

**ALASKA STATE LEGISLATURE**  
**SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

February 5, 2009

3:31 p.m.

**MEMBERS PRESENT**

Senator Donald Olson, Chair  
Senator Joe Thomas, Vice Chair  
Senator Hollis French  
Senator Albert Kookesh  
Senator Linda Menard

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 19

"An Act relating to complaints concerning peace officers and village public safety officers and to notification to persons filing complaints concerning peace officers and village public safety officers."

MOVED CSSB 19(CRA) OUT OF COMMITTEE

SENATE BILL NO. 3

"An Act authorizing an Alaska regional development organization to use the Alaska Commercial Fisheries Entry Commission as an informational resource."

MOVED SB 3 OUT OF COMMITTEE

SENATE BILL NO. 4

"An Act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board."

MOVED CSSB 4(CRA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 19

SHORT TITLE: COMPLAINTS AGAINST PEACE OFFICERS/VPSOS

SPONSOR(S): SENATOR(S) FRENCH

01/21/09	(S)	PREFILE RELEASED 1/9/09
01/21/09	(S)	READ THE FIRST TIME - REFERRALS
01/21/09	(S)	CRA, STA, JUD
02/03/09	(S)	CRA AT 3:30 PM BELTZ 211

02/03/09 (S) Heard & Held  
02/03/09 (S) MINUTE(CRA)  
02/05/09 (S) CRA AT 3:30 PM BELTZ 211

BILL: SB 3

SHORT TITLE: CFEC AS INFORMATION RESOURCE

SPONSOR(s): SENATOR(s) OLSON

01/21/09 (S) PREFILE RELEASED 1/9/09  
01/21/09 (S) READ THE FIRST TIME - REFERRALS  
01/21/09 (S) CRA, RES  
02/05/09 (S) CRA AT 3:30 PM BELTZ 211

BILL: SB 4

SHORT TITLE: COASTAL MANAGEMENT PROGRAM

SPONSOR(s): SENATOR(s) OLSON

01/21/09 (S) PREFILE RELEASED 1/9/09  
01/21/09 (S) READ THE FIRST TIME - REFERRALS  
01/21/09 (S) CRA, RES, FIN  
02/05/09 (S) CRA AT 3:30 PM BELTZ 211

**WITNESS REGISTER**

TIM BENINTENDI, Staff

to Senator Olson

Alaska State Legislature

Juneau, AK

**POSITION STATEMENT:** Introduced SB 3 and SB 4 on behalf of the sponsor.

FRANK HOLMAN, Chairman

Commercial Entries Fisheries Commission (CEFC)

Juneau, AK

**POSITION STATEMENT:** Stated support for SB 3.

TYSON FICK, Legislative Liaison

Department of Commerce, Community & Economic Development

Juneau, AK

**POSITION STATEMENT:** Stated support for SB 3.

TERI CAMREY, Planner

City and Borough of Juneau

Juneau, AK

**POSITION STATEMENT:** Stated support for SB 4.

JOHNNY AIKEN, Planning Director

North Slope Borough (NSB)  
Barrow, AK,

**POSITION STATEMENT:** Stated support for SB 4.

TOM OKLESIK, Planning Director  
Northwest Arctic Borough (NWAB)  
Kotzebue, AK

**POSITION STATEMENT:** Stated support for SB 4.

BILL LUCEY, Staff Biologist and Coastal Planner  
City and Borough of Yakutat  
Yakutat, AK

**POSITION STATEMENT:** Stated support for SB 4.

RANDY BATES, Director  
Division of Coastal & Ocean Management  
Department of Natural Resources  
Juneau, AK

**POSITION STATEMENT:** Spoke in opposition to SB 4.

#### **ACTION NARRATIVE**

[3:31:08 PM](#)

**CHAIR DONALD OLSON** called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators French, Thomas, Kookesh and Olson. Senator Menard arrived soon thereafter.

#### **SB 19-COMPLAINTS AGAINST PEACE OFFICERS/VPSOS**

[3:31:45 PM](#)

**CHAIR OLSON** announced the consideration of SB 19 and asked for a motion to adopt the committee substitute (CS).

**SENATOR FRENCH** moved to adopt CS for SB 19, labeled 26-LS0147\E, as the working document. There was no objection and version \E was adopted.

