject to AS 46.39.010;

(B) **commissioners or deputy commissioners of the resource agencies for an elevated review;**

(C) state agency identified in (b) of this section, for a consistency review not subject to AS 46.39.010.

* **Sec. 19.** AS 46.40.180(b) is amended to read:

(b) If a city or village within a coastal resource service area fails to approve a portion of the district coastal management plan prepared and submitted for approval under (a) of this section, the governing body shall advise the coastal resource service area board of its objections to the proposed plan and suggest alternative elements or components for inclusion in the district coastal management plan. New matter submitted by a city or village that **is not inconsistent with the standards adopted under AS 46.40.040 and** meets the [STATEWIDE STANDARDS AND] district plan criteria adopted under this chapter shall be accepted and the district coastal management plan modified accordingly. If a city or village fails to provide objections and suggested alternatives within the time limits established in this section, the coastal resource service area board may adopt the district coastal management plan as initially offered.

* **Sec. 20.** AS 46.40.210 is amended by adding new paragraphs to read:

(13) "aggregate evidence" means the most complete and competent information available that relates to an enforceable policy in a district coastal management plan or the development of an enforceable policy in a proposed district coastal management plan; in this paragraph, "information" includes

(A) data that are obtained through the scientific method, that relate to established chemical, physical, biological, or ecosystem management principles, that are in a form that allows resource agency review for scientific merit, and that are supported by one or more of the following:

(i) written analysis based on field observations and professional judgment along with photographic or other documentation;

(ii) written analysis from a professional scientist with expertise in the specific discipline; or

(iii) site-specific scientific research that may include peer-review level research or literature; and

(B) knowledge about the coastal environment or the

human use of that environment, including information passed down through generations, if that knowledge is

- (i) derived from experience and observations;
- (ii) generally accepted by the local community; and
- (iii) not determined by a resource agency to be

inconsistent with competent information described under (A) of this paragraph;

(14) "board" means the Alaska Coastal Policy Board established in AS 46.39.005;

(15) "commissioners" means the commissioners of the resource agencies;

(16) "elevated review" means a review of a proposed consistency determination by the commissioners or deputy commissioners of the resource agencies.

* **Sec. 21.** AS 46.39.005 is repealed.

* **Sec. 22.** AS 46.40.060(d) is repealed.

* **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The changes to AS 44.37.020, AS 46.39, and AS 46.40 made by secs. 1, 3 - 20, and 22 of this Act apply only on and after July 1, 2012.

* **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: MEMBERS OF THE ALASKA COASTAL POLICY BOARD; STAGGERED TERMS. Notwithstanding AS 46.39.005(a), added by sec. 3 of this Act, and secs. 23 and 31 of this Act, within 30 days after the effective date of this section, the municipalities of each region identified in AS 46.39.005(a)(1)(B) shall submit to the governor the names of three persons to be considered for appointment as public members, and the names of three persons to be considered as alternate members, from the region qualified under AS 46.39.005(a), added by sec. 3 of this Act. Notwithstanding AS 46.39.005, added by sec. 3 of this Act, and secs. 23 and 31 of this Act, within 60 days after the effective date of this section, the governor shall appoint, from the lists of names submitted under AS 46.39.005(a)(1)(B), one member and one alternate member from each region, or request subsequent lists of names in accordance with AS 46.39.005(a)(1)(B), and shall appoint one at-large member and one alternate member to serve on the Alaska Coastal Policy Board established by AS 46.39.005, added by sec. 3 of this Act. The

governor shall appoint the public members to three-year staggered terms to begin on the date AS 46.39.005 takes effect. The alternate member for each public member shall serve the same term as the public member. The governor shall specify the term of each public member appointed subject to this section.

* **Sec. 25.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: PENDING DISTRICT COASTAL MANAGEMENT PLANS. If a plan of a coastal resource district was submitted to the Department of Natural Resources before July 1, 2012, but is pending approval in its entirety before July 1, 2012, the coastal resource district shall resubmit the entire plan to the Department of Natural Resources for approval using the standards set out in AS 46.39 and AS 46.40, as modified by secs. 1, 3 - 20, and 22 of this Act.

