

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: HB 106

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

2 Insert "**establishing the Alaska Coastal Policy and Appeals Board**;"

4 Page 2, following line 5:

5 Insert new bill sections to read:

6 **"* Sec. 2.** AS 46.39 is amended by adding new sections to article 1 to read:

7 **Sec. 46.39.005. Alaska Coastal Policy and Appeals Board.** (a) The Alaska
8 Coastal Policy and Appeals Board is created in the Department of Natural Resources.
9 The board consists of the following:

10 (1) five public members appointed by the governor, including one at-
11 large member from any coastal resource district and four members from a list
12 composed of at least three names from each region, nominated and submitted by the
13 coastal resource districts of each region; one public member shall be appointed from
14 each of the following regions:

15 (A) northwest Alaska, including, generally, the area of the
16 North Slope Borough and the Northwest Arctic Borough; and the Bering Strait
17 area, including, generally, the area of the Bering Strait regional educational
18 attendance area;

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

1 regional educational attendance areas;

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

7 (D) Southeast Alaska, generally the area east of 141 West
8 longitude;

9 (2) each of the following designated members:

10 (A) the commissioner of environmental conservation;

11 (B) the commissioner of fish and game;

12 (C) the commissioner of natural resources; and

13 (D) the commissioner of commerce, community, and economic
14 development.

15 (b) Each public member appointed by the governor under (a)(1) of this section
16 serves a term of three years and until a successor is appointed and qualified. A public
17 member may be reappointed.

18 (c) The board shall designate cochair, one of whom shall be selected from
19 among the public members appointed under (a)(1) of this section and one from among
20 the members designated in (a)(2) of this section.

21 (d) The governor shall appoint one alternate public member from the lists of
22 names submitted by the coastal districts under (a)(1) of this section for each of the
23 public members serving under (a)(1) of this section. If a public member of the board
24 appointed under (a)(1) of this section is unable to attend, the member shall advise the
25 public alternate, who may attend and act in place of the member. If a member serving
26 under (a)(2) of this section is unable to attend, a deputy commissioner in the same
27 department may attend and act in place of the member. The names of alternates
28 serving under (a)(2) of this section shall be filed with the board.

29 (e) Three public members and two designated members of the board constitute
30 a quorum. All decisions of the board shall be by a majority vote of the members
31 present and voting.

1 (f) Members of the board or their alternates are entitled to per diem and travel
2 expenses authorized by law for members of boards and commissions.

3 (g) Administrative support for the board shall be provided by the division in
4 the department responsible for coastal and ocean management. The director of the
5 division in the department responsible for coastal and ocean management, under
6 direction of the cochair designated by the board from the individuals listed in (a)(2) of
7 this section, may contract with or employ persons as necessary to assist the board in
8 carrying out the board's duties and responsibilities.

9 **Sec. 46.39.008. Duties of the Alaska Coastal Policy and Appeals Board.**

10 The board shall

11 (1) resolve differences between the department and a coastal resource
12 district relating to a district coastal management plan under AS 46.40.060;

13 (2) review proposed consistency determinations under
14 AS 46.40.096(d)(3);

15 (3) with the department, jointly adopt regulations under this chapter
16 and AS 46.40.

17 * **Sec. 3.** AS 46.39.010(a) is amended to read:

18 (a) **Except as provided under AS 46.40.096(d), the department** [THE
19 DEPARTMENT OF NATURAL RESOURCES] shall render, on behalf of the state,
20 all federal consistency determinations and certifications authorized by 16 U.S.C. 1456
21 (Sec. 307, Coastal Zone Management Act of 1972), and each conclusive state
22 consistency determination when a project requires a permit, lease, or authorization
23 from two or more state resource agencies.

24 * **Sec. 4.** AS 46.39.030 is amended to read:

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

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

29 (2) contract for necessary services;

30 (3) consult and cooperate with

31 (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 and Appeals 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. 5.** AS 46.39.900 is amended to read:

Sec. 46.39.900. Definitions [DEFINITION]. In this chapter, unless the context requires otherwise,

(1) "board" means the Alaska Coastal Policy and Appeals Board established in AS 46.39.005;

(2) "department" means the Department of Natural Resources.

* **Sec. 6.** AS 46.40.060(c) is amended to read:

(c) If, after mediation, the differences have not been resolved, the department shall **submit the district coastal management plan, or those portions of the plan over which the coastal resource district and the department differ, to the board.** **The board shall** enter findings and, by order, may require

(1) that the district coastal management plan be amended to satisfy the provisions of this chapter or meet the statewide standards and district plan criteria adopted by the department;

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

(3) any other action be taken by the coastal resource district as appropriate.

* **Sec. 7.** AS 46.40.060(d) is amended to read:

(d) **An order of the board shall be given within 45 days after the plan, or a portion of the plan, is submitted to the board for decision by the department under (c) of this section.** The superior courts of the state have jurisdiction to enforce orders of the **board** [DEPARTMENT] entered under (c) of this section.