**SENATOR FRENCH** explained that he took direction from the committee and asked the drafters to remove any reference to village public safety officers (VPSO) from the title and the body of the bill. The other change was to incorporate the language from Amendment 1 into the body of the bill. It says that if you want to receive disclosures regarding status update and the outcome of an investigation, then you must certify that the complaint that you're making is true.

[3:33:08 PM](#)

CHAIR OLSON recognized that Senator Menard joined the meeting.

SENATOR MENARD asked if Senator Therriault and Senator Ellis agree with the changes in the CS.

SENATOR FRENCH said he hasn't personally received their approval but if either disagrees with the changes, they have the option of removing their name from the bill.

SENATOR KOOKESH suggested it might be appropriate to ask Department of Public Safety (DPS) if it had any problems with the changes.

CHAIR OLSON visually surveyed the committee room and said that "one of the staff members gives us the nod on it so I guess we're good to go."

SENATOR FRENCH advised that the bill has two more committees of referral so there is opportunity for further change. He then moved to report CSSB 19(CRA) from committee with individual recommendations and attached zero fiscal note. There being no objection, it was so ordered.

[3:35:40 PM](#) to 3:37 PM at ease.

**SB 3-CFEC AS INFORMATION RESOURCE**

[3:37:20 PM](#)

CHAIR OLSON announced the consideration of SB 3.

TIM BENINTENDI, Staff to Senator Olson, introduced SB 3 with the following statement:

Senate Bill 3 would provide a benefit to the state's economic development organizations, or ARDORs, by providing them with the opportunity to obtain information from the Commercial Fisheries Entry Commission without charge.

The intent of the bill is to provide public information to the ARDORs at no cost. We emphasize that under AS 16.05.815, which does apply to SB 3, that no confidential information would be made available. So that's a pretty important point.

The information would especially benefit the eight ARDORS with commercial fishing as a significant portion of their economies, and would help them anticipate regional economic trends and development opportunities.

The chairman of The Commercial Fisheries Entry Commission supports the bill and feels that the loss of fees would be negligible. The bill carries a zero fiscal note.

3:38:39 PM

CHAIR OLSON asked if a lot of information has been missed because this statute hasn't been in place.

MR. BENINTENDI replied he hasn't heard that. Some, but not all, ARDORS claim they already get information at no cost. Placing it in statute simply gives everyone the same advantage. He suggested that Mr. Homan might address it in more detail.

SENATOR FRENCH noted the many letters of support and asked if anyone has come out in opposition.

MR. BENINTENDI said no.

3:40:09 PM

FRANK HOLMAN, Chair, Commercial Entries Fisheries Commission (CEFC), stated support for SB 3. Typically, CEFC would not be in favor of doing work without getting revenue, but he is familiar with the financial conditions of ARDORS and in the past CEFC hasn't had many requests. Most of the time ARDORS use a third-party consultant to contact the commission for information. This may provide a direct avenue to get the information. "There's only a few ARDORS and we don't anticipate a big rush," he said.

CHAIR OLSON said he understands that ARDORS will be able to get information from CFEC without charge and if they hire a consultant, he or she will also be able get the information.

MR. HOLMAN replied he doesn't believe it says that, but ARDORS could get the information directly from CFEC. "We want to be a little bit careful about opening this up too wide," he added.

SENATOR THOMAS noted that the new language refers to "relevant" fisheries and asked if that is limiting.

MR. HOLMAN explained that the term makes a distinction. CFEC anticipates that the ARDORS will ask for fisheries data that is related to their particular district.

[3:43:35 PM](#)

TYSON FICK, Legislative Liaison, Department of Commerce, Community & Economic Development (DCCED), stated that the department supports the bill and has issued a zero fiscal note. His understanding of whether or not an ARDOR is charged for a data request is that it's often a function of the size of the request. Placing this in statute clarifies that ARDORS won't be charged for larger requests.

CHAIR OLSON closed public testimony and asked for the will of the committee.

SENATOR MENARD moved to report SB 3 from committee. There being no objection Chair Olson announced that SB 3 moves from committee with individual recommendations and attached fiscal note.