* **Sec. 26.** The uncoded law of the State of Alaska is amended by adding a new section to read:

REVIEW AND REPORT BY THE ALASKA COASTAL POLICY BOARD. Before February 1, 2014, the Alaska Coastal Policy Board shall review AS 46.40.040(b), as amended by sec. 9 of this Act, AS 46.40.040(c), and AS 46.40.096(i), their implementing regulations, and related federal and state statutes and regulations, and prepare a report to the governor and the legislature on any proposed changes to the provisions of AS 46.40.

* **Sec. 27.** The uncoded law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY AND REVIVAL. (a) The amendment to AS 44.66.020(a)(5) made by sec. 2 of this Act is retroactive to January 1, 2011.

(b) If, under AS 01.10.070(c), sec. 29 of this Act takes effect on or after July 1, 2011, sec. 29 of this Act is retroactive to July 1, 2011, the provisions repealed by sec. 18, ch. 31, SLA 2005, are revived, and the provisions amended by secs. 1 - 13, ch. 31, SLA 2005, are amended to read as they read on June 30, 2011, subject to reconciliation with other bills affecting those sections passed by the Twenty-Seventh Alaska State Legislature and enacted into law. If a provision is revived, it is revived as the provision read on June 30, 2011. The revived or amended provisions are subject to secs. 23 and 31 of this Act and to amendment and repeal under sec. 22, ch. 31, SLA 2005, as amended by sec. 29 of this Act.

(c) Notwithstanding (b) of this section, if sec. 29 of this Act does

not receive the concurrence of two-thirds of the membership of each house as required under art. II, sec. 18, Constitution of the State of Alaska,

(1) the provisions repealed by sec. 18, ch. 31, SLA 2005, are revived retroactive to July 1, 2011; if a provision is revived, it is revived as it read on June 30, 2011; and

(2) the provisions amended by secs. 1 - 13, ch. 31, SLA 2005, are amended to read as they read on June 30, 2011, subject to reconciliation with other bills affecting those sections passed by the Twenty-Seventh Alaska State Legislature and enacted into law.

(d) If, under AS 01.10.070(c), sec. 29 of this Act takes effect on or after July 1, 2011, regulations adopted under AS 46.39 and AS 46.40 and annulled as a result of repeals made by sec. 18, ch. 31, SLA 2005, are revived to the extent that the regulations are consistent with this Act.

* **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Section 21 of this Act takes effect only if

(1) AS 46.39.005 takes effect after July 1, 2011; and

(2) secs. 1 - 13 and 18, ch. 31, SLA 2005, take effect.

* **Sec. 29.** The uncodified law of the State of Alaska enacted in sec. 22, ch. 31, SLA 2005, is amended to read:

Sec. 22. Sections 1 - 13 and 18, **ch. 31, SLA 2005**, [OF THIS ACT] take effect July 1, **2017** [2011, UNLESS THE STATE'S REVISED COASTAL MANAGEMENT PROGRAM HAS NOT BEEN APPROVED BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT, UNITED STATES DEPARTMENT OF COMMERCE, UNDER 16 U.S.C. 1455 AND 1457 (COASTAL ZONE MANAGEMENT ACT OF 1972) BEFORE JANUARY 1, 2006. IF THE STATE'S REVISED COASTAL MANAGEMENT PROGRAM IS NOT APPROVED BEFORE JANUARY 1, 2006, BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT, UNITED STATES DEPARTMENT OF COMMERCE, THEN SECS. 1 - 13 AND 18 OF THIS ACT TAKE EFFECT MAY 10, 2006. THE COMMISSIONER OF NATURAL RESOURCES SHALL NOTIFY THE REVISOR OF STATUTES ON

FEBRUARY 1, 2006, WHETHER THE REVISED COASTAL MANAGEMENT PROGRAM HAS BEEN APPROVED AS DESCRIBED IN THIS SECTION].

* **Sec. 30.** If sec. 21 of this Act takes effect under sec. 28 of this Act, it takes effect on the date that secs. 1 - 13 and 18, ch. 33, SLA 2005, take effect.

* **Sec. 31.** Sections 1, 3 - 20, 22, 25, and 26 of this Act take effect July 1, 2012.

* **Sec. 32.** Except as provided in secs. 30 and 31 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

Senator Wielechowski moved for the adoption of Amendment No. 1. Senator Coghill objected.

Senator Giessel rose to a point of order. President Stevens ruled the Senate proceeding was in order.

Senator Coghill rose to the same point of order citing Mason's Manual Sec. 780-12. President Stevens ruled the point out of order.

