

ALASKA STATE DEPARTMENT OF REVENUE
2007-2008 FISCAL YEAR, 7/08

11664 HOURS

STATE AFFAIRS

Dividend Information Office Activity Summary

	Information Office			Total
	Anchorage	Juneau	Fairbanks	
Telephone Calls	65,920	28,631	3,894	98,445
Counter Contacts	31,491	6,715	17,789	55,995
Documents Processed				
Applications received	39,270	7,507	12,226	59,003
Changes of address	9,865	3,805	1,898	15,568
Missing Information letters	14,910	6,084	3,774	24,768
Direct-Deposit changes/withdrawals	3,211	3,210	666	7,087
Initial Review Cases Closed	29,424	4,780	1,565	35,769
Requests to stop payment of check	0	667	0	667
Total Documents Processed	96,680	26,053	20,129	142,862
Correspondence				
E-mail responses ¹	4,082	4,005	3,631	11,718
Written responses to applicant letters	479	1,322	631	2,432
Dividend income verifications ²	4	1,325	0	1,329
Telephone responses to applicant letters	273	522	350	945
Total Correspondence	4,838	6,974	4,612	16,424
Data Entry				
Applications Keyed/Documents Linked	118,936	29,403	305	148,644

Number of toll free (1-800) calls received: **58,668**
(includes calls made outside of business hours to message service)

¹Fairbanks Dividend Information Office is assigned primary responsibility for answering the division's e-mails from applicants.

²Dividend income verifications are requests from agencies, i.e. Alaska Housing Finance Corporation (low-income housing), for confirmation that the applicant received a dividend. The verifications are used by agencies to determine eligibility for their programs.

Summary of Questions Answered by Telephone

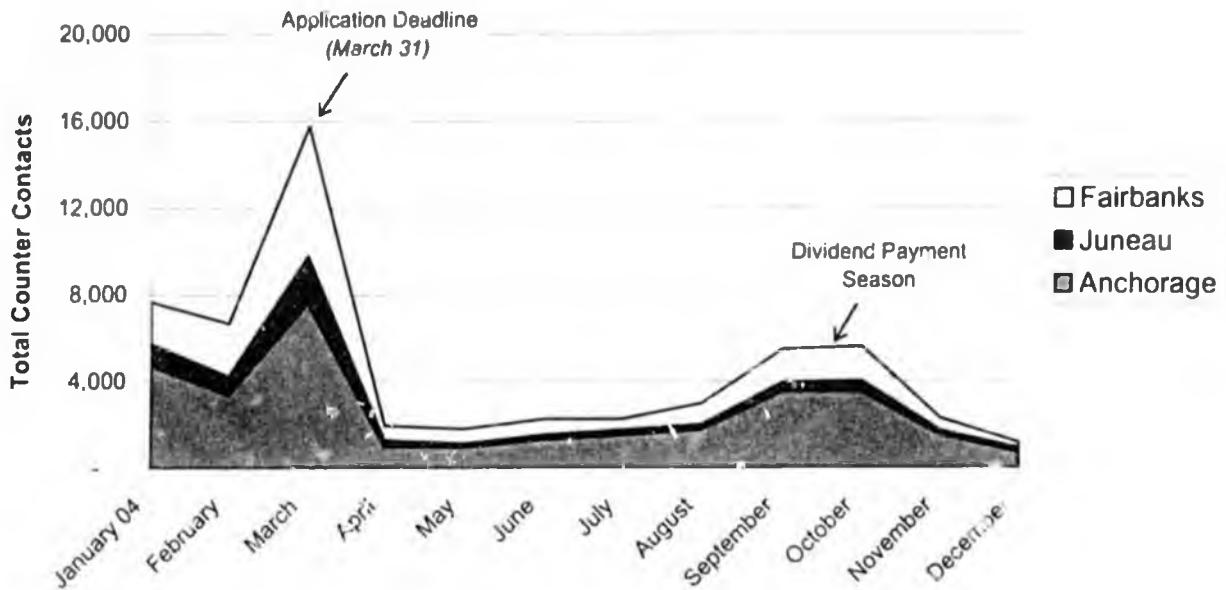
Questions regarding	Total	Dividend Information Office		
		Anchorage	Juneau	Fairbanks
Status of application	32,568	21,149	9,830	1,589
Address verification or change	11,453	10,431	747	275
Direct deposit	9,121	6,027	2,688	407
Eligibility	8,019	6,476	1,437	106
How to complete an application or form	7,673	4,751	2,621	302
Receipt of documentation submitted	6,709	5,223	1,391	95
Garnishments or attachments	5,566	3,386	1,956	225
Internet On-line Application	5,216	3,403	1,683	130
When will the applicant get their check	4,492	2,682	1,598	212
Status of an application in review	2,195	1,446	608	140
Status of an application in appeal	1,851	1,215	567	69
Request for forms	1,667	1,113	398	91
Birth certificate	1,537	1,218	289	30
Why an application was denied	1,437	836	480	120
Amount of the dividend for current or prior year	1,419	1,030	358	32
Other	963	445	509	8
How to complete a supplemental schedule	768	658	106	4
Why a person is not on file	757	293	455	9
Social Security Number problem	696	522	157	17
Absences and whether they are allowable for eligibility	473	431	34	7
UA College Savings program	458	365	73	21
Requirements for being in Alaska (when applicant is absent)	434	396	32	6
Deceased applicant	422	263	140	19
Stop payment on a check	388	242	138	8
IRS requirements	378	183	183	12
Child's application when two or more people filed for the child	224	134	81	8
Receipt Letter	160	41	117	1
Fraud tips	96	48	43	5
Eligibility for persons who are not U.S. citizens	68	46	17	4
Total	107,207	74,519	28,735	3,953
Number of Individual Calls¹	98,445	65,920	28,631	3,894

¹More than one activity code may be entered on a individual telephone call when the call pertains to multiple questions

Dividend Information Office Monthly Activity (Detail by Information Office)

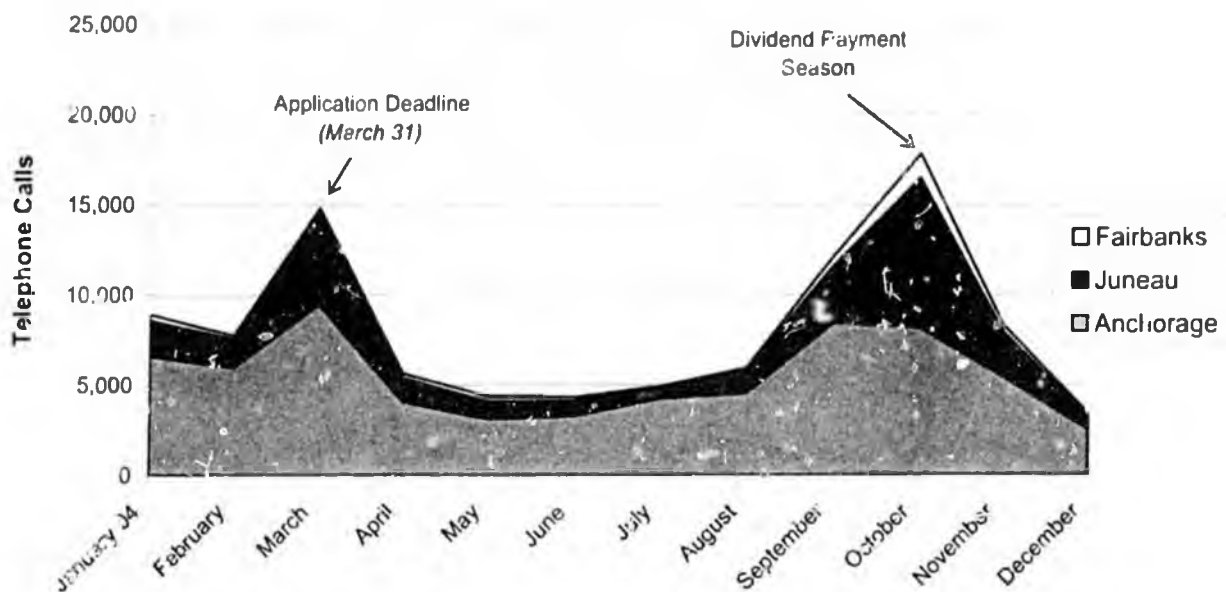
Counter Contacts

Information office employees assist thousands of applicants who walk into the local offices. During 2004, employees assisted 55,995 applicants.



