

CS FOR HOUSE BILL NO. 106(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/15/11

Referred: Today's Supplemental Calendar

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

1 uses may be affected.

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

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

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

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

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

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

14 (5) the Alaska coastal management program (AS 46.40) - January,
15 2017 [2011].

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

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

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

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

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

26 (ii) a mining organization;

27 (iii) an oil and gas organization; or

28 (iv) any other resource development or extraction
29 industry;

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

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

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

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

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

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

23 (2) each of the following designated members:

24 (A) the commissioner of environmental conservation;

25 (B) the commissioner of fish and game;

26 (C) a deputy commissioner of natural resources;

27 (D) the commissioner of transportation and public facilities.

28 (b) Public members serve staggered terms of three years. Each member serves
 29 until a successor is appointed and qualified. A public member may be reappointed. A
 30 public member may be removed at the pleasure of the governor, in which event the
 31 alternate member shall serve the remainder of the term and a new alternate shall be

1 appointed under (a)(1) of this section.

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

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

8 (e) If a member serving under (a)(2) of this section is unable to attend, a
9 deputy commissioner in the same department may attend and act in place of the
10 member. The names of alternates serving under (a)(2) of this section shall be filed
11 with the board.

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

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

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

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

25 (j) The board shall

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

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

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

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

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

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

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

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

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

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

18 (2) contract for necessary services;

19 (3) consult and cooperate with

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

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

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

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

30 **Sec. 46.39.040. Duties of the department.** In conformity with 16 U.S.C. 1451
 31 - 1464 (Coastal Zone Management Act of 1972), as amended, the department shall

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

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

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

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

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

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

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

31 (2) a statement, list, or definition of the land and water uses and

1 activities subject to the district coastal management plan;

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

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

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

13 (b) In developing enforceable policies in its coastal management plan under
14 (a) of this section, a coastal resource district shall **meet the requirements of AS**
15 **46.40.070 and ensure that the enforceable policies**

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

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

20 **(3) address a coastal use or resource of concern to the residents of**
21 **the coastal resource district as demonstrated by local knowledge or supported by**
22 **scientific evidence; and**

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

28 * **Sec. 8.** AS 46.40.030 is amended by adding a new subsection to read:

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

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

1 (2) local knowledge or scientific evidence supporting each alternative
2 method;

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

5 (4) the economic effects of alternative methods;

6 (5) the technological feasibility of the alternative methods; and

7 (6) any other relevant factors.

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

9 (b) **Notwithstanding any other provision of law,** AS 46.03, AS 46.04, AS
10 46.09, AS 46.14, and the regulations adopted under those statutes constitute the
11 exclusive enforceable policies of the Alaska coastal management program for those
12 purposes. For those purposes only,

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

17 (2) for a consistency review of an activity that does not require a
18 Department of Environmental Conservation permit, certification, approval, or
19 authorization because the activity is a federal activity or the activity is located on
20 federal land or the federal outer continental shelf, consistency with AS 46.03, AS
21 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes shall
22 be established on the basis of whether the Department of Environmental Conservation
23 finds that the activity satisfies the requirements of those statutes and regulations.

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

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

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

28 (a) If, upon submission of a district coastal management plan for approval, the
29 department finds that the plan meets the provisions of this chapter [AND THE
30 STATEWIDE STANDARDS AND DISTRICT PLAN CRITERIA ADOPTED BY
31 THE DEPARTMENT AND DOES NOT ARBITRARILY OR UNREASONABLY

1 RESTRICT OR EXCLUDE USES OF STATE CONCERN], the department may
 2 approve the district coastal management plan, or may approve portions of the district
 3 plan that meet those requirements.