The presence of Senator Dyson was noted.

SB 45

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

CSSB 45(CRA)
Second Reading
Amendment No. 1

YEAS: 12 NAYS: 6 EXCUSED: 2 ABSENT: 0

Yeas: Davis, Egan, Ellis, French, Hoffman, Kookesh, Olson, Paskvan, Stedman, Stevens, Wagoner, Wielechowski

Nays: Coghill, Dyson, Giessel, Menard, Meyer, Thomas

Excused: Huggins, McGuire

and so, Amendment No. 1 was adopted.

Senator Meyer moved and asked unanimous consent that CS FOR SENATE BILL NO. 45(CRA) am be considered engrossed, advanced to third reading and placed on final passage. Senator Coghill objected.

The question being: "Shall CS FOR SENATE BILL NO. 45(CRA) am "An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities and regulations of the Alaska coastal management program; establishing the Alaska Coastal Policy Board; relating to the development, review, and approval of district coastal management plans; relating to the duties of the Department of Natural Resources relating to the Alaska coastal management program; relating to the review of certain consistency determinations; providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch. 31, SLA 2005; and providing for an effective date" advance from second to third reading the same day?" The roll was taken with the following result:

CSSB 45(CRA) am

Advance from Second to Third Reading?

YEAS: 15 NAYS: 3 EXCUSED: 2 ABSENT: 0

Yeas: Davis, Egan, Ellis, French, Hoffman, Kookesh, Menard, Meyer, Olson, Paskvan, Stedman, Stevens, Thomas, Wagoner, Wielechowski

Nays: Coghill, Dyson, Giessel

Excused: Huggins, McGuire

and so, CS FOR SENATE BILL NO. 45(CRA) am advanced to third reading.

CS FOR SENATE BILL NO. 45(CRA) am was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 45(CRA) am "An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities and regulations of the Alaska coastal management program; establishing the Alaska Coastal Policy Board; relating to the development, review, and approval of district coastal management plans; relating to the duties of the Department of Natural Resources relating to the Alaska coastal management program; relating to the

review of certain consistency determinations; providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch. 31, SLA 2005; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

CSSB 45(CRA) am

Third Reading - Final Passage

YEAS: 11 NAYS: 7 EXCUSED: 2 ABSENT: 0

Yeas: Davis, Egan, Ellis, French, Hoffman, Kookesh, Olson, Paskvan, Stedman, Stevens, Wielechowski

Nays: Coghill, Dyson, Giessel, Menard, Meyer, Thomas, Wagoner

Excused: Huggins, McGuire

and so, CS FOR SENATE BILL NO. 45(CRA) am passed the Senate.

Senator Meyer moved for the adoption of the effective date clauses.

The question being: "Shall the effective date clauses be adopted?" The roll was taken with the following result:

CSSB 45(CRA) am

Effective Date Clauses

YEAS: 15 NAYS: 3 EXCUSED: 2 ABSENT: 0

Yeas: Davis, Egan, Ellis, French, Hoffman, Kookesh, Menard, Meyer, Olson, Paskvan, Stedman, Stevens, Thomas, Wagoner, Wielechowski

Nays: Coghill, Dyson, Giessel

Excused: Huggins, McGuire

and so, the effective date clauses were adopted and the bill was referred to the Secretary for engrossment.

Unfinished Business

Senator Giessel moved and asked unanimous consent to be excused from a call of the Senate from July 28 through August 2 and from December 7 through December 12. Without objection, Senator Giessel was excused.

Announcements

Announcements are at the end of the journal.

Engrossment**SB 45**

CS FOR SENATE BILL NO. 45(CRA) am "An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities and regulations of the Alaska coastal management program; establishing the Alaska Coastal Policy Board; relating to the development, review, and approval of district coastal management plans; relating to the duties of the Department of Natural Resources relating to the Alaska coastal management program; relating to the review of certain consistency determinations; providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch. 31, SLA 2005; and providing for an effective date" was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

Adjournment

Senator Meyer moved and asked unanimous consent that the Second Special Session of the Twenty-seventh Alaska State Senate stand in adjournment sine die. Without objection, the Senate adjourned at 5:46 p.m.