[3:45:13 PM](#) to 3:47 PM at ease.

#### **SB 4-COASTAL MANAGEMENT PROGRAM**

[3:47:21 PM](#)

CHAIR OLSON announced the consideration of SB 4 and asked for a motion to adopt the committee substitute (CS).

SENATOR THOMAS moved to adopt work draft CS for SB 41 [SB 4], labeled 26-LS0019\R as the working document. There being no objection, version R, was adopted.

MR. BENINTENDI, Staff, to Senator Olson, sponsor of SB 4, said version R mirrors HB 74. He noted that the sectional analysis shows in red the differences from the original bill. He introduced SB 4 with the following statement:

In the main, Senate Bill 4 would have you determine whether you want to restore a significant measure of local authority, or not, when it comes to development project reviews and district plan approvals in the coastal areas of our state. With better than 44,000 miles of coastline, resource development objectives, and traditional resource uses, that's a considerable issue.

Major changes in the Alaska Coastal Management Program in 2003 eliminated the Coastal Policy Council and shifted authority over permit review and compliance matters to the Department of Natural Resources. Prior to 2003, the program was not felt to be significantly problematic. After 2003, regulations adopted by the Department of Natural Resources severely limited the ability of coastal districts to establish enforceable policies regarding the eventual effects of development on coastal resources and uses.

Currently, there are 28 coastal management districts with approved coastal management programs, or programs under review for approval. Increased federal funding may be likely in the next two years. There are two major grant programs in federal regulation which sustain the ACMP, the so-called 306 program which is basically for implementation, and the 309 which is for special projects. A state match is required for 306, but no state match is required for 309.

AS 46.39 and AS 46.40 are the operative statutes. And the Consistency Reviews are handled under 11 AAC 110, 11 AAC 112 deals with statewide standards, and 11 AAC 114 covers the district plan approval process.

Now to the committee substitute itself:

The bill would establish a nine-member Alaska Coastal Policy Board, composed of 5 coastal district members, and the commissioners of DNR, Fish and Game, DEC, and Commerce, Community & Economic Development. This would be smaller than the 17-member panel in existence prior to 2003. This version [R] would add a fifth public member, and add the commissioner of Commerce, Community & Economic Development to the Board.

The Board would have, among other things, the authority to approve district management plans, approve regulations developed by the department [DNR], approve program changes, apply for and accept grants and other monies, evaluate the effectiveness of district management plans, and settle disputes.

CSSB 4(CRA) would allow coastal districts to develop management plans, create enforceable policies, and address "special management areas," usually regarded

as physically sensitive to change and development. Other authorities would deal with consistency reviews on federal lands and waters, the Outer Continental Shelf, inland development proposals if they would greatly impact the coastal zone, and seismic surveying activity.

In this version of the bill, [version R], subsistence usage is specifically identified as a value within the ACMP objectives.

And the so-called DEC Carve-Out is eliminated in this bill. This Carve-Out basically says that a permit issued by DEC for a project is automatically considered "consistent" with program [ACMP] objectives and requirements. But this bill would take that provision out.

The bill provides for authority over development inland from the coastal area if there should be significant impact to the coastal zone, and inclusion of activities in federal waters and the Outer Continental Shelf.

This version of the bill [version R] would also address "seismic survey activity," and would make each lease sale subject to an individual consistency reviews. That's a pretty strong bone of contention.

These are just some of the sub-issues within the scope of the ACMP program. The primary thrust, of course, is to return significant authority to local district residents by sharing power over the Alaska Coastal Management Program between public members and the identified commissioners. Since 2003, all authority has rested solely with the commissioner of the Department of Natural Resources.

[3:53:37 PM](#)

CHAIR OLSON asked how this differs from the pre-2003 program, other than the number of board members.

MR. BENINTENDI replied some of the sub-issues he highlighted would be handled differently than they were before the 2003 changes. The key issue is having or not having the board. "You either have a board which shares empowerment with some of the local folks or you concentrate authority in the department." If

a board again is established, several things will happen that will go against having the department manage the program.

CHAIR OLSON questioned why this board would have fewer members than the previous board.

MR. BENINTENDI replied he can't answer that specifically.

