

**CS FOR SENATE BILL NO. 45(CRA) am**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Amended: 6/27/11

Offered: 4/7/11

Sponsor(s): SENATE 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 and one alternate member shall be appointed  
 5 from each of the following 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 area of the  
 14 Kodiak Island and Aleutians East Boroughs and the Aleutian, Adak,  
 15 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. Except as provided  
 29 by (c) of this section, each member serves until a successor is appointed and qualified.  
 30 A public member may be reappointed.

31 (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. If a public member is removed, the alternate member shall  
3 serve the remainder of the term, and a new alternate shall be appointed under (a)(1) of  
4 this section. In this subsection, "for cause" includes lack of contribution to the board's  
5 work, neglect of duty, incompetence, inability to serve, poor attendance, and  
6 misconduct in office.

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

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

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

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

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

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

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

30 (k) The board shall

31 (1) make recommendations to the department relating to the approval

1 or modification of a district coastal management plan under AS 46.40.060(b);

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

4 (3) annually solicit from state and federal agencies information as to  
5 whether they implemented any new statutes or regulations affecting coastal uses or  
6 resources to determine if existing enforceable policies duplicate, restate, incorporate  
7 by reference, rephrase, or adopt the new state or federal statutes or regulations, and if  
8 so, direct a coastal resource district with such enforceable policies to resubmit its  
9 coastal management plan for review under this chapter and AS 46.40; and

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

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

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

18 \* **Sec. 5.** AS 46.39.030 is amended to read:

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

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

23 (2) contract for necessary services;

24 (3) consult and cooperate with

25 (A) persons, organizations, and groups, public or private,  
26 interested in, affected by, or concerned with coastal area planning and  
27 management;

28 (B) agents and officials of the coastal resource districts of the  
29 state, **the Alaska Coastal Policy Board established in AS 46.39.005,** and  
30 federal and state agencies concerned with or having jurisdiction over coastal  
31 planning and management;

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

3 \* **Sec. 6.** AS 46.39.040 is amended to read:

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

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

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

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

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

24 \* **Sec. 7.** AS 46.40.030 is amended to read:

25 **Sec. 46.40.030. Development of district coastal management plans.** (a)  
26 Coastal resource districts shall develop and adopt district coastal management plans in  
27 accordance with the provisions of this chapter. The plan adopted by a coastal resource  
28 district shall be based upon a municipality's existing comprehensive plan or a new  
29 comprehensive resource use plan or comprehensive statement of needs, policies,  
30 objectives, and standards governing the use of resources within the coastal area of the  
31 district. The plan must meet the [STATEWIDE STANDARDS AND] district plan

1 criteria adopted under AS 46.40.040, **may not be inconsistent with the standards**  
 2 **adopted under AS 46.40.040**, and must include

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

5 (2) a statement, list, or definition of the land and water uses and  
 6 activities subject to the district coastal management plan;

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

9 (4) [A DESCRIPTION OF THE USES AND ACTIVITIES THAT  
 10 WILL BE CONSIDERED PROPER AND THE USES AND ACTIVITIES THAT  
 11 WILL BE CONSIDERED IMPROPER WITH RESPECT TO THE LAND AND  
 12 WATER WITHIN THE COASTAL AREA; AND

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

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

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

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

25 **(3) address a coastal use or resource of concern to the residents of**  
 26 **the coastal resource district and consider the aggregate evidence relating to that**  
 27 **concern; and**

28 **(4) employ the least restrictive means to achieve the objective of**  
 29 **the enforceable policy** [MEET THE REQUIREMENTS OF AS 46.40.070 AND  
 30 MAY NOT DUPLICATE, RESTATE, OR INCORPORATE BY REFERENCE  
 31 STATUTES AND ADMINISTRATIVE REGULATIONS ADOPTED BY STATE

1 OR FEDERAL AGENCIES].

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

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

- 5 (1) alternative methods of achieving the objective of the policy;  
6 (2) the aggregate evidence relating to each alternative method; and  
7 (3) how the alternative methods may affect other existing or potential  
8 uses.

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

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

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

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

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

24 (2) for a consistency review of an activity that does not require a  
25 Department of Environmental Conservation permit, certification, approval, or  
26 authorization because the activity is a federal activity or the activity is located on  
27 federal land or the federal outer continental shelf, consistency with AS 46.03,  
28 AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes  
29 shall be established on the basis of whether the Department of Environmental  
30 Conservation finds that the activity satisfies the requirements of those statutes and  
31 regulations.

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

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

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

5 (a) If, upon submission of a district coastal management plan for approval, the  
6 department finds that the plan meets the provisions of this chapter [AND THE  
7 STATEWIDE STANDARDS AND DISTRICT PLAN CRITERIA ADOPTED BY  
8 THE DEPARTMENT AND DOES NOT ARBITRARILY OR UNREASONABLY  
9 RESTRICT OR EXCLUDE USES OF STATE CONCERN], the department may  
10 approve the district coastal management plan, or may approve portions of the district  
11 plan that meet those requirements.

