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SENATE CS FOR CS FOR HOUSE BILL NO. 106(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act extending the termination date of the Alaska coastal management program and**
2 **relating to the extension; relating to the review of activities and regulations of the Alaska**
3 **coastal management program; establishing the Alaska Coastal Policy Board; relating to**
4 **the development, review, and approval of district coastal management plans; relating to**
5 **the duties of the Department of Natural Resources relating to the Alaska coastal**
6 **management program; relating to the review of certain consistency determinations;**
7 **providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch.**
8 **31, SLA 2005; and providing for an effective date."**

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

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

11 (c) In administering the Alaska coastal management program under AS 46.39
12 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

1 cause. With or without a recommendation from the board, the governor may remove a
2 public member for cause after giving the public member written notice of the charges
3 and an opportunity to be heard upon not less than 10 days' notice. If a public member
4 is removed, the alternate member shall serve the remainder of the term, and a new
5 alternate shall be appointed under (a)(1) of this section. In this subsection, "for cause"
6 includes lack of contribution to the board's work, neglect of duty, incompetence,
7 inability to serve, poor attendance, and misconduct in office.

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

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

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

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

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

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

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

31 (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

1 planning and management;

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

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

5 **Sec. 46.39.040. Duties of the department.** In conformity with 16 U.S.C. 1451
6 - 1464 (Coastal Zone Management Act of 1972), as amended, the department shall

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

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

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

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

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

26 **Sec. 46.40.030. Development of district coastal management plans.** (a)
27 Coastal resource districts shall develop and adopt district coastal management plans in
28 accordance with the provisions of this chapter. The plan adopted by a coastal resource
29 district shall be based upon a municipality's existing comprehensive plan or a new
30 comprehensive resource use plan or comprehensive statement of needs, policies,
31 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 as demonstrated by local knowledge or supported by scientific evidence; 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

1 STATUTES AND ADMINISTRATIVE REGULATIONS ADOPTED BY STATE
2 OR FEDERAL AGENCIES].

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

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

- 6 (1) alternative methods of achieving the objective of the policy;
7 (2) local knowledge or scientific evidence supporting each alternative
8 method; and
9 (3) how the alternative methods may affect other existing or potential
10 uses.

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

- 14 (1) the economic effects of alternative methods;
15 (2) the technological feasibility of the alternative methods; and
16 (3) any other relevant factors.

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

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

- 22 (1) the issuance of permits, certifications, approvals, and
23 authorizations by the Department of Environmental Conservation establishes
24 consistency with the Alaska coastal management program for those activities of a
25 proposed project subject to those permits, certifications, approvals, and authorizations;
26 (2) for a consistency review of an activity that does not require a
27 Department of Environmental Conservation permit, certification, approval, or
28 authorization because the activity is a federal activity or the activity is located on
29 federal land or the federal outer continental shelf, consistency with AS 46.03,
30 AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes
31 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 must meet the requirements of (a) of this section and 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 scientific evidence or local knowledge 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 scientific 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

1 policies may not affect a person's rights or authorizations under an unexpired permit,
2 lease, or other valid existing right to explore or develop natural resources that predates
3 the date that the enforceable policy becomes final. An enforceable policy becomes
4 final when its adoption is no longer subject to further review through either a judicial
5 or administrative process.

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

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

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

14 (2) the attorney general of the state.

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

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

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

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

25 (2) prepare proposed consistency determinations;

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

30 (A) **shall be conducted** [IS LIMITED TO A REVIEW] by the

31 **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) "board" means the Alaska Coastal Policy Board established in AS 46.39.005;

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

(15) "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:

TRANSITION: MEMBERS OF THE ALASKA COASTAL POLICY BOARD;

1 STAGGERED TERMS. (a) Notwithstanding AS 46.39.005(a), added by sec. 3 of this Act,
2 within 30 days after the effective date of this section, the municipalities of each region
3 identified in AS 46.39.005(a)(1)(B) shall submit to the governor the names of three persons to
4 be considered for appointment as public members, and the names of three persons to be
5 considered as alternate members, from the region qualified under AS 46.39.005(a), added by
6 sec. 3 of this Act. Notwithstanding AS 46.39.005, added by sec. 3 of this Act, within 60 days
7 after the effective date of this section, the governor shall appoint, from the lists of names
8 submitted under AS 46.39.005(a)(1)(B), one member and one alternate member from each
9 region, or request subsequent lists of names in accordance with AS 46.39.005(a)(1)(B), and
10 shall appoint one at-large member and one alternate member to serve on the Alaska Coastal
11 Policy Board established by AS 46.39.005, added by sec. 3 of this Act. The governor shall
12 appoint the public members to three-year staggered terms. The alternate member for each
13 public member shall serve the same term as the public member. The governor shall specify
14 the term of each public member appointed subject to this section.