SENATOR FRENCH remarked that the sectional analysis is very helpful. He takes it that the black text refers to version R and the red text refers to the original language.

MR. BENINTENDI said that's correct.

[3:56:06 PM](#)

SENATOR KOOKESH noted that ConocoPhillips seems to like the current process and asked if there is a reason they wouldn't support the change.

MR. BENINTENDI acknowledged that his opinion is generalized. He suggested that an industry that is trying to develop resources has a great many issues to deal with in the permit and review process. "Generally speaking it's very involved and complex." Perhaps Mr. Bates is better able to articulate some of the key areas where "that might be the rub," he added.

CHAIR OLSON opened public testimony.

[3:57:43 PM](#)

TERI CAMREY, Planner, City and Borough of Juneau (CBJ), stated support for SB 4. "I think this goes a long way to addressing the most serious concerns that we have had with the program." CBJ strongly supports reinstating the role of Department of Environmental Conservation (DEC) and restoring the Coastal Policy Council.

She said she will focus on how local district policies streamline development and promote coordination with applicants. As a result of the 2003 Murkowski administration changes, Juneau's Coastal Management Program went from 99 policies to just 16 and the mediation process was lengthy. However, the rest of those policies didn't just go away. Like many other districts, Juneau's Coastal Management Program is a management tool that contains environmental regulations as well as pro development elements. When they lost the other policies in their plan, the CBJ assembly decided to keep them in their local land use code. The result is a two-part review process. The 16

policies go through the Coastal Management Program review and then the applicant has to go to the CBJ for a review of the habitat regulations under the local code.

This two-part review creates a greater burden on the applicant than if it were integrated into a single process. Furthermore, if the local planning commission modifies the project description, the applicant has to start the ACMP process over again. "By allowing local districts to have a greater role in developing enforceable policies, you streamline the development process."

MS. CAMERY said she appreciates the work that's been done on the bill; it is a step forward in resolving the conflicts that CBJ has had since 2003.

4:00:38 PM

SENATOR THOMAS asked if the major concern is that coastal communities may dictate what activity takes place inland.

MS. CAMERY responded with an example. A basic habitat policy that Juneau lost in the 2003 change was a streamside setback policy that required buildings to be located 50 feet from any anadromous water body. That policy wasn't approved because the regulations regarding what districts could write about are extremely restrictive. SB 4 would give Juneau the opportunity to bring that policy back and reintegrate it into the process.

When she talks about "conflict," she said she's referring to district policies that were lost in the review process. It's safe to say that all the districts lost a large percentage of their policies that were very important for local management. "That's where the conflict came from and the streamside setback policy is an example of that."

SENATOR THOMAS said he was curious if one of the issues was that DNR, as a revenue seeking department, is driven in a different direction than this type of approach to coastal management.

MS. CAMERY replied there is considerable debate about what does or does not constitute impact on the coastal zone. In the past DNR has taken a more narrow definition of the coastal zone than the federal definition. "I think the current changes bring the state in line with what the federal government is doing. I don't believe it exceeds that and creates an unnecessary burden farther inland."

[4:04:29 PM](#)

CHAIR OLSON asked how far the Juneau district extends.

MS. CAMERY replied the entire City and Borough of Juneau is within the coastal zone.

CHAIR OLSON asked if the Juneau management plan has been approved.

MS. CAMERY said yes; it has 16 policies. She restated that the remaining policies are in the local code. Thus a second review process is required.

CHAIR OLSON questioned why CBJ would support the bill if its management plan has been approved.

MS. CAMERY explained that they would like to bring back the policies that were lost with the 2003 changes. "We were only able to get approval of 16 of our original 99 policies."

CHAIR OLSON asked if they want all 83 policies back.

MS. CAMERY said no; they would select those that are most important, like the streamside setback policy. It doesn't make sense to have a review take place at two different levels and integrating the local habitat regulations into the coastal management program saves the applicant a lot of time.

CHAIR OLSON commented that adding another 83 policies would be problematic to the applicant. As a businessman he's dealt with bureaucracy and he sees that industry may not favor that.