Telephone Calls

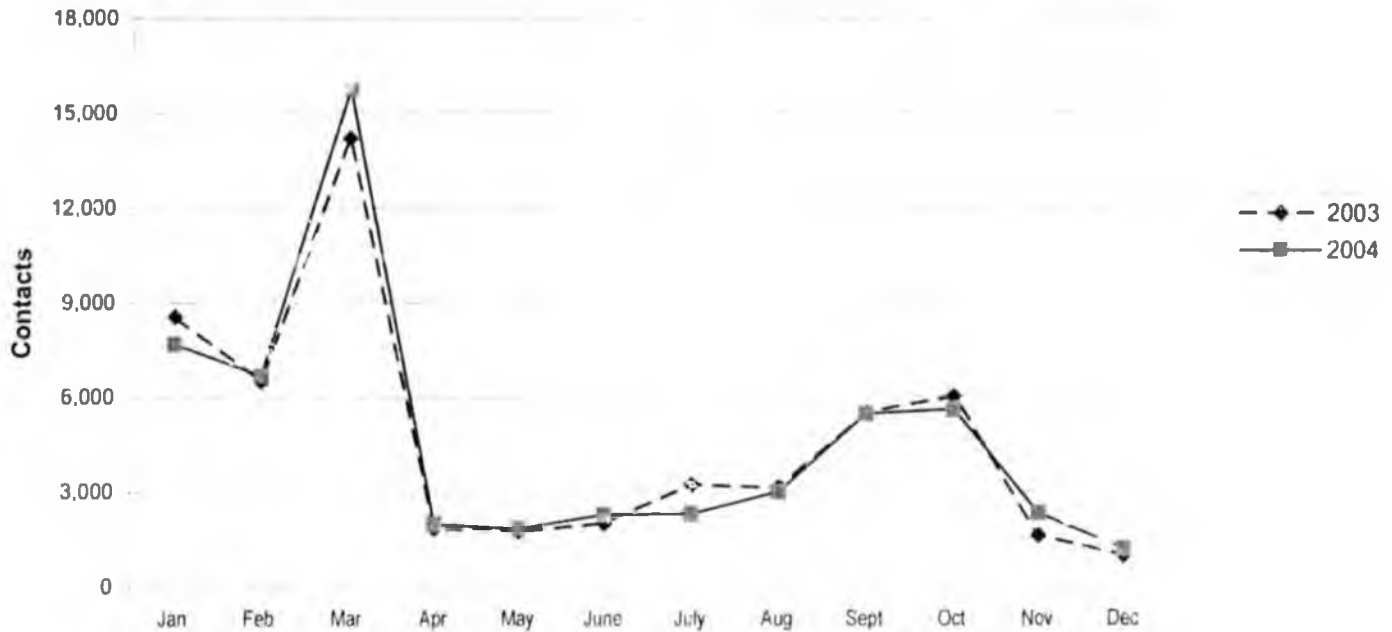
Information office employees respond to thousands of telephone calls each year from applicants requesting assistance. During 2004, employees answered 98,445 calls.



Two-Year Comparison of Information Office Activity

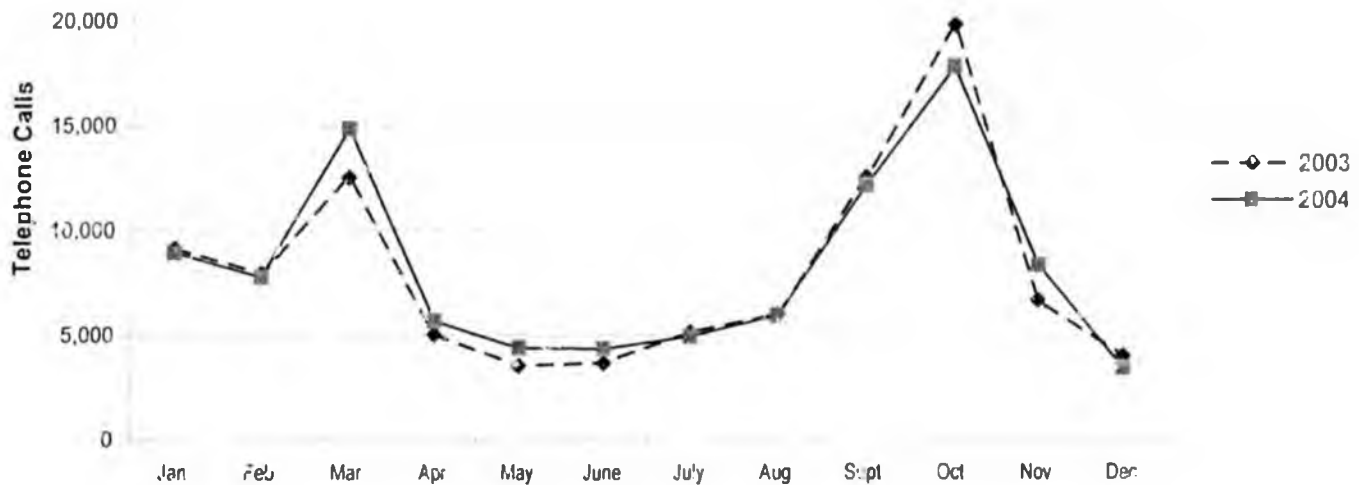
Counter Contacts

Total counter contacts in 2003 and 2004 were 55,216 and 55,995, respectively. Counter contacts are greatest during March prior to the filing due date. Counter contacts relate to persons seeking assistance for completing their application and inquiring about eligibility.



Telephone Calls

Total telephone calls answered in 2003 and 2004 were 95,905 and 98,445, respectively. Telephone call activity is greatest in October when dividend payments are made. Calls during this time relate to the status of payments or garnishments.



Review

As applications are loaded onto the division's database, some are flagged for closer review because of more complex eligibility issues.

The Review Section manually review all applications flagged. Review staff make eligibility determinations from information submitted with the application and correspondence received from applicants. Staff consider the applicant's residency, intent to remain an Alaska resident, absences and physical presence in the state when making determinations. If staff determine that an individual is not eligible for a dividend, they issue a letter notifying the applicant that his or her dividend application is denied. The letter also notifies the applicant of his or her right to appeal the decision.

Review Caseload Activity

2004 Applications

2004	Paid	Denied	Total
Jan	2	0	2
Feb	155	6	161
Mar	42	3	45
Apr	1,067	91	1,158
May	1,126	232	1,358
Jun	1,271	402	1,673
Jul	420	213	633
Aug	1,271	710	1,981
Sep	1,673	635	2,308
Oct	1,904	618	2,522
Nov	1,353	699	2,052
Dec	600	1,039	1,639

Prior Year Applications

2004	Paid	Denied	Total
Jan	91	133	224
Feb	24	95	119
Mar	10	30	40
Apr	12	27	39
May	72	24	96
Jun	6	26	32
Jul	5	11	16
Aug	28	33	61
Sep	17	29	46
Oct	10	105	115
Nov	9	9	18
Dec	102	67	169

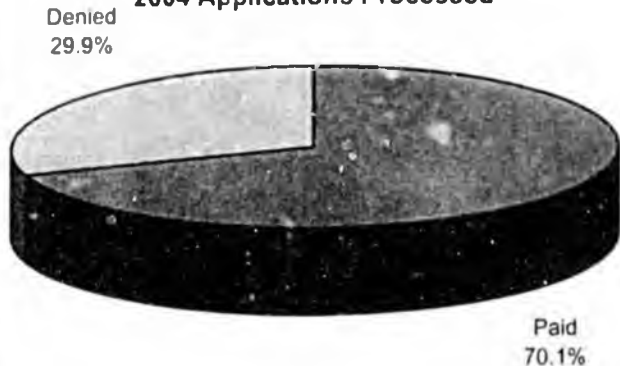
Processed in 2004	10,884	4,648	15,532
% Paid/Denied	70.1%	29.9%	

