

**ALASKA STATE LEGISLATURE  
SENATE RESOURCES STANDING COMMITTEE**

January 29, 2007

3:30 p.m.

**MEMBERS PRESENT**

Senator Charlie Huggins, Chair  
Senator Bert Stedman, Vice Chair  
Senator Lyda Green  
Senator Lesil McGuire

**MEMBERS ABSENT**

Senator Gary Stevens  
Senator Bill Wielechowski  
Senator Thomas Wagoner

**COMMITTEE CALENDAR**

SENATE BILL NO. 46

"An Act relating to the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 45, ch. 24, SLA 2003, as amended by sec. 21, ch. 31, SLA 2005; and providing for an effective date."

MOVED CSSB 46 (RES) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 46

SHORT TITLE: COASTAL MANAGEMENT PROGRAM

SPONSOR(s): SENATOR(s) OLSON

01/16/07	(S)	PREFILE RELEASED 1/12/07
01/16/07	(S)	READ THE FIRST TIME - REFERRALS
01/16/07	(S)	RES, FIN
01/29/07	(S)	RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

DAVE GRAY  
Staff for Senator Olson  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:**

RANDY BATES, Acting Director

Office of Project Management & Permitting (OPMP)  
Department of Natural Resources  
400 Willoughby Ave.  
Juneau, AK 99801-1724

**POSITION STATEMENT:** Supported CSSB 46(RES).

LINDSAY WOLTER, Assistant Attorney General  
Department of Law  
PO Box 110300  
Juneau, AK 99811-0300

**POSITION STATEMENT:** Supported CSSB 46(RES).

DUANE DVORAK, Acting Director  
Community Development  
Kodiak Island Borough

**POSITION STATEMENT:** Supported CSSB 46(RES).

CAROL SMITH, Planner and Coastal Coordinator  
Valdez AK

**POSITION STATEMENT:** Supported CSSB 46(RES).

MARLENE CAMPBELL, Director  
Government Relations  
Sitka AK

**POSITION STATEMENT:** Supported CSSB 46(RES).

GARY WILLIAMS, Program Coordinator  
Kenai Peninsula Borough Coastal District  
Soldotna AK

**POSITION STATEMENT:** Supported CSSB 46(RES).

JOHNNY AIKEN, Director  
North Slope Borough Planning Department  
Fairbanks AK

**POSITION STATEMENT:** Supported CSSB 46(RES).

TERI CAMERY, Planner and Coastal District Coordinator  
City and Borough of Juneau

**POSITION STATEMENT:** Supported CSSB 46(RES).

#### **ACTION NARRATIVE**

**CHAIR CHARLIE HUGGINS** called the Senate Resources Standing Committee meeting to order at [3:30:38 PM](#). Present at the call to order were Senators Green, McGuire, Stedman and Huggins.

**SB 46-COASTAL MANAGEMENT PROGRAM**

CHAIR HUGGINS announced SB 46 to be up for consideration and that CSSB 46(RES), Version C, was before them as a work draft.

[3:33:06 PM](#)

DAVE GRAY, staff to Senator Olson, sponsor of SB 46, explained that the Alaska Coastal Zone Management Program (ACMP) has undergone major modifications in the last several years. He said that all ACMP districts had completely revised their management plans and are required to have them approved by both the state and federal authorities by March 1, 2007 or their existing plans terminate. Of the 30 coastal management districts, 18 have their new plans approved, but 9 are still under review and 3 need remediation. That is the reason for this bill.

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CHAIR HUGGINS noted the committee had a list of those districts before it.

MR. GRAY said many of the outstanding districts are not likely to reach the deadline; the reason given most is that their huge size makes the analysis of resources difficult to complete in the allotted time.

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He stated that SB 46 offers a public finding provision in section 1 for a certain kind of situation on a federal action that the state doesn't have involvement in. The CS deletes this section and addresses only changing the deadlines from March 1, 2007 to December 1, 2007. Another kind of deadline relates to the ABC list. He also mentioned that once a district's plan is approved, it doesn't have to go through a full-blown coastal review in future reviews.

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MR. GRAY guessed that 70 percent of the state's coastline is still under question.

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SENATOR MCGUIRE moved to adopt CSSB 46(RES), version C, for discussion. There were no objections.

[3:38:12 PM](#)

RANDY BATES, Acting Director, Office of Project Management & Permitting (OPMP), Department of Natural Resources (DNR), said

OPMP is the lead agency for implementing the ACMP. He walked the committee through a brief history of how they got to this point.