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

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

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

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

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

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

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

6                    **(4) require the coastal resource district to submit additional**  
 7 **information if, in the judgment of the department, additional information is**  
 8 **necessary for the department to approve the plan or portions of the plan** [(3)  
 9 ANY OTHER ACTION BE TAKEN BY THE COASTAL RESOURCE DISTRICT  
 10 AS APPROPRIATE].

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

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

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

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

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

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

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

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

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

6 (C) employ the least restrictive means to achieve the objective  
7 of the enforceable policies;

8 (D) do not arbitrarily or unreasonably restrict uses of state  
9 concern; and

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

11 (b) The enforceable policies in a district coastal management plan submitted  
12 for review under this section that meet the requirements of (a) of this section may  
13 establish new standards or requirements that are within the authority of a state or  
14 federal agency unless

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

17 (A) are based on aggregate evidence that is relied upon by the  
18 coastal resource district to satisfy the requirements of AS 46.40.030 but that  
19 conflicts with the agency's interpretation of the aggregate evidence within the  
20 agency's area of expertise;

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

23 (C) conflict with agency priorities or objectives, or other state  
24 policies;

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

29 (c) An approval of a district coastal management plan with enforceable  
30 policies may not affect a person's rights or authorizations under an unexpired permit,  
31 lease, or other valid existing right to explore or develop natural resources that predates

1 the date that the enforceable policy becomes final. An enforceable policy becomes  
 2 final when its adoption is no longer subject to further review through either a judicial  
 3 or administrative process.

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

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

- 11 (1) the commissioner or deputy commissioner of a state agency; or
- 12 (2) the attorney general of the state.

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

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

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

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

23 (2) prepare proposed consistency determinations;

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

28 (A) **shall be conducted** [IS LIMITED TO A REVIEW] by the  
 29 **commissioners or deputy commissioners of the resource agencies**  
 30 [DEPARTMENT];

31 (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**

1                    **agencies for an elevated review;**

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

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

5                    (b) If a city or village within a coastal resource service area fails to approve a  
6 portion of the district coastal management plan prepared and submitted for approval  
7 under (a) of this section, the governing body shall advise the coastal resource service  
8 area board of its objections to the proposed plan and suggest alternative elements or  
9 components for inclusion in the district coastal management plan. New matter  
10 submitted by a city or village that **is not inconsistent with the standards adopted**  
11 **under AS 46.40.040 and** meets the [STATEWIDE STANDARDS AND] district plan  
12 criteria adopted under this chapter shall be accepted and the district coastal  
13 management plan modified accordingly. If a city or village fails to provide objections  
14 and suggested alternatives within the time limits established in this section, the coastal  
15 resource service area board may adopt the district coastal management plan as initially  
16 offered.

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

18                    (13) "aggregate evidence" means the most complete and competent  
19 information available that relates to an enforceable policy in a district coastal  
20 management plan or the development of an enforceable policy in a proposed district  
21 coastal management plan; in this paragraph, "information" includes

22                    (A) data that are obtained through the scientific method, that  
23 relate to established chemical, physical, biological, or ecosystem management  
24 principles, that are in a form that allows resource agency review for scientific  
25 merit, and that are supported by one or more of the following:

26                    (i) written analysis based on field observations and  
27 professional judgment along with photographic or other documentation;

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

30                    (iii) site-specific scientific research that may include  
31 peer-review level research or literature; and

1 (B) knowledge about the coastal environment or the human use  
 2 of that environment, including information passed down through generations,  
 3 if that knowledge is

4 (i) derived from experience and observations;

5 (ii) generally accepted by the local community; and

6 (iii) not determined by a resource agency to be  
 7 inconsistent with competent information described under (A) of this  
 8 paragraph;

9 (14) "board" means the Alaska Coastal Policy Board established in  
 10 AS 46.39.005;

11 (15) "commissioners" means the commissioners of the resource  
 12 agencies;

13 (16) "elevated review" means a review of a proposed consistency  
 14 determination by the commissioners or deputy commissioners of the resource  
 15 agencies.

16 \* **Sec. 21.** AS 46.39.005 is repealed.

17 \* **Sec. 22.** AS 46.40.060(d) is repealed.

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

20 APPLICABILITY. The changes to AS 44.37.020, AS 46.39, and AS 46.40 made by  
 21 secs. 1, 3 - 20, and 22 of this Act apply only on and after July 1, 2012.

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

24 TRANSITION: MEMBERS OF THE ALASKA COASTAL POLICY BOARD;  
 25 STAGGERED TERMS. Notwithstanding AS 46.39.005(a), added by sec. 3 of this Act, and  
 26 secs. 23 and 31 of this Act, within 30 days after the effective date of this section, the  
 27 municipalities of each region identified in AS 46.39.005(a)(1)(B) shall submit to the governor  
 28 the names of three persons to be considered for appointment as public members, and the  
 29 names of three persons to be considered as alternate members, from the region qualified under  
 30 AS 46.39.005(a), added by sec. 3 of this Act. Notwithstanding AS 46.39.005, added by sec. 3  
 31 of this Act, and secs. 23 and 31 of this Act, within 60 days after the effective date of this

1 section, the governor shall appoint, from the lists of names submitted under  
 2 AS 46.39.005(a)(1)(B), one member and one alternate member from each region, or request  
 3 subsequent lists of names in accordance with AS 46.39.005(a)(1)(B), and shall appoint one at-  
 4 large member and one alternate member to serve on the Alaska Coastal Policy Board  
 5 established by AS 46.39.005, added by sec. 3 of this Act. The governor shall appoint the  
 6 public members to three-year staggered terms to begin on the date AS 46.39.005 takes effect.  
 7 The alternate member for each public member shall serve the same term as the public  
 8 member. The governor shall specify the term of each public member appointed subject to this  
 9 section.