Processed in 2004	386	589	975
% Paid/Denied	39.6%	60.4%	

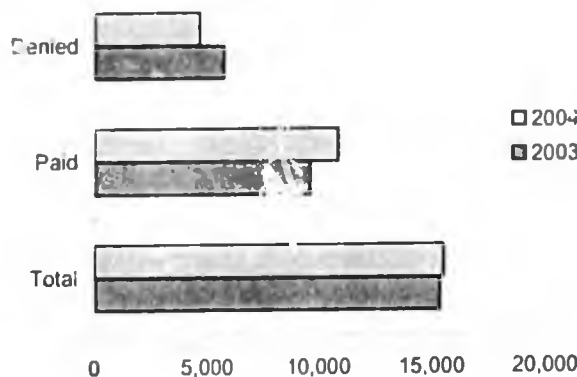
Ending Inventory at 12/31/2004	812
Total 2004 Review Cases	16,344

Total Cases (All Years) Worked in 2004: **16,507**
 Total Cases (All Years) Worked in 2003: **18,506**

2004 Applications Processed



Comparison of Cases Worked



Appeals

A person whose application is denied for payment may appeal to the PFD Division if they disagree with their denial. If an application is denied, the applicant receives a letter from the division notifying him or her of the division's reason for denying the application. Along with the denial letter, the applicant receives a form that the applicant can complete to request an appeal.

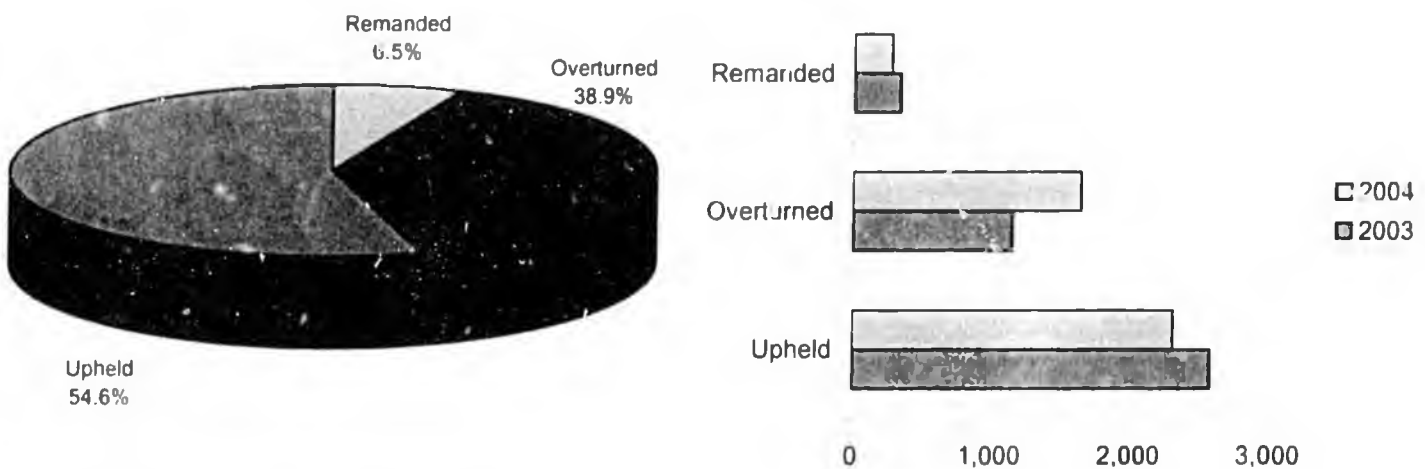
The Appeals Section conducts informal appeal conferences with applicants to make a determination to uphold or overturn the denial decision. Appeals staff review each appeal and develop facts and information relating to matters in dispute by the applicant and issue a written decision. If the applicant disagrees with the informal conference decision, a formal hearing may be requested before a departmental hearing officer. A PFD Appeals officer represents the division at formal hearings.

Informal Appeals Caseload Activity

Resolution of Cases Worked in 2003 and 2004 - Includes Current and Prior Dividend Years

	Remanded to Review		Overturned and Paid		Upheld and Denied		Total	
	2003	2004	2003	2004	2003	2004	2003	2004
Jan	29	42	131	219	398	291	558	552
Feb	26	56	72	319	276	398	374	773
Mar	36	28	121	150	234	226	391	404
Apr	18	32	73	101	311	264	402	397
May	92	7	125	72	217	92	434	171
Jun	41	15	123	37	241	54	405	106
Jul	10	22	77	43	102	59	189	124
Aug	20	22	82	136	137	90	239	248
Sep	21	15	85	136	299	212	405	363
Oct	20	13	106	106	214	114	340	233
Nov	14	4	28	87	39	274	81	365
Dec	12	20	126	242	111	237	249	499
Total	339	276	1,149	1,648	2,579	2,311	4,067	4,235
	8.3%	6.5%	28.3%	37.9%	63.4%	54.6%	100%	100%

	2003	2004		2003	2004
<i>Number of Cases to Formal Appeal</i>	456	359	<i>% Appealed of All Applications</i>	0.7%	0.7%
<i>% of Cases to Formal Appeal</i>	17.7%	15.5%	<i>% Appealed of Denied Applications</i>	16.3%	15.6%



Inventory of cases at end of 2004: **1,060**
 Oldest case at end of 2004: **3 months**

Fraud Investigations

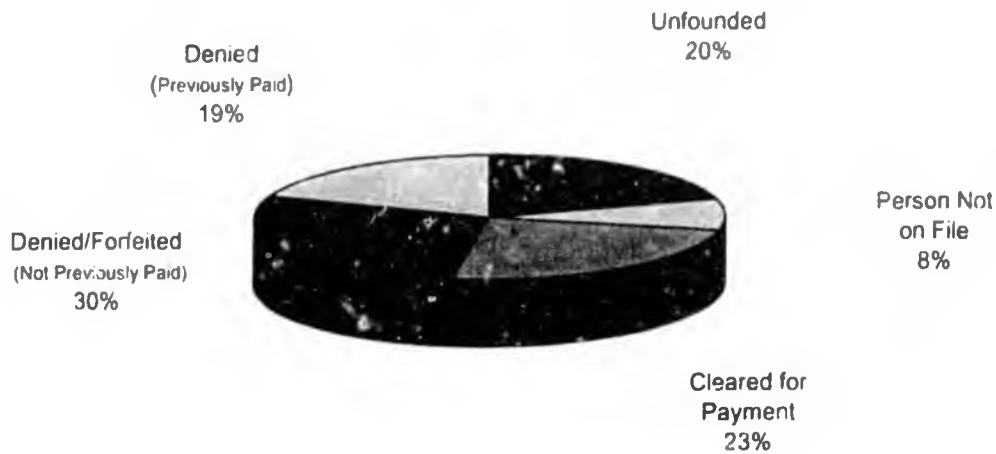
The PFD Division investigates hundreds of applications each year based on information received from the public or other governmental agencies. Fraud tips are received from the public through direct contact, e-mail or the division's fraud tip telephone hotline. The division keeps the informant's name and identity confidential.

Additionally, the division conducts focused audits and investigates information that is obtained through the division's internal review process and anomalies noted in processing applications.