Kirsten Waid
Secretary of the Senate

Announcements

Americans with Disabilities Act Notice - Persons with disabilities who require special accommodation or alternative communication formats to access committee meetings may contact the appropriate committee office or the Legislative Information Office in their community. Reasonable advance notice is needed to accommodate the request. For further information, call the ADA Coordinator at 465-3854 Voice/465-4980 TDD.

STANDING COMMITTEES

+ indicates teleconference

= indicates bill previously heard/scheduled

FINANCE

Jun 27 Monday Senate Finance 532 1:30 PM
 -- Postponed to a Call of the Chair --
 + SB 56 DELAY SUNSET: COASTAL MANAGEMENT PROGRAM
 <Pending Referral>

JOINT COMMITTEES**ALASKA NORTHERN WATERS TASK FORCE**

Jul 07 Thursday Kotzebue 8:30 AM
 + Location: Northwest Arctic Borough Assembly Chambers
 Arctic Resource Development Presenters:
 8:30 am - Arctic Marine Shipping Assessment: Mike Sfraga
 UAF Vice-Chancellor
 9:00 am - Shell on Arctic Offshore Development Plans:
 Colleen McCarthy and Wayne Leighty
 9:30 am - Statoil on Arctic Offshore Development
 Plans in Norway & the U.S.: Speaker TBD
 10:15 am - Oil Spill Response Capabilities &
 Cooperative Agreements w/ Other Arctic Nations:
 Larry Dietrick, Director, Spill Prevention & Response, DEC
 U.S. Coast Guard, Captain Adam Shaw
 1:15 pm - PEW Environment Group: Marilyn Heiman
 Dir. PEW Environment Group, U.S. Arctic Program
 2:00 pm - Lessons Learned Deep Water Horizon:
 Fran Ulmer, Chair, U.S. Arctic Research Commission
 3:30 pm - ANWTF Presentation: Rep. Joule
 -- Public Testimony to Follow --
 The hearing can be heard live at www.alaskalegisature.tv

JOINT COMMITTEES (continued)**ALASKA NORTHERN WATERS TASK FORCE (continued)**

Jul 08	Friday	Nome	9:00 AM
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+ Location: Old St. Joe's
 Arctic Infrastructure & Research Presenters:
 9:00 am - Nome Update: Mayor Denise Michels
 9:30 am - Possible Future Deep Water Port Sites
 in the Northern Region: Michael Lukshin, DOT &
 Stephen Boardman, US Army Corps of Engineers
 10:45 am - Bering Straits Port Access & Route
 Study: Captain Adam Shaw, US Coast Guard
 11:15 am - Land Conservation Cooperation Project
 1:00 pm - Vessel Tracking in the Arctic: Ed Page,
 Marine Exchange of Alaska
 1:30 pm - Navigational Search and Rescue Aides
 for the Arctic: Captain Adam Shaw, US Coast Guard
 2:00 pm - Arctic Research: Dr. Kathleen Crane,
 NOAA Cochair, Arctic Council's Circumpolar
 Biodiversity Marine Monitoring Program, CAFF
 2:45 pm - Presentation: Jimmy Stotts, Pres. Inuit
 Circumpolar Council
 3:30 pm - ANWTF Presentation: Rep. Joule
 -- Public Testimony to Follow --
 The hearing can be heard live at www.alaskalegisature.tv

LEGISLATIVE COUNCIL

Jun 29	Wednesday	Anch Lio Rm 220	11:00 AM
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+ Approval of the Agenda, Approval of the Minutes
 Ratify the Sanctioning of Charitable Event
 - Midsummer Gala in the Garden
 Lease Renewals & Lease Amendment
 - Barrow and Kotzebue Lease Renewals
 - Mat-Su Lease Amendment
 Microsoft-Dell Enterprise Agreement Renewal Approval
 ITB 535 - Capitol Roof Antenna Project Approval
 ITB 541 - Legislative Finance Structural Approval
 ITB 542 - Legislative Finance Mechanical Approval
 ITB 543 - Legislative Finance Electrical Approval
 American Guard Anchorage Security Contract Approval
 Capitol and Print Shop Copier Replacement Approval
 Legal Services Representation

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LEGISLATIVE COUNCIL (continued)

Jun 29	Wednesday	Anch Lio Rm 220	1:30 PM
	Anchorage Office Space Subcommittee		

SELECT COMMITTEE ON LEGISLATIVE ETHICS

Jul 12	Tuesday	Anch Lio Rm 220	9:00 AM
	-- Agenda to be Announced --		