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

12 **TRANSITION: PENDING DISTRICT COASTAL MANAGEMENT PLANS.** If a  
 13 plan of a coastal resource district was submitted to the Department of Natural Resources  
 14 before July 1, 2012, but is pending approval in its entirety before July 1, 2012, the coastal  
 15 resource district shall resubmit the entire plan to the Department of Natural Resources for  
 16 approval using the standards set out in AS 46.39 and AS 46.40, as modified by secs. 1, 3 - 20,  
 17 and 22 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 **REVIEW AND REPORT BY THE ALASKA COASTAL POLICY BOARD.** Before  
 21 February 1, 2014, the Alaska Coastal Policy Board shall review AS 46.40.040(b), as amended  
 22 by sec. 9 of this Act, AS 46.40.040(c), and AS 46.40.096(i), their implementing regulations,  
 23 and related federal and state statutes and regulations, and prepare a report to the governor and  
 24 the legislature on any proposed changes to the provisions of AS 46.40.

25 \* **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to  
 26 read:

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

29 (b) If, under AS 01.10.070(c), sec. 29 of this Act takes effect on or after July 1, 2011,  
 30 sec. 29 of this Act is retroactive to July 1, 2011, the provisions repealed by sec. 18, ch. 31,  
 31 SLA 2005, are revived, and the provisions amended by secs. 1 - 13, ch. 31, SLA 2005, are

1 amended to read as they read on June 30, 2011, subject to reconciliation with other bills  
 2 affecting those sections passed by the Twenty-Seventh Alaska State Legislature and enacted  
 3 into law. If a provision is revived, it is revived as the provision read on June 30, 2011. The  
 4 revived or amended provisions are subject to secs. 23 and 31 of this Act and to amendment  
 5 and repeal under sec. 22, ch. 31, SLA 2005, as amended by sec. 29 of this Act.

6 (c) Notwithstanding (b) of this section, if sec. 29 of this Act does not receive the  
 7 concurrence of two-thirds of the membership of each house as required under art. II, sec. 18,  
 8 Constitution of the State of Alaska,

9 (1) the provisions repealed by sec. 18, ch. 31, SLA 2005, are revived  
 10 retroactive to July 1, 2011; if a provision is revived, it is revived as it read on June 30, 2011;  
 11 and

12 (2) the provisions amended by secs. 1 - 13, ch. 31, SLA 2005, are amended to  
 13 read as they read on June 30, 2011, subject to reconciliation with other bills affecting those  
 14 sections passed by the Twenty-Seventh Alaska State Legislature and enacted into law.

15 (d) If, under AS 01.10.070(c), sec. 29 of this Act takes effect on or after July 1, 2011,  
 16 regulations adopted under AS 46.39 and AS 46.40 and annulled as a result of repeals made by  
 17 sec. 18, ch. 31, SLA 2005, are revived to the extent that the regulations are consistent with  
 18 this Act.

19 \* **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to  
 20 read:

21 **CONDITIONAL EFFECT.** Section 21 of this Act takes effect only if

22 (1) AS 46.39.005 takes effect after July 1, 2011; and

23 (2) secs. 1 - 13 and 18, ch. 31, SLA 2005, take effect.

24 \* **Sec. 29.** The uncodified law of the State of Alaska enacted in sec. 22, ch. 31, SLA 2005, is  
 25 amended to read:

26 Sec. 22. Sections 1 - 13 and 18, **ch. 31, SLA 2005**, [OF THIS ACT] take effect  
 27 July 1, **2017** [2011, UNLESS THE STATE'S REVISED COASTAL  
 28 MANAGEMENT PROGRAM HAS NOT BEEN APPROVED BY THE NATIONAL  
 29 OCEANIC AND ATMOSPHERIC ADMINISTRATION, OFFICE OF OCEAN AND  
 30 COASTAL RESOURCE MANAGEMENT, UNITED STATES DEPARTMENT OF  
 31 COMMERCE, UNDER 16 U.S.C. 1455 AND 1457 (COASTAL ZONE

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

11 \* **Sec. 30.** If sec. 21 of this Act takes effect under sec. 28 of this Act, it takes effect on the  
12 date that secs. 1 - 13 and 18, ch. 33, SLA 2005, take effect.

13 \* **Sec. 31.** Sections 1, 3 - 20, 22, 25, and 26 of this Act take effect July 1, 2012.

14 \* **Sec. 32.** Except as provided in secs. 30 and 31 of this Act, this Act takes effect  
15 immediately under AS 01.10.070(c).