Summary of Fraud Tip Investigations

	Source of Tip			2003 Total
	Public	Government Agency	Total	
Caseload				
Under Investigation	201	52	253	98
Resolved	1,105	214	1,319	854
Total Caseload	1,306	266	1,572	952
Dividend Year				
2004	780	142	922	N/A
2003	340	40	380	625
2002	79	17	96	147
2001	43	13	56	67
2000	27	15	42	38
Prior Years	37	39	76	75
Total	1,306	266	1,572	952
Resolution Status				
Unfounded	261	7	268	167
Person Not on File	101	4	105	67
Resolved/Cleared for Payment	253	54	307	200
Denied (Not Previously Paid)	313	56	369	260
Denied (Previously Paid)	165	84	249	160
Statement of Admissions	0	1	1	0
Denied and Forfeited	12	8	20	0
Total Resolution Status	1,105	214	1,319	854
Assessment and Payments Denied				
Denied (Previously Paid)	165	84	249	160
Amount Assessed to be Paid Back	\$227,234.19	\$113,677.78	\$340,911.97	\$264,321.72
Denied (Not Previously Paid)	313	56	369	260
Amount of Payments Denied	\$326,267.93	\$59,922.46	\$386,190.39	\$326,349.44
Forfeited/Statement of Admissions	12	9	21	0
Amount of Forfeited/Statement of Admissions	\$59,824.23	\$40,802.66	\$100,626.89	\$0.00
Total	490	149	639	420
Total Amount	\$613,326.35	\$214,402.90	\$827,729.25	\$590,671.16

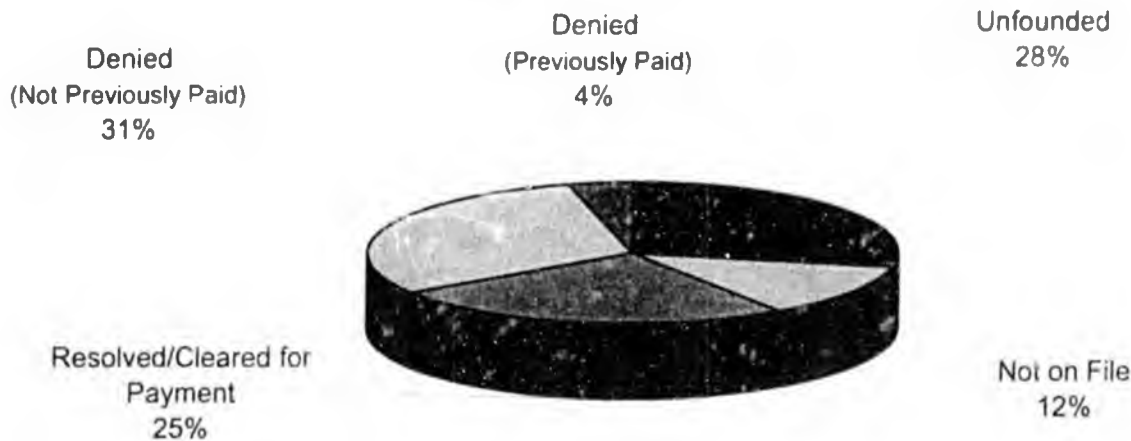
Resolved Case Status of 2004 Investigations Cases



Summary of Audit Investigations

	Audit Project				Total
	Out-of-State Postmark	DMV	Jury	PMB	
Caseload					
Under Investigation	0	12	4	0	16
Resolved	614	471	380	267	1,732
Total Caseload	614	483	384	267	1,748
Year					
2004	614	343	208	264	1,429
2003	0	138	118	3	259
2002	0	1	46	0	47
Prior Years	0	1	12	0	13
Total	614	483	384	267	1,748
Resolved Case Status					
Unfounded	1	265	56	171	493
Not on File	0	144	0	66	210
Resolved/Cleared for Payment	284	32	103	13	432
Denied (Not Previously Paid)	329	28	157	16	530
Denied (Previously Paid)	0	2	64	1	67
Total	614	471	380	267	1,732
Assessments and Payments Denied					
Denied (Not Previously Paid)	329	28	157	16	530
Amount of Payments Denied	\$302,627.36	\$27,069.56	\$150,797.36	\$15,092.88	\$495,587.16
Denied (Previously Paid)	0	2	64	1	67
Amount Assessed	\$0.00	\$2,215.12	\$81,757.74	\$1,107.56	\$85,080.42

Resolved Case Status



Out-of-state Postmark - Applications mailed from out of state on which the applicant answered 'Yes' to the question 'Are you in Alaska today?'

DMV (Division of Motor Vehicles) - Information relating to persons who get an out-of-state driver's license or license plate.

Jury - Jury questionnaires of persons who decline jury duty because they claim they are not an Alaska resident.

PMB (Private Mailboxes) - The division audited persons with private mailboxes in Alaska who were having mail forwarded out of state.

STATE OF ALASKA

FRANK MURKOWSKI, GOVERNOR

DEPARTMENT OF REVENUE

PERMANENT FUND DIVIDEND DIVISION

State Office Building
PO Box 110460
Juneau, AK 99811-0460
Telephone : 907-465-2323
Fax : 907-465-2096

March 23, 2005

The Honorable Paul Seaton
Chairman, House State Affairs Committee
Alaska House of Representatives
State Capitol, Room 102
Juneau, AK 99801

Dear Representative Seaton,

I am following up on our testimony on HB 186 (Quarterly Dividend Payments) at Saturday's House State Affairs meeting in which you requested an analysis of the effects of changing dividend payments from a quarterly to monthly basis. The effects of this change on our operations and costs are outlined below.

As in our fiscal note, our analysis assumes that the department will have the authority to deny participation to any applicant whose dividend has been garnisheed when the dividend is in paid in October or at the time of a subsequent periodic payment if the applicant had not previously been garnisheed. We assume that 5,000 applicants will opt for periodic dividend payments. We also assume that applicants would not be allowed to change their bank account information once the initial direct deposit is made.

We do not anticipate any additional costs for designing and re-writing the dividend payment program. We believe that the change from quarterly to monthly payments would require adding a full-time permanent clerical position because garnishments would be received and require processing throughout the year, and there would be an increased impact on our dividend information offices. Other costs identified in our fiscal note would increase proportionately to reflect the change from quarterly to monthly payments.

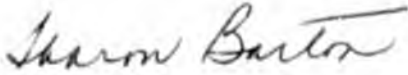
Following are costs for a monthly payment in contrast to costs identified in our fiscal note.

	Quarterly	Monthly
Expand and re-write PFD computer system to handle periodic payments	\$300.0	\$300.0
Print and mail costs for additional payments	15.5	56.8
Computer processing costs for additional payments	18.0	66.0
Direct Deposit transaction fees	1.8	6.6
Clerical position to process garnishments and answer questions from public		
Six additional months for existing staff	25.0	25.0
One PFT position to process garnishments and associated costs	<u>N/A</u>	<u>50.0</u>
Total	<u>\$360.3</u>	<u>\$504.4</u>

Representative Paul Seaton
Monthly Dividend Payment Analysis
March 23, 2005

The expansion and re-write costs are a one-time cost item in FY 06. Annual operation costs are projected to be \$60.3 under quarterly payments and \$204.4 under monthly payments. If you have any questions or need further information, please feel free to contact me at 465-4785.

Sincerely,



Sharon Barton
Director

cc: Representative Jay Hamras, Sponsor HB 186
Paul Dick, PFD Chief of Operations
Tom Boutin, Revenue Deputy Commissioner
Jerry Burnett, Revenue Legislative Liaison

HB

189

ALASKA STATE HOUSE OF REPRESENTATIVES



Interim Address:
345 W. Sterling Hwy
Suite 102B
Homer AK 99603
(907)-235-2921
Fax# (907)-235-4008

Session:
(907)-465-2609
FAX# (907) 465-3472
State Capital
Room 102

HOUSE STATE AFFAIRS COMMITTEE Representative Paul Seaton, Chairman

Sponsor Statement HB 189

The Alaska Coastal Management Program (ACMP) is a partnership between federal, state, and local governments providing state and local governments a voice in federal decision making. Alaska is one of 34 coastal and Great Lakes states and territories that utilize this program, a program that annually channels millions of dollars in federal grant money to the states. The ACMP has helped guide coastal development in the state since it was enacted in 1977.

Without the program the state and local governments lose their ability to control development on federal land and the Outer Continental Shelf. In addition the state will lose millions in federal coastal management planning money.

In 2003, HB 191 substantially revised the state coastal program. The federal Office of Ocean and Coastal Resource Management (OCRM) must approve the revised program. OCRM has determined that additional revisions are necessary before they can grant approval.