1 * **Sec. 8.** AS 46.40.096(d) is amended to read:

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

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

7 (2) prepare proposed consistency determinations;

8 (3) coordinate elevations [SUBSEQUENT REVIEWS] of proposed
9 consistency determinations prepared under (2) of this subsection; a subsequent review
10 of a proposed consistency determination under this paragraph

11 (A) is limited to a review by the board [DEPARTMENT];

12 (B) may occur only if requested by

13 (i) the project applicant;

14 (ii) a state resource agency; or

15 (iii) an affected coastal resource district; and

16 (C) shall be completed by the board [DEPARTMENT] within
17 45 days after the initial request for subsequent review under this paragraph;

18 (4) render the final consistency determination and certification.

19 * **Sec. 9.** AS 46.40.096(q)(2) is amended to read:

20 (2) "reviewing entity" means the

21 (A) Department of Natural Resources, for a consistency review
22 subject to AS 46.39.010;

23 (B) board, for the elevation of a proposed consistency
24 determination under (d) of this section;

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

27 * **Sec. 10.** AS 46.40.100(e) is amended to read:

28 (e) The superior courts of the state have jurisdiction to enforce lawful orders of the
29 board and the department under this chapter.

30 * **Sec. 11.** AS 46.40.210 is amended by adding new paragraphs to read:

31 (13) "approved plan" means a plan approved under AS 46.40.060(a) by

1 the department or a plan approved under AS 46.40.060(c) by the board;

2 (14) "board" has the meaning given in AS 46.39.900.

3 * **Sec. 12.** AS 46.39.005 and 46.39.008 are repealed.

4 * **Sec. 13.** The uncoded law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: MEMBERS OF THE ALASKA COASTAL POLICY AND
7 APPEALS BOARD; STAGGERED TERMS. (a) Notwithstanding AS 44.39.005(a), added by
8 sec. 2 of this Act, within 30 days after the effective date of this section, the municipalities of
9 each region identified in AS 44.39.005(a)(1) shall submit to the governor the names of three
10 persons from the region qualified under AS 44.39.005(a), added by sec. 2 of this Act.
11 Notwithstanding AS 44.39.005, added by sec. 2 of this Act, within 60 days after the effective
12 date of this section, the governor shall appoint one alternate public member from the lists of
13 names submitted under AS 46.39.005(a)(1) and one member from each region to serve on the
14 Alaska Coastal Policy and Appeals Board established by AS 46.39.005, added by sec. 2 of
15 this Act. The governor shall appoint five public members and the alternate public members to
16 three-year staggered terms and four administration members to a one-year term. The governor
17 shall specify the term of each member appointed subject to this section.

18 (b) Notwithstanding the requirements of AS 46.40.060(d), as amended by sec. 7 of
19 this Act, or AS 46.40.096(d), as amended by sec. 8 of this Act, a review or decision required
20 of the Alaska Coastal Policy and Appeals Board relating to a district coastal management
21 plan, or a portion of a district coastal management plan, submitted to the Alaska Coastal
22 Policy and Appeals Board under AS 46.40.060(c), or to a proposed consistency determination
23 submitted to the board for review under AS 46.40.096(d), shall be delayed until all the public
24 members of the board are appointed under (a) of this section.

25 * **Sec. 14.** The uncoded law of the State of Alaska is amended by adding a new section to
26 read:

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

29 (b) If, under AS 01.10.070(c), sec. 16 of this Act takes effect on or after July 1, 2011,
30 sec. 16 of this Act is retroactive to July 1, 2011, and sections repealed by sec. 18, ch. 31, SLA
31 2005, are revived. If the revived sections are amended by this Act, they are revived as

1 amended by this Act. The revived sections are subject to repeal under sec. 22, ch. 31, SLA
2 2005, as amended by sec. 16 of this Act.

3 (c) If, under AS 01.10.070(c), this Act takes effect on or after July 1, 2011,
4 AS 46.39.005 and 46.39.008, added by sec. 2 of this Act, and repealed by sec. 12 of this Act,
5 are revived. AS 46.39.005 and 46.39.008, as revived, are subject to repeal under secs. 12 and
6 15 of this Act and sec. 22, ch. 31, SLA 2005, as amended by sec. 16 of this Act.

7 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 CONDITIONAL EFFECT. Section 12 of this Act takes effect only if secs. 1 - 13 and
10 18, ch. 31, SLA 2005, take effect."
11

12 Renumber the following bill sections accordingly.
13

14 Page 2, following line 18:

15 Insert a new bill section to read:

16 "** **Sec. 17.** If sec. 12 of this Act takes effect, it takes effect on the date that secs. 1 - 13 and
17 18, ch. 31, SLA 2005, take effect."
18

19 Renumber the following bill section accordingly.
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21 Page 3, line 19:

22 Delete "This"

23 Insert "Except as provided in sec. 17 of this Act, this"