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He related that HB 191 was passed in 2003 and SB 102 was passed in 2005, and both called for several coastal management reforms, including revisions to all the coastal district plans. Among other things, they established a deadline for the submission of those revised plans - originally established as July 1, 2005 - and a sunset for all existing coastal district plans - originally established as July 1, 2006. He explained:

The theory behind those two dates was the districts do their work, get their plans revised and into the state; the state then has a process we need to follow for review and approval which includes local adoption, state adoption, and federal adoption. And that process as we defined it was about a year long....

He stated that those were aggressive timeframes and in 2005, SB 102 was passed; among other things, it extended both deadlines by eight months - to March 1, 2006 and the sunset to March 1, 2007. And now the March 1, 2006 deadline for the submission of the revised district plans has come and gone.

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MR. BATES said of the 35 coastal districts that were established in this state, 28 of them submitted revisions compliant with the deadline. Of those, two will be implemented - the City of Craig and the Aleutians West Coastal Resource Service Area - prior to the March 1, 2007 deadline. Twelve plans are near completion and are ready to be implemented as soon as the local adoption procedure is completed. As soon as that is done, they can be filed with the Lieutenant Governor and be effective 30 days thereafter.

He said three districts have already gotten through the state review and approval process, but before going to the federal government, they have asked for mediation of the DNR commissioner's decisions; two plans are pending with the federal granting office. This leaves nine coastal districts still working on their plans. Two of those appear to not be making any progress and he has not had successful communication with them to ascertain what their intentions are.

MR. BATES said the other seven districts are actively working on plan revisions and with his office to establish a review and approval schedule.

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MR. BATES said that SB 46 extends the existing district plans' sunset date by six months. This would allow the remaining 26 districts additional time to complete their plan revisions. This seems to be a reasonable time based on his conversations with the various coastal districts. SB 46 also extends the revision of the ABC list, one of the mandates in SB 102. He wanted to time the revision of the ABC list to be after coastal district plan revisions are finished to make sure they take into account the new policies that will complete the reform of the coastal program overall.

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CHAIR HUGGINS asked him for a "30 second burst" on the ABC list.

MR. BATES replied that the actual title is "Expedited Consistency Reviews and Permits Subject to the ACMP." The ABC list is an opportunity to, in one fell swoop, review a general category of activities and make sure that that category is consistent with the laws of the ACMP. Any activity thereafter that qualifies for that ABC list item no longer goes through an individual review.

He used ice roads on the North Slope as an example. They can be constructed if certain standard measures are applied - they can't be built at a certain time; they have to be built with a certain type of water and other conditions. A company that wants to build an ice road can apply for building it; his department would apply a general consistency determination on the B list, thereby excluding the project from a 50-day consistency review. This timeframe is generally what the consistency reviews are. This streamlines the review process by a company having to do it only one time and making sure that any time it's applied, the conditions are met.

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SENATOR MCGUIRE remembered that the original HB 191 was very controversial. She asked how he knew six months was going to be enough time and if the state would take on any liability as a result of extending the deadline. She asked, for example, if other competing activities and uses would be put on hold during the six-month period because there is no compliance requirement.

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MR. BATES replied that he couldn't say that six months was enough. Of the 28 districts he discussed, 2 would be done. The additional 16 would be done within the next two months. So a 2 - 3 month extension would satisfy a good majority of the districts. The remaining 9 coastal districts he believed would be finished with their review process within the six months. A couple districts could use additional time, but those might not have staff or the intention to finish. Both he and the Administration support this bill and the deadline extensions contained within the CS.

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He said it's important to recognize that the policies the districts are working on are just one aspect of the law. The coastal program has two other aspects - the first is the district policies; the second is the coastal standards [applicable throughout the state's coastal zone including the municipalities and the district boundaries]; and the third piece is all the existing state authorities including the office of Habitat Management and Permitting's authority, Mining, Land and Water's authority, DEC's authority, and ADF&G's authority for special areas.

He explained that any project that occurs anywhere in or affecting one of the coastal districts is automatically subject to state laws and standards. Having a district plan is voluntary as is developing enforceable policies that are applicable to activities that would occur in a district's area. "Just because a district doesn't have a plan does not mean that projects escape the scrutiny of other laws."

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CHAIR HUGGINS asked if he meant that coastal zone planning is voluntary.

MR. BATES replied yes. The Coastal Zone Management Act was created by Congress to allow all 35 coastal states, including territories, to voluntarily participate in the program. Alaska availed itself in 1979 and its program was approved at that point. He said:

We continue to voluntarily participate as a state. In addition, all of the municipalities around the coastal region of the state can voluntarily participate in coastal management. There is no mandate that they do. If they do choose to participate, we have set out the

rules by which they have to play. In other words, have policies and get policies approved as a planning function or how they participate in the consistency review of an actual project that may be occurring in their region.