The 2003 legislation included state-imposed deadlines for revisions to local coastal programs. Coastal Districts are attempting to follow the statutory directive to revise their programs to meet the new requirements. However, OCRM has identified problems with the state's guidance to local districts regarding the scope and content of their program. The state will have to revise regulatory guidelines for the local districts before the new program can be approved by OCRM. In turn, the local districts will have to re-revise their programs to meet the new guidelines. It is a waste of time, money and effort for districts to revise their plans before the state's program is federally approved and any necessary changes have been made.

The proposed committee substitute of HB 189 does four things. First, it bases the deadline for district coastal program revisions and annulment of the existing program on federal approval of the state's program. This extension will ensure an orderly and efficient transition to the new program. The version before you also extends the sunset date on the current state coastal management standards from July 1, 2005 to March 1, 2006. This extension ensures that if legislative action needs to be taken to maintain a functional coastal management program, the legislature will be in session and can take action. An additional change extends the deadline for the state to evaluate and or modify coastal district plans from July 1, 2006 to January 1, 2007. Finally, the current version of HB 189 sunsets the entire ACMP on July 1, 2011 if no legislative action is taken. This will allow for legislative evaluation of the program as a whole on a continuing basis.

ALASKA STATE HOUSE OF REPRESENTATIVES



Interim Address:
345 W. Stealing Hwy
Suite 1025
Homer AK 99603
(907)-235-2921
Fax# (907)-235-4008

Session:
(907)-465-2689
FAX# (907) 465-3472
State Capital
Room 102

HOUSE STATE AFFAIRS COMMITTEE Representative Paul Seaton, Chairman

HB 189 Sectional Analysis

1. Sections 1 through 13 (pages 1-10) details references to the Alaska Coastal Management Program currently in statute. Section 18 (page 12, line 10) deletes these references on July 1, 2011 if no legislative action is taken to extend the effective date.
2. Section 14 (page 11, line 7) extends the deadline for the Department of Natural Resources to review, approve, disapprove or modify revised coastal district plans from July 1, 2006 to January 1, 2007.
3. Section 15 (page 11, line 18) changes the deadline for coastal districts to have their revised plans completed from one year to six months after the federal Office of Ocean and Coastal Resource Management approves the state's revised coastal management plan.
4. Section 16 (page 12, line 2) repeals statutes containing references to the Alaska Coastal Management Program. Section 18 puts this repeal into effect July 1, 2011.
5. Section 17 (page 12, line 6) extends the repeal of the state's coastal management standards from July 1, 2005 to March 1, 2006.

24-LS0703Y
Bullock
5/2/05

CS FOR HOUSE BILL NO. 189()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act repealing the Alaska Coastal Management Program; relating to an extension**
2 **for review and approval of revisions to the Alaska coastal management program;**
3 **providing for an effective date by amending the effective date of sec. 45, ch. 24, SLA**
4 **2003; and providing for an effective date."**

amended
on July 1, 2005

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

6 *** Section 1. AS 09.45.230(b) is amended to read:**

7 (b) A person may not maintain an action under this section based upon an air
8 emission or water or solid waste discharge, other than the placement of nuclear waste,
9 where the emission or discharge was expressly authorized by and is not in violation of
10 a term or condition of

11 (1) a statute or regulation;

12 (2) a license, permit, or order that is

13 (A) issued after public hearing by the state or federal
14 government; and

1 (B) subject to

2 (i) continuing compliance monitoring;

3 (ii) periodic review by the issuing agency; or

4 (iii) renewal on a periodic basis; or

5 [(iv) AS 46.40; OR]

6 (3) a court order or judgment.

7 * Sec. 2. AS 16.43.160(e) is amended to read:

8 (e) For an entry permit or an interim-use permit issued for calendar year 2002
9 and following years, the annual base fee may not be less than \$10 or more than \$300.
10 The annual base fee must reasonably reflect the different rates of economic return for
11 different fisheries. The fee for a nonresident entry permit or a nonresident interim-use
12 permit shall be higher than the annual base fee by an amount, established by the
13 commission by regulation, that is as close as is practicable to the maximum allowed by
14 law. The amount of the fee for a nonresident entry permit or a nonresident interim-use
15 permit may reflect

16 (1) the costs incurred by the state that are directly attributable to
17 participation of nonresidents in the commercial fisheries of the state;

18 (2) the costs incurred by the state for

19 (A) direct operating expenditures for ongoing management,
20 support, and regulation of the commercial fishing industry, including relevant
21 expenditures of the

22 (i) Department of Environmental Conservation - air and
23 water quality permitting activities and seafood inspection activities;

24 (ii) Department of Commerce, Community, and
25 Economic Development - commercial fishing loan program, Alaska
26 Seafood Marketing Institute, regional seafood development program,
27 and community development quota program;

28 (iii) Department of Fish and Game - division of
29 commercial fisheries, board support section, division of administrative
30 services, division of sport fish, commissioner's office, and Alaska
31 Commercial Fisheries Entry Commission;

1 (iv) Department of Labor and Workforce Development
2 - wage and hour enforcement, mechanical inspections, occupational
3 safety and health activities, and fishermen's fund;

4 (v) Department of Law;

5 (vi) Department of Natural Resources, including [THE
6 ALASKA COASTAL MANAGEMENT PROGRAM AND] habitat
7 programs;

8 (vii) Department of Public Safety - commercial
9 fisheries enforcement;

10 (viii) Department of Revenue - fisheries business tax
11 program, fishery resource landing tax program, seafood development
12 tax program, salmon fishery assessment program, permit buy-back
13 assessment program, and dive fishery management assessment
14 program;

15 (ix) University of Alaska - Fisheries Industrial
16 Technology Center, Institute of Marine Science, Marine Advisory
17 Program, Sea Grant College Program, and School of Fisheries and
18 Ocean Sciences;

19 (x) Legislature;

20 (xi) Alaska Court System;

21 (B) indirect operating expenditures for general overhead
22 attributable to supporting the commercial fishing industry, including
23 expenditures for general overhead attributable to components of agencies that
24 have direct operating expenditures identified under (A) of this paragraph and to
25 components of agencies for which direct operating expenditures related to the
26 ongoing management, support, and regulation of the commercial fishing
27 industry cannot be readily determined;

28 (C) capital costs directly supporting the commercial fishing
29 industry; and

30 (D) expenditures to subsidize the construction and operation of
31 salmon hatcheries.

1 * Sec. 3. AS 37.10.058(2) is amended to read:

2 (2) "designated regulatory service" means a regulatory service
3 provided under the following regulatory programs:

4 (A) control of solid waste facilities under AS 46.03.020(10)(D)
5 and (E);

6 (B) regulation of the disposal of waste into waters of the state
7 under AS 46.03.100;

8 (C) certification of federal permits or authorizations under 33
9 U.S.C. 1341 (sec. 401, Clean Water Act);

10 (D) [A COASTAL MANAGEMENT CONSISTENCY
11 DETERMINATION RELATING TO A PERMIT OR AUTHORIZATION
12 ISSUED UNDER A PROGRAM LISTED IN (A) - (C) OF THIS
13 PARAGRAPH, IF THE DETERMINATION IS MADE BY THE AGENCY
14 ISSUING THE PERMIT OR AUTHORIZATION;

15 (E) any authorization for the use or appropriation of water
16 under AS 46.15; and

17 ~~(E)~~ [(F)] administration of emission control permits for the air
18 quality control program under AS 46.14.