15 (b) Notwithstanding the requirements of AS 46.40.060(b), as amended by sec. 12 of
16 this Act, a review by the Alaska Coastal Policy Board relating to a district coastal
17 management plan, or a portion of a district coastal management plan, shall be delayed until all
18 the public members and alternate members of the board are appointed under (a) of this
19 section.

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

22 TRANSITION: PENDING DISTRICT COASTAL MANAGEMENT PLANS. If a
23 plan of a coastal resource district was submitted to the Department of Natural Resources
24 before the effective date of this section, but is pending approval in its entirety before the
25 effective date of this section, the coastal resource district shall resubmit the entire plan to the
26 Department of Natural Resources for approval using the standards set out in AS 46.39 and
27 AS 46.40, as modified by this Act.

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

30 REVIEW AND REPORTS BY THE ALASKA COASTAL POLICY BOARD. (a)
31 Before February 1, 2013, 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.

(b) On or before January 1, 2015, the Alaska Coastal Policy Board shall report to the governor and legislature on the effectiveness of AS 46.39 and AS 46.40 and regulations adopted under those chapters, with its recommendations for any proposed changes to any provision of AS 46.39 or AS 46.40.

* **Sec. 26.** The uncodified 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. 28 of this Act takes effect on or after July 1, 2011, sec. 28 of this Act is retroactive to July 1, 2011, and provisions repealed by sec. 18, ch. 31, SLA 2005, are revived. If a revived provision is amended by secs. 1, 2, 4 - 20, or 22 of this Act, it is revived as amended by secs. 1, 2, 4 - 20, and 22 of this Act. The revived provisions are subject to repeal under sec. 22, ch. 31, SLA 2005, as amended by sec. 28 of this Act.

(c) If, under AS 01.10.070(c), this section takes effect on or after July 1, 2011, AS 46.39.005, added by sec. 3 of this Act and repealed by sec. 21 of this Act, is revived. AS 46.39.005, as revived, is subject to repeal under secs. 21 and 29 of this Act and sec. 22, ch. 31, SLA 2005, as amended by sec. 28 of this Act.

* **Sec. 27.** 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 secs. 1 - 13 and 18, ch. 31, SLA 2005, take effect.

* **Sec. 28.** 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

1 COMMERCE, UNDER 16 U.S.C. 1455 AND 1457 (COASTAL ZONE
2 MANAGEMENT ACT OF 1972) BEFORE JANUARY 1, 2006. IF THE STATE'S
3 REVISED COASTAL MANAGEMENT PROGRAM IS NOT APPROVED
4 BEFORE JANUARY 1, 2006, BY THE NATIONAL OCEANIC AND
5 ATMOSPHERIC ADMINISTRATION, OFFICE OF OCEAN AND COASTAL
6 RESOURCE MANAGEMENT, UNITED STATES DEPARTMENT OF
7 COMMERCE, THEN SECS. 1 - 13 AND 18 OF THIS ACT TAKE EFFECT MAY
8 10, 2006. THE COMMISSIONER OF NATURAL RESOURCES SHALL NOTIFY
9 THE REVISOR OF STATUTES ON FEBRUARY 1, 2006, WHETHER THE
10 REVISED COASTAL MANAGEMENT PROGRAM HAS BEEN APPROVED AS
11 DESCRIBED IN THIS SECTION].

12 * **Sec. 29.** If sec. 21 of this Act takes effect, it takes effect on the date that secs. 1 - 13 and
13 18, ch. 33, SLA 2005, take effect.

14 * **Sec. 30.** Except as provided in sec. 29 of this Act, this Act takes effect immediately under
15 AS 01.10.070(c).