[4:06:33 PM](#)

MS. CAMERY replied she appreciates the point but she respectfully disagrees because the 83 policies didn't disappear. "You either coordinate them with the state program or the applicant has to go through it at the local level." The regulations don't just go away. Integration and coordination saves the applicant time because the applicant doesn't have to go through a separate local process.

CHAIR OLSON asked if an industry representative would agree that adding 83 policies would save time.

MS. CAMERY restated that the applicant already has to go through the 83 policies at the local level. "So it's costing the

applicant far more time to have that process separated from the coastal management program.”

[4:07:36 PM](#)

JOHNNY AIKEN, Planning Director, North Slope Borough (NSB), Barrow, AK, stated support for SB 4. It will fix problems that NSB has faced during the amendment process for the ACMP. He said he will address just three of the improvements this bill makes to ACMP.

First, SB 4 will make it clear that coastal districts can establish enforceable policy as long as they are clear, concise, do not restate existing law, and do not address a matter preempted by state or federal law. The 2003 changes to ACMP allow districts to establish policy for matters not adequately addressed by state or federal law. Although the administration assured the Legislature that districts would be able to establish reasonable policies concerning critical matters such as subsistence and activities in federal waters, almost all of the NSB enforceable policies were rejected by DNR. Understand that neither the NSB nor any district is seeking to adopt policies that would obstruct future development, he said. The borough never used its former plan to obstruct North Slope oil and gas development and doesn't intend to do that in the future. It is dependent on oil and gas development for its revenue.

Second, the CS would bring DEC back into the ACMP consistency review process. Carving DEC out of the process in 2003 has had unintended consequences. It removed consideration of activities related to air and water quality from project review. Because so many coastal resources and uses are directly related to air and water quality, the scope of the ACMP review is not clear. One of the biggest concerns for NSB is the effect of a potential oil spill on subsistence resources and uses. Under the current program they are unable to address that.

Third, the CS would establish a coastal policy board. The 2003 changes concentrated all decision making into a single state agency. This bill would give the new board oversight in three major areas: approval of coastal district plans, approval of major grant programs, and approval of proposed changes to the ACMP regulations. This board is a streamlined version of the former Coastal Policy Council, but it would be smaller and would not be responsible for the final administrative determination of contested individual project consistency reviews. Establishing this board will improve trust and confidence in the structure of the ACMP.

These changes would help streamline the ACMP by encouraging all parties to work cooperatively early in the process to find solutions. By solving problems with all the permitting agencies at the table, applicants would not have to fight separate battles with each permitting agency. Also, there is a greater likelihood that agency stipulations will be similar.

4:13:57 PM

CHAIR OLSON asked if the NSB coastal management plan has been approved.

MR. AIKEN said no; they have been working on it for about 3 or 4 years. Although they've had many meetings, they can't agree with DNR about how policy should be written and interpreted.

4:15:30 PM

CHAIR OLSON asked if there were problems on the North Slope with oil and gas development before the 2003 changes.

MR. AIKEN said not that he recalls.

TOM OKLESIK, Planning Director, Northwest Arctic Borough (NWAB), said the mayor and the borough have stated support for the bill. It would restore the ability of coastal districts to effectively participate in the program and establish meaningful policies to work with industry and the ACMP. It would again provide an avenue of taking valuable local input and putting it into development. The state is large and diverse and statewide policies that are designed in Anchorage or Juneau don't necessarily take into consideration the way of life in other areas of the state. NWAB supports the provision establishing the Coastal Policy Board to oversee the major aspects of this publicly funded program. It would also create a representation of state agencies with local districts. This will bring effective public engagement back into the program.

In the last year NWAB attempted mediation with DNR. Under the 2003 changes that department acts as a single agency to make all program decisions and it's been frustrating. The mediation process ended in an impasse and the NWAB plan was flatly denied. The only recourse is to ask the DNR commissioner to reconsider the decision that he and his staff made. There is no ability for a third-party review that involves the public. Hopefully this new provision will prevent future problematic situations for districts across the state and make sure that state staff are

getting clear direction for coastal district policies and board involvement.