19 * Sec. 4. AS 37.10.058(7) is amended to read:

20 (7) "permit" means a permit, license, certificate, or approval [, OR
21 COASTAL MANAGEMENT CONSISTENCY DETERMINATION];

22 * Sec. 5. AS 38.05.035(e) is amended to read:

23 (e) Upon a written finding that the interests of the state will be best served, the
24 director may, with the consent of the commissioner, approve contracts for the sale,
25 lease, or other disposal of available land, resources, property, or interests in them. In
26 approving a contract under this subsection, the director need only prepare a single
27 written finding. In addition to the conditions and limitations imposed by law, the
28 director may impose additional conditions or limitations in the contracts as the director
29 determines, with the consent of the commissioner, will best serve the interests of the
30 state. The preparation and issuance of the written finding by the director are subject to
31 the following:

1 (1) with the consent of the commissioner and subject to the director's
2 discretion, for a specific proposed disposal of available land, resources, or property, or
3 of an interest in them, the director, in the written finding,

4 (A) shall establish the scope of the administrative review on
5 which the director's determination is based, and the scope of the written
6 finding supporting that determination; the scope of the administrative review
7 and finding may address only reasonably foreseeable, significant effects of the
8 uses proposed to be authorized by the disposal;

9 (B) may limit the scope of an administrative review and finding
10 for a proposed disposal to

11 (i) applicable statutes and regulations;

12 (ii) the facts pertaining to the land, resources, or
13 property, or interest in them, that the director finds are material to the
14 determination and that are known to the director or knowledge of which
15 is made available to the director during the administrative review; and

16 (iii) issues that, based on the statutes and regulations
17 referred to in (i) of this subparagraph, on the facts as described in (ii) of
18 this subparagraph, and on the nature of the uses sought to be authorized
19 by the disposal, the director finds are material to the determination of
20 whether the proposed disposal will best serve the interests of the state;
21 and

22 (C) may, if the project for which the proposed disposal is
23 sought is a multiphased development, limit the scope of an administrative
24 review and finding for the proposed disposal to the applicable statutes and
25 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
26 pertain solely to the disposal phase of the project when

27 (i) the only uses to be authorized by the proposed
28 disposal are part of that phase;

29 (ii) the disposal is a disposal of oil and gas, or of gas
30 only, and, before the next phase of the project may proceed, public
31 notice and the opportunity to comment are provided under regulations

1 adopted by the department [UNLESS THE PROJECT IS SUBJECT
2 TO A CONSISTENCY REVIEW UNDER AS 46.40 AND PUBLIC
3 NOTICE AND THE OPPORTUNITY TO COMMENT ARE
4 PROVIDED UNDER AS 46.40.096(c)];

5 (iii) the department's approval is required before the
6 next phase of the project may proceed; and

7 (iv) the department describes its reasons for a decision
8 to phase;

9 (2) the director shall discuss in the written finding prepared and issued
10 under this subsection the reasons that each of the following was not material to the
11 director's determination that the interests of the state will be best served:

12 (A) facts pertaining to the land, resources, or property, or an
13 interest in them other than those that the director finds material under (1)(B)(ii)
14 of this subsection; and

15 (B) issues based on the statutes and regulations referred to in
16 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
17 subsection;

18 (3) a written finding for an oil and gas lease sale or gas only lease sale
19 under AS 38.05.180 is subject to (g) of this section;

20 (4) a contract for the sale, lease, or other disposal of available land or
21 an interest in land is not legally binding on the state until the commissioner approves
22 the contract, but if the appraised value is not greater than \$50,000 in the case of the
23 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
24 interest in land, the director may execute the contract without the approval of the
25 commissioner;

26 (5) public notice requirements relating to the sale, lease, or other
27 disposal of available land or an interest in land for oil and gas, or for gas only,
28 proposed to be scheduled in the five-year oil and gas leasing program under
29 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

30 (A) before a public hearing, if held, or in any case not less than
31 180 days before the sale, lease, or other disposal of available land or an interest

1 in land, the director shall make available to the public a preliminary written
2 finding that states the scope of the review established under (1)(A) of this
3 subsection and includes the applicable statutes and regulations, the material
4 facts and issues in accordance with (1)(B) of this subsection, and information
5 required by (g) of this section, upon which the determination that the sale,
6 lease, or other disposal will serve the best interests of the state will be based;
7 the director shall provide opportunity for public comment on the preliminary
8 written finding for a period of not less than 60 days;

9 (B) after the public comment period for the preliminary written
10 finding and not less than 90 days before the sale, lease, or other disposal of
11 available land or an interest in land for oil and gas or for gas only, the director
12 shall make available to the public a final written finding that states the scope of
13 the review established under (1)(A) of this subsection and includes the
14 applicable statutes and regulations, the material facts and issues in accordance
15 with (1) of this subsection, and information required by (g) of this section,
16 upon which the determination that the sale, lease, or other disposal will serve
17 the best interests of the state is based;

18 (6) before a public hearing, if held, or in any case not less than 21 days
19 before the sale, lease, or other disposal of available land, property, resources, or
20 interests in them other than a sale, lease, or other disposal of available land or an
21 interest in land for oil and gas or for gas only under (5) of this subsection, the director
22 shall make available to the public a written finding that, in accordance with (1) of this
23 subsection, sets out the material facts and applicable statutes and regulations and any
24 other information required by statute or regulation to be considered upon which the
25 determination that the sale, lease, or other disposal will best serve the interests of the
26 state was based; however, a written finding is not required before the approval of

27 (A) a contract for a negotiated sale authorized under
28 AS 38.05.115;

29 (B) a lease of land for a shore fishery site under AS 38.05.082;

30 (C) a permit or other authorization revocable by the
31 commissioner;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(D) a mineral claim located under AS 38.05.195;

(E) a mineral lease issued under AS 38.05.205;

(F) an exempt oil and gas lease sale or gas only lease sale under AS 38.05.180(d) of acreage subject to a best interest finding issued within the previous 10 years or a reoffer oil and gas lease sale or gas only lease sale under AS 38.05.180(w) of acreage subject to a best interest finding issued within the previous 10 years, unless the commissioner determines that substantial new information has become available that justifies a supplement to the most recent best interest finding for the exempt oil and gas lease sale or gas only lease sale acreage and for the reoffer oil and gas lease sale or gas only lease sale acreage; however, for each oil and gas lease sale or gas only lease sale described in this subparagraph, the director shall call for comments from the public; the director's call for public comments must provide opportunity for public comment for a period of not less than 30 days; if the director determines that a supplement to the most recent best interest finding for the acreage is required under this subparagraph,

(i) the director shall issue the supplement to the best interest finding not later than 90 days before the sale;

(ii) not later than 45 days before the sale, the director shall issue a notice describing the interests to be offered, the location and time of the sale, and the terms and conditions of the sale; and

(iii) the supplement has the status of a final written best interest finding for purposes of (i) and (f) of this section;

(G) a surface use lease under AS 38.05.255;

(H) a permit, right-of-way, or easement under AS 38.05.850;

(7) the director shall include in

(A) a preliminary written finding, if required, a summary of agency and public comments, if any, obtained as a result of contacts with other agencies concerning a proposed disposal or as a result of informal efforts undertaken by the department to solicit public response to a proposed disposal, and the department's preliminary responses to those comments; and

1 (B) the final written finding a summary of agency and public
2 comments received and the department's responses to those comments.

3 * Sec. 6. AS 38.05.945(d) is amended to read:

4 (d) Notice at least 30 days before action under (a)(5) of this section shall be
5 given to appropriate

6 [(1)] regional fish and game councils established under AS 16.05.260

7 [; AND

8 (2) COASTAL RESOURCE SERVICE AREAS ORGANIZED
9 UNDER AS 46.40.110 - 46.40.210].

10 * Sec. 7. AS 41.17.900(d) is amended to read:

11 (d) Notwithstanding any other provision of this chapter, the state forester and
12 the commissioner may not employ the authority vested by this chapter so as to
13 duplicate or preempt the statutory authority of other state agencies to adopt regulations
14 or undertake other administrative actions governing resources, values, or activities on
15 forest land except for

16 [(1) REGULATIONS UNDER THE COASTAL MANAGEMENT
17 ACT; AND

18 (2)] regulations, if authorized by the commissioner of environmental
19 conservation, relating to control of nonpoint source pollution.

20 * Sec. 8. AS 41.21.492(b) is amended to read:

21 (b) Nothing in AS 41.21.491 - 41.21.495 affects the responsibilities of

22 (1) the Department of Fish and Game, the Board of Fisheries, or the
23 Board of Game under AS 16 and AS 41.99.010; or

24 (2) the Department of Environmental Conservation under AS 46.03 [;
25 OR

26 (3) STATE AGENCIES AND MUNICIPALITIES UNDER
27 AS 46.39.010 AND AS 46.40.100].