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

5 (b) If the department finds that a district coastal management plan is not
 6 approvable or is approvable only in part under (a) of this section, **the department**
 7 **shall explain in writing the basis for its decision. The coastal resource district that**
 8 **submitted the plan may request that the department submit the plan or portions**
 9 **of the plan to the board for review. The board shall review the plan or portions of**
 10 **the plan and make recommendations relating to whether the department should**
 11 **approve or modify the district coastal management plan in whole or in part** [IT
 12 SHALL DIRECT THAT DEFICIENCIES IN THE PLAN SUBMITTED BY THE
 13 COASTAL RESOURCE DISTRICT BE MEDIATED. IN MEDIATING THE
 14 DEFICIENCIES, THE DEPARTMENT MAY CALL FOR ONE OR MORE PUBLIC
 15 HEARINGS IN THE DISTRICT. THE DEPARTMENT SHALL MEET WITH
 16 OFFICIALS OF THE COASTAL RESOURCE DISTRICT IN ORDER TO
 17 RESOLVE DIFFERENCES].

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

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

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

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

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

29 (4) **require that** [(3)] any other action be taken by the coastal resource
 30 district [AS APPROPRIATE].

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

1 (e) Only a coastal resource district affected by a decision of the department
 2 under this section may request reconsideration of the decision. The request must be
 3 made within 15 days after the decision, must be in writing, and must include a
 4 statement of the specific issues and material facts that the coastal resource district
 5 contends that the department overlooked, failed to consider, or misconceived. The
 6 commissioner of natural resources may review the department's decision on the basis
 7 of the request and determine whether the decision should be changed. The
 8 commissioner may issue a determination in writing within 20 days after the issuance
 9 of the decision. If the commissioner has not issued a written decision within the 20-
 10 day period, the request for reconsideration shall be considered as denied. Denial of a
 11 request for reconsideration is a final administrative order and decision of the
 12 department.

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

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

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

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

21 (2) enforceable policies of the district coastal management plan

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

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

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

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

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

31 (b) The enforceable policies in a district coastal management plan submitted

1 for review under this section must meet the requirements of (a) of this section and may
 2 establish new standards or requirements that are within the authority of a state or
 3 federal agency unless

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

6 (A) are based on scientific evidence or local knowledge relied
 7 upon by the coastal resource district to satisfy the requirements of AS
 8 46.40.030 but that conflicts with the agency's interpretation of the scientific
 9 evidence within the agency's area of expertise;

10 (B) conflict with the agency's allocation of existing or planned
 11 agency resources to meet state policies and objectives; or

12 (C) conflict with agency priorities or objectives, or other state
 13 policies;

14 (2) the proposed new standards or requirements address discharges,
 15 emissions, contaminants, conditions, risks, or other matters that fall within the
 16 authority of the Department of Environmental Conservation under AS 46.03, AS
 17 46.04, AS 46.09, AS 46.14, and regulations adopted under those statutes.

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

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

28 (1) the commissioner or the commissioner's designee of a state agency;

29 or

30 (2) the attorney general of the state.

31 (e) Notwithstanding any other provision of this chapter, an enforceable policy

1 that establishes requirements within the authority of a state or federal agency shall be
 2 superseded upon the enactment of a law or adoption of a regulation that is inconsistent
 3 with the enforceable policy.

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

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

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

10 (2) prepare proposed consistency determinations;

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

15 (A) **shall be conducted** [IS LIMITED TO A REVIEW] by the
 16 **commissioners of the resource agencies or their deputies**
 17 [DEPARTMENT];

18 (B) may occur only if requested by

19 (i) the project applicant;

20 (ii) a state resource agency; or

21 (iii) an affected coastal resource district; and

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

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

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

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

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

4 (2) are suspended

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

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

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

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

15 (2) "reviewing entity" means the

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

18 (B) **commissioners or their deputies for an elevated review;**

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

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

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

1 resource service area board may adopt the district coastal management plan as initially
2 offered.