[4:19:27 PM](#)

NWAB also supports the addition of subsistence into the objectives of AS 46.40.020. Until the 2003 changes, the ACMP was an effective tool to balance resource development and protection of coastal resources to promote healthy subsistence. It's important that Alaska residents, particularly in the NWAB, have a real life connection to their land and cultural areas. That relationship needs to be recognized when development occurs. It produces a cooperation with developers so that there is a social license to operate in addition to any permitting licenses. So we definitely look at how we can address subsistence impacts and that's a major reason that the borough participates in this program, he said. The borough encourages responsible development but wants to make sure it's done the right way. The best way to do that is to make sure that local districts have a voice at the table when development is discussed.

[4:21:16 PM](#)

SENATOR THOMAS asked which specific provision would replace the current lack of appeal other than going back to the commissioner of DNR.

MR. OKLESIK replied it's engagement beyond the department; the coastal policy board would be involved in approval of plans.

BILL LUCEY, Staff Biologist and Coastal Planner, City and Borough of Yakutat, said his experience working with the Division of Coastal and Ocean Management staff has largely been positive from both a reviewer and applicant standpoint. He runs field crews that perform a variety of conservation work from tree thinning to stream restoration. He has to go through a CPQ process to permit his own projects so he deals with it from that side. He's also a reviewer so he assists businesses and homeowners in Yakutat in navigating programs for diverse activities.

The proposed board structure, composed of state agency members and district representatives, will ensure that the board is staffed with focused people who can objectively run the process. He envisions that it will enhance the value of the coastal program and restore trust in the entire coastal program.

[4:24:21 PM](#)

Drawing on his experience with the Board of Fish and the Beluga Whale Committee, he said he knows that citizen boards work. It's inspiring to see. Creating a similar board for coastal resource issues is a good idea.

With respect to reinstating the ability to weigh in on projects that are adjacent to coastal districts, he said the original 1974 federal legislation establishing a nationwide coastal program was very clear. For example, you'd want to have a say if someone wanted to put a hog farm upstream from your kid's swimming hole.

Referring to the so-called DEC carve-out he said that water and air quality are the areas that usually sustain the greatest impact from human development activities. Water quality is of particular concern to the people of Yakutat because they depend heavily on fisheries and so it is extremely important to have a strong reasonable voice protecting water quality.

MR. LUCEY said he recently heard that the Alaska seafood industry is almost \$5 billion and he believes that with strong coastal policies and with local input emphasizing healthy habitat and clean water, fish will cycle through ever year. SB 4 is long-sighted legislation, will energize local governance and result in reasonable stewardship of the land and water.

Finally, the perception that this program is designed to halt development is incorrect. It is simply designed to make informed responsible decisions during the development process, he said.

CHAIR OLSON asked if the Yakutat management plan has been approved.

MR. LUCEY said yes. "One of the reasons we decided not to put up a large fight is we were assured that this process was going to occur."

[4:28:46 PM](#)

RANDY BATES, Director, Division of Coastal & Ocean Management, Department of Natural Resources (DNR), extended apologies from Commissioner Irwin, Deputy Commissioner LeFebvre and Deputy Commissioner Rutherford as they would have liked to have attended the hearing to share the department's position on the bill.

DNR does not support SB 4 and has two substantive concerns. First, it creates a new oversight body and vests it with the

ability to override DNR's authority. This effectively renders mute the legislative establishment of laws relative to resource management and protection. Second, the bill is specific to the issue of a group of ACMP participants, but it does not balance or represent the interests of all stakeholders. He noted the fiscal note from DNR and added that the department has further concerns relative to the committee substitute.

[4:31:02 PM](#)

SENATOR FRENCH questioned how realistic it is to legislatively insert a new coastal zone policy board inside an administration that is hostile toward it.

CHAIR OLSON agreed that it's always a concern because legislators pass policy issues and the administration has its own ideas. He asked Mr. Bates for a response.

MR. BATES restated that the first issue he raised is a substantive concern for DNR. The CS for SB 4 vests the proposed coastal policy board with powers to approve coastal district enforceable policies that override, exceed and are more stringent than existing state law.

He deferred to his superiors any discussion about whether or not and how the administration would work with the proposed coastal policy board.

[4:33:07 PM](#)

SENATOR THOMAS asked if DNR has any suggestions to make the bill more palatable.