28 * Sec. 9. AS 41.21.504(b) is amended to read:

29 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicability of

30 (1) AS 41.99.010 and AS 16 regarding the responsibilities of the
31 Department of Fish and Game or the Board of Fisheries or the Board of Game; or

1 (2) AS 46.03 regarding the responsibilities of the Department of
2 Environmental Conservation [; OR

3 (3) AS 46.39.010 AND AS 46.40.100 REGARDING THE
4 RESPONSIBILITIES OF STATE AGENCIES AND MUNICIPALITIES].

5 * Sec. 10. AS 41.23.420(d) is amended to read:

6 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of

7 (1) the Department of Fish and Game, the Board of Fisheries, the
8 Board of Game, or the Department of Commerce, Community, and Economic
9 Development under AS 08.54, AS 16, or AS 41.99.010; or

10 (2) the Department of Environmental Conservation under AS 46.03 [;
11 OR

12 (3) STATE AGENCIES AND MUNICIPALITIES UNDER
13 AS 46.39.010 AND AS 46.40.100].

14 * Sec. 11. AS 44.33.788 is amended to read:

15 Sec. 44.33.788. Other planning powers. The department may accept and
16 expend grants from the federal government and other public or private sources, may
17 contract with reference to them, and may enter into contracts and exercise all other
18 powers necessary to carry out 44.33.782 - 44.33.788 [AS 44.33.781 - 44.33.788].

19 * Sec. 12. AS 44.33.790 is amended to read:

20 Sec. 44.33.790. Definition. In AS 44.33.782 - 44.33.790 [AS 44.33.781 -
21 44.33.790], "department" means the Department of Commerce, Community, and
22 Economic Development.

23 * Sec. 13. AS 44.33.844 is amended to read:

24 Sec. 44.33.844. Boundaries. The boundaries of an area studied shall conform
25 to the boundaries indicated in the request for the study under AS 44.33.842 unless the
26 commissioner, after a public hearing held in the area of the proposed study, determines
27 that the boundaries should be altered. In determining the boundaries of an area to be
28 studied, the commissioner shall consider

29 (1) the standards applicable to the incorporation of boroughs under
30 AS 29.05.031;

31 (2) boundaries of regional corporations established under 43 U.S.C.

1 1606;

2 (3) census divisions of the state used for the 1980 census; and

3 (4) boundaries of the regional educational attendance areas established
4 under AS 14.08.031 [; AND

5 (5) BOUNDARIES OF COASTAL RESOURCE SERVICE AREAS
6 ORGANIZED UNDER AS 46.40.110 - 46.40.210].

7 * **Sec. 14.** The uncodified law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA
8 2003, is amended to read:

9 (c) Notwithstanding any contrary provision of ch. 24, SLA 2003 [THIS ACT],
10 the repeal of the Alaska Coastal Policy Council enacted by sec. 44, ch. 24, SLA 2003
11 [OF THIS ACT], and the repeal of the Alaska Coastal Policy Council's duties in
12 AS 46.40.040, as amended by sec. 10, ch. 24, SLA 2003 [OF THIS ACT], a district
13 coastal management program, including its enforceable policies, approved by the
14 former Alaska Coastal Policy Council remains in effect for purposes of AS 46.39 and
15 AS 46.40 until January 1, 2007 [JULY 1, 2006], unless the Department of Natural
16 Resources disapproves or modifies all or part of the program before January 1, 2007
17 [JULY 1, 2006].

18 * **Sec. 15.** The uncodified law of the State of Alaska enacted in sec. 47(a), ch. 24, SLA
19 2003, is amended to read:

20 (a) Within six months [ONE YEAR] after review and approval of the
21 state's revised coastal management program by the National Oceanic and
22 Atmospheric Administration, Office of Ocean and Coastal Resource
23 Management, United States Department of Commerce, under 16 U.S.C. 1455 and
24 1457 (Coastal Zone Management Act of 1972) [THE EFFECTIVE DATE OF
25 REGULATIONS ADOPTED BY THE DEPARTMENT OF NATURAL
26 RESOURCES IMPLEMENTING CHANGES TO AS 46.40.010 - 46.40.090,
27 ENACTED BY SECS. 8 - 15 AND 44 OF THIS ACT, OR BY JULY 1, 2005,
28 WHICHEVER IS LATER], coastal resource districts shall review their existing
29 district coastal management program and submit to the Department of Natural
30 Resources for review and approval a revised district coastal management plan meeting
31 the requirements of AS 46.40 [, AS AMENDED BY THIS ACT,] and the

1 implementing regulations.

2 * Sec. 16. AS 41.17.900(e); AS 44.33.781; AS 46.39.010, 46.39.030, 46.39.040, 46.39.900;
3 AS 46.40.010, 46.40.020, 46.40.030, 46.40.040, 46.40.050, 46.40.060, 46.40.070, 46.40.090,
4 46.40.094, 46.40.096, 46.40.100, 46.40.110, 46.40.140, 46.40.150, 46.40.180, 46.40.190,
5 46.40.195, 46.40.205, and 46.40.210 are repealed.

6 * Sec. 17. The uncodified law of the State of Alaska enacted in sec. 49, ch. 24, SLA 2003,
7 is amended to read:

8 Sec. 49. Section 45, ch. 24, SLA 2003, [OF THIS ACT] takes effect March 1,
9 2006 [JULY 1, 2005].

10 * Sec. 18. Sections 1 - 13 and 16 of this Act take effect July 1, 2011. 2015

11 * Sec. 19. Except as provided in sec. 18 of this Act, this Act takes effect immediately under
12 AS 01.10.070(c).

CS FOR SENATE BILL NO. 102(RES)

"An Act relating to an extension for review and approval of revisions to the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 45, ch. 24, SLA 2003; and providing for an effective date."

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

* Section 1. The uncodified law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA 2003, is amended to read:

(c) Notwithstanding any contrary provision of ch. 24, SLA 2003 [THIS ACT], the repeal of the Alaska Coastal Policy Council enacted by sec. 44, ch. 24, SLA 2003 [OF THIS ACT], and the repeal of the Alaska Coastal Policy Council's duties in AS 46.40.040, as amended by sec. 10, ch. 24, SLA 2003 [OF THIS ACT], a district coastal management program, including its enforceable policies, approved by the former Alaska Coastal Policy Council remains in effect for purposes of AS 46.39 and AS 46.40 until January 1, 2007 [JULY 1, 2006], unless the Department of Natural Resources disapproves or modifies all or part of the program before January 1, 2007 [JULY 1, 2006].

* Sec. 2. The uncodified law of the State of Alaska enacted in sec. 47(a), ch. 24, SLA 2003, is amended to read:

(a) Within eighteen months [ONE YEAR] after the effective date of the regulations adopted by the Department of Natural Resources implementing changes to AS 46.40.010 - 46.40.090, enacted by secs. 8 - 15 and 44 of ch. 24, SLA 2003 [THIS ACT], or by January 1, 2006 [JULY 1, 2005], whichever is later, coastal resource districts shall review their existing district coastal management program and submit to the Department of Natural Resources for review and approval a revised district coastal management plan meeting the requirements of AS 46.40 [AS AMENDED BY THIS ACT,] and the implementing regulations.

* Sec. 3. The uncodified law of the State of Alaska enacted in sec. 49, ch. 24, SLA 2003, is amended to read:

Sec. 49. Section 45, ch. 24, SLA 2003 [OF THIS ACT], takes effect January 1, 2006 [JULY 1, 2005].

* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

EMERGENCY REGULATIONS: The need to adopt regulations consistent with this Act is declared an emergency, and the Department of Natural Resources shall proceed to adopt emergency conforming regulations to implement the provisions of this Act.

* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

Deleted: 4

the office shall submit the proposed amendment, the office's analysis and recommendation on the proposed amendment, and all timely comments to the commissioner.