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

4 (13) "board" means the Alaska Coastal Policy Board established in AS
5 46.39.005;

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

8 (15) "elevated review" means a review of a proposed consistency
9 determination by the commissioners, or their deputies, of the resource agencies;

10 (16) "local knowledge" means a body of knowledge or information
11 about the coastal environment or the human use of that environment, including
12 information passed down through generations, if that information is

13 (A) derived from experience and observations;

14 (B) generally accepted by the local community; and

15 (C) not contradicted by scientific evidence;

16 (17) "scientific evidence" means facts or data that are

17 (A) premised upon established chemical, physical, biological,
18 or ecosystem management principles as obtained through scientific method and
19 submitted to the division in the department responsible for ocean and coastal
20 management to furnish proof of a matter required under this chapter;

21 (B) in a form that would allow resource agency review for
22 scientific merit; and

23 (C) supported by one or more of the following:

24 (i) written analysis based on field observation and
25 professional judgment along with photographic documentation;

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

28 (iii) site-specific scientific research that may include
29 peer-review level research or literature.

30 * **Sec. 21.** (a) AS 46.39.005 is repealed.

31 (b) AS 46.40.060(d) is repealed.

1 * **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

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

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

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

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

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

31 REVIEW AND REPORT BY THE ALASKA COASTAL POLICY BOARD. Before

1 February 1, 2013, the Alaska Coastal Policy Board shall review AS 46.40.040(b), as amended
2 by sec. 9 of this Act, AS 46.40.040(c), and AS 46.40.096(i), their implementing regulations,
3 and related federal and state statutes and regulations, and prepare a report to the governor and
4 the legislature on any proposed changes to the provisions of AS 46.40.

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

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

9 (b) If, under AS 01.10.070(c), sec. 27 of this Act takes effect on or after July 1, 2011,
10 sec. 27 of this Act is retroactive to July 1, 2011, and sections repealed by sec. 18, ch. 31, SLA
11 2005, are revived. If a revived section is amended by this Act, it is revived as amended by this
12 Act. The revived sections are subject to repeal under sec. 22, ch. 31, SLA 2005, as amended
13 by sec. 27 of this Act.

14 (c) If, under AS 01.10.070(c), this section takes effect on or after July 1, 2011, AS
15 46.39.005, added by sec. 3 of this Act and repealed by sec. 21(a) of this Act, is revived. AS
16 46.39.005, as revived, is subject to repeal under secs. 21(a) and 28 of this Act and sec. 22, ch.
17 31, SLA 2005, as amended by sec. 27 of this Act.

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

20 **CONDITIONAL EFFECT.** Section 21(a) of this Act takes effect only if secs. 1 - 13
21 and 18, ch. 31, SLA 2005, take effect.

22 * **Sec. 27.** The uncodified law of the State of Alaska enacted in sec. 22, ch. 31, SLA 2005, is
23 amended to read:

24 Sec. 22. Sections 1 - 13 and 18, **ch. 31, SLA 2005,** [OF THIS ACT] take effect
25 July 1, **2017** [2011], unless the state's revised coastal management program has not
26 been approved by the National Oceanic and Atmospheric Administration, Office of
27 Ocean and Coastal Resource Management, United States Department of Commerce,
28 under 16 U.S.C. 1455 and 1457 (Coastal Zone Management Act of 1972) before
29 January 1, 2006. If the state's revised coastal management program is not approved
30 before January 1, 2006, by the National Oceanic and Atmospheric Administration,
31 Office of Ocean and Coastal Resource Management, United States Department of

1 Commerce, then secs. 1 - 13 and 18, ch. 31, SLA 2005, [OF THIS ACT] take effect
2 May 10, 2006. The commissioner of natural resources shall notify the revisor of
3 statutes on February 1, 2006, whether the revised coastal management program has
4 been approved as described in this section.

5 * **Sec. 28.** If sec. 21(a) of this Act takes effect, it takes effect on the date that secs. 1 - 13 and
6 18, ch. 31, SLA 2005, take effect.

7 * **Sec. 29.** Except as provided in sec. 28 of this Act, this Act takes effect immediately under
8 AS 01.10.070(c).