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CHAIR HUGGINS asked what DNR's recourse was to the two districts that aren't responding.

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LINDSAY WOLTER, Assistant Attorney General, Department of Law (DOL), responded that this bill doesn't open the state up to any additional liability and that the real effect of the sunset dates on coastal district plans is that when a project comes forward, the coastal districts will not be able to interpret their own plans and use them in evaluating their projects - even though they can go forward on their projects.

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MR. BATES answered that the state doesn't have recourse if the two districts choose to voluntarily drop out of the program. He said the five coastal districts chose not to submit district plan revisions in accordance with the new rules by the established deadline of March 1, 2006 and they were removed from the ACMP. They could come back at any point and develop a new coastal plan. In addition, any of the districts that are undergoing this current round of review could also continue to revise their plan.

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CHAIR HUGGINS reminded him that the committee is trying to expedite this bill and asked him to sensitize the chain of command above him. Mr. Bates said he had already done that.

[3:55:50 PM](#)

CHAIR HUGGINS asked if he had heard of any resistance to the process.

MR. BATES replied that he has had two conversations reflecting some discomfort with the extensions. The first was that some coastal districts have expressed frustration with the continued extension because they have done everything on the front end to meet their mandate and deadline. The other conversation he had was about the how extending the deadline would affect the ABC list, a very important tool for staff and industry in expediting

consistency reviews of certain activities. He reminded them that there is nothing that prevents his office from finishing early.

3:57:23 PM

CHAIR HUGGINS noted two letters of support in their packets, one from Milli Martin from Homer and one from Jim Goossens from Cordova.

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DUANE DVORAK, Acting Community Development Director, Kodiak Island Borough, supported CSSB 46(RES). He said Kodiak is one of the nine districts that hasn't submitted its final plan for approval, but it has been working diligently. He said Kodiak has a large coastal area and a lot of environmental diversity and communities, which makes building consensus on regional planning challenging and time consuming. He thought six months would be enough time for the district to complete its plan and share it with the public and give them an opportunity to comment on it.

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CAROL SMITH, Planner and Coastal Coordinator, Valdez, supported SB 46. Her district made all its deadlines; however, her supervisor had an auto accident and was out of work for three months while the program was being reviewed and it was not totally completed. Once it is completed, it still must still go through the public process in Valdez and she was concerned that they would not meet the March 1 deadline.

4:04:25 PM

MARLENE CAMPBELL, Government Relations Director, Sitka, supported CSSB 46(RES). Said Sitka has tried to meet the deadlines, but it wasn't able to. She said they were caught in a situation that was way beyond their control - they received commissioner approval on November 24, but were told they were losing more policies and were required to make more changes, which required substantial changes to their documents. Those were submitted on January 5. She learned that the plan was not actually sent to NOAA for its approval until January 22, 2007. She said:

Even though we know we are getting local approval contingent on the federal approval, there is no way the adoption at the state level is going to take place before March 1. So, for us here in Sitka, to have a plan sunseting before a new one is in operation strikes fear in my heart and I know a lot of other people are very concerned....

She also supported allowing other districts the opportunity to complete their process.

[4:08:52 PM](#)

GARY WILLIAMS, Program Coordinator, Kenai Peninsula Borough Coastal District, said the borough's plan is nearly ready for resubmission and that "It's been a difficult process to complete this and the reasons are many." The scope of the original legislation, Byzantine administrative rules, and some divergent interpretation of the rules by OPMP have conspired to delay the process, he said.

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JOHNNY AIKEN, Director, North Slope Borough Planning Department, supported CSSB 46(RES) saying they worked in good faith to complete the extensive mapping and language and tried to get it right; however, they needed more time to complete their revision. He stated the program is very important to his district, but it is so large that they have not been able to agree on a lot of things.

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TERI CAMERY, Planner and Coastal District Coordinator, City and Borough of Juneau, said Juneau is one of the three districts that has filed for mediation under its plan. She thought the plan could be quickly completed after the mediation was completed. However, it must still go through the local approval process and won't be finished before the deadline. She supported CSSB 46(RES).

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SENATOR STEDMAN moved to pass CSSB 46(RES), version C, out of committee with individual recommendations and attached fiscal notes. There were no objections and it was so ordered.

There being no further business to come before the committee, Chair Huggins adjourned the meeting at [4:19:11 PM](#).