MR. BATES replied the division and the department are evaluating potential changes to the coastal program, but it is a complex program and consensus on any proposed change is difficult. He said he doesn't doubt that this bill will face the same challenges. "Clearly, any bill has to strike a consensus as it affects so many ACMP participants—the industry, the local government, the non-governmental organizations and, importantly, the state agencies who have to implement it."

SENATOR MENARD asked how much heartburn is associated with the fiscal note.

MR. BATES replied the majority of the fiscal note reflects travel costs and what is necessary to hold the board meetings. Division staff is not impacted.

CHAIR OLSON asked if the state pays for travel, lodging and meals when employees travel on other department-related business.

MR. BATES said yes; DNR is concerned about the creation of a new nine-member board and staffing that goes along with that. The fiscal note describes a three-day meeting four times a year held in different locations. Travel would be expected to come from regions mentioned in the bill for public members and numbers are built in to ensure that the designated state members are able to participate.

CHAIR OLSON stated that he brought the bill forward because of frustration by members of the 28 districts – even those that have had their plans approved. Anytime decision-making power is concentrated, people tend to look at the decisions with a critical eye.

MR. BATES replied he understands the concern.

CHAIR OLSON said a concern he's heard is that the people in the department who are looking at the management plans seem to have a less than cooperative attitude. People are generally frustrated and as the person from Kotzebue said, things went to an impasse. Yet that's in the area of the Chukchi Sea where major development will happen in the near future.

MR. BATES declared that the frustration stems from implementation of a program according to the law that is in place. It's a natural rub that coastal districts want purview over their district policies, but it's DNR's job to objectively implement what is in law and approve the policies that comply and not approve those that do not comply.

[4:39:44 PM](#)

CHAIR OLSON suggested that the source of the frustration is that the people out in the coastal districts don't see that the department is being objective. He asked how many districts currently are not participating in the program.

MR. BATES relayed that there are 35 established coastal districts: 28 districts have been working on coastal district plans since the 2003 mandated change; 25 districts have approved coastal district plans and are implementing them; and 3 districts—the North Slope Borough, the Northwest Arctic Borough and the Bering Straits Coastal Resource Service Area—have not secured approval of their plans.

CHAIR OLSON asked his opinion why the plans for the 3 districts haven't been approved.

MR. BATES replied it's simply a matter of what DNR can approve as enforceable policies. The department's position is that many of the district enforceable policies put forth by NSB and NWAB are not approvable as written. DNR went through mediation with both districts and came close to approving the district plans but, "we must have run into a roadblock, in their opinion, to the point that they didn't want to pursue district plan approval anymore at that point."

CHAIR OLSON asked if he believes that the ACMP should remain within DNR.

MR. BATES said yes; the coastal management program is well aligned with DNR's mission, which is to manage, enhance and protect natural resources.

[4:42:18 PM](#)

SENATOR KOOKESH questioned how much of his concern about keeping the program within DNR relates to protecting turf and how much relates to looking out for the best interests of Alaska and Alaskans. Education and oil and gas both have oversight boards and he questioned why DNR does not support having a board that oversees this particular area.

MR. BATES said he doesn't believe that the location of either the Division of Coastal & Ocean Management (DCOM) or the ACMP is part of the bill and as such DNR didn't prepare a position on that issue. He acknowledged that prior to the 2003 change the ACMP was housed in the Division of Governmental Coordination, which was in the governor's office. "Since 2003 it's been located within DNR. We were part of the Project Management Permitting Office and then back in October of last year... we created a new division specific to managing the Coastal Management Program, the Coastal Impact Assistant Program and other ocean functions that are appropriate within that division."

CHAIR OLSON asked for a brief summary of the workshops that DCOM held last summer to try to get consensus on some of the issues. "How successful you think they were and if they were successful, what's the outcome."

MR. BATES mentioned the letter he sent last February articulating the desire to establish and go through a process to reevaluate the coastal laws and the day-to-day implementation of the ACMP. He explained that last July the division met in various places to solicit comments, ideas and debate from coastal program participants. At this point the department does not have a package of changes to introduce or discuss. There certainly is no consensus on the issues that were brought up, he said.

CHAIR OLSON asked for a brief synopsis of the Coastal Impact Assistant Program.

MR. BATES explained that the Coastal Impact Assistant Program is a federal program that was authorized in the Energy Policy Act of 2005. It allows six states, including Alaska, to share in oil and gas revenues that are realized off their coastal shores. For FY07 and FY08 the Alaska share was about \$2.5 million. As a result of the Chukchi Lease Sale 193, the Alaska portion went up to between \$40 million and \$80 million. DCOM is the lead agency for implementing that program and is working with eligible subdivisions including the North Slope Borough, Northwest Arctic Borough, Bristol Bay Borough and Cook Inlet municipalities to amend the coastal impact assistance plan to take advantage of the money. Of the money coming to the state, 65 percent will go directly into the state funds and 35 percent will go directly into the coffers of the eligible subdivisions. "We as the state have decided that we want to be able to share that money as well as pursue projects that would benefit state initiatives and so we've got a further split: 70 percent of the money that is coming to the state over the course of the next two years will go to state initiated projects; 30 percent will be put out for competitive open solicitation and bid. That money will be eligible to entities wanting to engage in projects that will benefit the environment and meet other criteria as established by the Minerals Management Service (MMS) as the overseeing agency."

CHAIR OLSON asked how the unorganized borough is treated under the impact assistance program.

MR. BATES explained that the criterion for identifying eligible coastal subdivisions is based on federal law. "It was ... Minerals Management Service's interpretation ... that said coastal resource service areas are not an eligible subdivision of the state. It is the level of government that is organized and directly below the state, which means that it is the boroughs. ... It does not

include cities, it does not include any subdivision underneath the borough."

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CHAIR OLSON noted that he represents the areas in the unorganized borough that are just below the Northwest Arctic Borough. He asked if he's saying that those unorganized areas won't benefit even though they can see things right off shore.

MR. BATES explained that eligible coastal political subdivisions are based on a proximal location to a producing well or lease. "In this case, it's a 200 mile radius." Neither of the resource service areas that are within your district is located within that proximal distance so they are not an eligible subdivision, he said. Thus, they are not eligible for the direct distribution of that 35 percent of the overall total. However, the Bering Straits CRSA, the Cheñaliulriit CRSA, the Bristol Bay CRSA and the Aleutians West CRSA are eligible to pursue the public funding that will be available. "That solicitation should begin sometime in March so it's not that they're completely out. It's that they can pursue other avenues for securing some of that money," he said.

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CHAIR OLSON asked what was in place before the Energy Policy Act of 2005.

MR. BATES explained that there was a coastal impact assistance program in 2001 that was implemented by the National Oceanic and Atmospheric Administration (NOAA). That agency determined that CRSAs were eligible subdivisions without having a link to a wellhead or lease. In 2005 the language in the bill was tightened significantly and the MMS became the lead agency.

CHAIR OLSON asked for clarification that under the original program the areas in the unorganized borough were eligible for those funds.

MR. BATES said that's correct.

CHAIR OLSON asked if the administration intends to put forth legislation to address the difficulties that districts are having.

MR. BATES restated that he is representing the department and at this time the issues it has been evaluating are neither ripe nor ready for introduction as a bill. There is no consensus.

CHAIR OLSON declared that this bill addresses specifically that. "If you can't come to a consensus, we'll have a board that will do that."

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MR. OKLESIK said he wants the committee to understand that the perspective Mr. Bates presented was heavily one-sided. The decision for NWAB to ask for an impasse weighed heavily. Part of the issue was the huge divergence between what the borough saw in black and white and what the department said. When they explained their analysis and asked the department to do the same the answer was a flat out no. A policy board would hopefully make the department more accountable to the residents and communities of Alaska, he said. For the state to respond that way is unacceptable.

CHAIR OLSON closed public testimony.

SENATOR KOOKESH asked if he intended to move the bill.

CHAIR OLSON replied we're trying to address a problem and the administration does not have legislation forthcoming so we should move this along. It can be modified as it presses ahead, he added.

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SENATOR KOOKESH moved to report SB 4 from committee with individual recommendations and attached fiscal notes. There being no objection CSSB 4 (CRA) moved from committee.

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CHAIR OLSON adjourned the Senate Community and Regional Affairs Standing Committee at 4:56 pm.