(h) Within 15 days after the close of the comment period, the commissioner will act on the proposed amendment. The commissioner may adopt the recommendation of the office by reference. In the determination, the commissioner will

- (1) approve the amendment in whole or in part as a minor amendment;
- (2) approve the amendment so long as the district makes each change that the commissioner considers necessary for the amendment not to be treated as a significant amendment;
- (3) identify the amendment as a significant amendment and require that the amendment undergo the review set out in 11 AAC 114.305 - 11 AAC 114.335; or

(4) disapprove the amendment. (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.40.030	AS 46.40.070
	AS 46.39.030	AS 46.40.040	AS 46.40.180
	AS 46.39.040	AS 46.40.060	

11 AAC 114.345. Transition. (a) Notwithstanding another provision of 11 AAC 114.300 - 11 AAC 114.385, only this section and 11 AAC 114.350 - 11 AAC 114.360 govern the review procedures for amendments to an approved district plan in effect on July 1, 2004 that are required to satisfy sec. 47(a), ch 24, SLA 2003.

(b) District plan amendments under this section are limited to

- (1) a revision, addition, or deletion to the issues, goals, and objectives to meet 11 AAC 114.200, if the change improves clarity or specificity or reflects the district's current views;
- (2) a revision to the organization element to meet 11 AAC 114.210;
- (3) a revision, addition, or deletion to the resource inventory to meet 11 AAC 114.230;
- (4) a revision, addition, or deletion to the resource analysis to meet 11 AAC 114.240;
- (5) a revision, addition, or deletion to the uses, activities, and resources subject to the plan to meet 11 AAC 114.250;
- (6) a revision, addition, or deletion to the proper and improper uses and activities subject to the plan to meet 11 AAC 114.260;
- (7) a revision, addition, or deletion to an enforceable policy to meet 11 AAC 114.270;
- (8) a revision, addition, or deletion of a boundary map or description to meet 11 AAC 114.270(g);
- (9) a revision, addition, or deletion of
 - (A) a local ordinance; or
 - (B) a reference to a state or federal statute or regulation that is contained within an appendix of a district plan;
- (10) a revision, addition, or deletion to the implementation methods or authorities included in the district plan to meet 11 AAC 114.280;

(11) an alteration of a district's coastal zone boundary within the municipal corporate boundary if the district designates the initial biophysical coastal zone boundary, as provided in 11 AAC 114.220(b), as the final coastal zone boundary for any new areas.

(c) In developing plan amendments under this section, a district shall

(1) consult with state and federal agencies that have authority for the subject matter addressed in the district enforceable policies to be amended; this consultation must be coordinated with the office;

(2) develop draft plan amendments that meet the requirements of AS 46.40 and this chapter;

(3) provide at least a 21-day public review and comment period on the draft plan amendments and maintain a list of persons that provided comments;

(4) obtain a resolution of support for the changes from the coastal resources service area board for the district, municipal planning commission, or governing body, as applicable; and

(5) obtain a resolution of support for the changes from a city council or traditional village council, if the city or village, as applicable, is located within a coastal resource service area and is affected by the district plan amendments.

(d) No later than July 1, 2005, a district developing district plan amendments under this section shall submit a request to the office to review and approve those amendments. The request must include

(1) a complete draft of each plan amendment that has been prepared to meet the requirements of AS 46.40 and this chapter;

(2) documentation of the consultation with state and federal agencies under (c)(1) of this section;

(3) the resolution of support for the changes from the coastal resource service area board for the district, municipal planning commission, or governing body, as applicable, obtained under (c)(4) of this section;

(5) the resolution of support for the changes from a city council or traditional village council obtained under (c)(5) of this section, if the city or village, as applicable, is located within a coastal resource service area and is affected by the district plan amendments; and

(6) the list of parties that provided comments during the public review and comment period maintained under (c)(3) of this section.

(e) Within 30 days of receiving a request under (d) of this section, the office shall determine whether the request is complete and notify the district accordingly. If the request is not complete, the office shall inform the district what information or documentation is necessary to complete the request.

(f) Within 30 days of receiving the office's notification that a request under (d) of this section is incomplete, the district shall provide the office with the necessary information or documentation identified by the office.

(g) Within 60 days after receipt of a complete submission under (d) or (f) of this section, the office shall

(1) coordinate a plan amendment review of the request and any supporting material submitted by the district with state and federal agencies and any other district that has

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 189(CRA)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept: Affected: Natural Resources
 Title: Relating to District Coastal Management RDU: Resource Development
Programs Component: Alaska Coastal Management
 Sponsor: House State Affairs Program
 Requester: House C&RA Component No. 2680

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services		199.1	99.5			
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	199.1	99.5	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		199.1	99.5			
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	199.1	99.5	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 191 required the districts to have plans submitted by 6/30/2005, with the ACMP review process of those plans to be complete by 6/30/2006. Implementation of HB 189 extends the district submission deadline to one year after the State's revised coastal program is approved by NOAA. This fiscal note assumes NOAA approval by 1/1/2006, with the ACMP completion by 1/1/2008. Funding is available for existing staff through 6/30/2006, under the original plan. HB 189 will require us to retain 2-3 positions for the additional eighteen months, resulting in the fiscal note.

Prepared by: Randy Bates, Deputy Director Phone: 269-8429
 Division: Office of Project Management & Permitting Date/Time: 4/27/2005
 Approved by: Tom Irwin, Commissioner Date: 4/27/2005
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 189(CRA)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Coastal Management Programs RDU Comm Assist & Ec Dev (405)
 Component Community Advocacy
 Sponsor State Affairs
 Requester House Community & Regional Affairs Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 189 proposes an extension to the deadline coastal districts have to amend their plans, and would have no fiscal impact on the operations of the division.

Prepared by: Michael Black, Director Phone 907.269.4540
 Division Community Advocacy Date/Time 4/26/05 6:53 PM
 Approved by: Edgar Blatchford, Commissioner Date 4/26/2005
 Agency Commerce, Community, and Economic Development



LAWS OF ALASKA

2003

Source

CSHB 191(FIN) am

Chapter No.

AN ACT

Relating to the Alaska coastal management program and to policies and procedures for consistency reviews and the rendering of consistency determinations under that program; eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the Alaska coastal management program; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Enrolled HB 191

AN ACT

1 Relating to the Alaska coastal management program and to policies and procedures for
2 consistency reviews and the rendering of consistency determinations under that program;
3 eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the
4 Alaska coastal management program; and providing for an effective date.

5

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 **FINDINGS.** The legislature finds that

9 (1) the Alaska coastal management program (ACMP) is intended to function
10 with a minimum of delay and avoid regulatory confusion, costly litigation, and uncertainty
11 regarding the feasibility of new investment;

12 (2) there is a need to update and reform the existing statewide standards of the

1 ACMP so that they are clear and concise and provide needed predictability as to the
2 applicability, scope, and timing of the consistency review process under the program;

3 (3) there is a need to update and reform the district coastal management plans
4 under the ACMP so that the local enforceable policies within those plans are clear and
5 concise, provide greater uniformity in coastal management throughout the state, relate to
6 matters of local concern, and do not duplicate state and federal requirements;

7 (4) the state has chosen not to enact legislation similar to 42 U.S.C. 4321 -
8 4370f (National Environmental Policy Act of 1969, as amended) and, in furtherance of the
9 legislative findings expressed in sec. 1(7), ch. 38, SLA 1994, the ACMP is not intended to
10 take the place of such a program;

11 (5) to achieve these goals, statutory reform is needed; and

12 (6) to implement these needed reforms at the administrative level, it is in the
13 best interest of the state for the development and implementation of the ACMP to be
14 transferred from the Alaska Coastal Policy Council to the Department of Natural Resources.

15 * Sec. 2. AS 38.05.825(a) is amended to read:

16 (a) Unless the commissioner finds that the public interest in retaining state
17 ownership of the land clearly outweighs the municipality's interest in obtaining the
18 land, the commissioner shall convey to a municipality tide or submerged land
19 requested by the municipality that is occupied or suitable for occupation and
20 development if the

21 (1) land is within or contiguous to the boundaries of the municipality;

22 (2) use of the land would not unreasonably interfere with navigation or
23 public access;

24 (3) municipality has applied to the commissioner for conveyance of the
25 land under this section;

26 (4) land is not subject to a shore fisheries lease under AS 38.05.082,
27 or, if the land is subject to a shore fisheries lease, the commissioner determines it is in
28 the best interests of the state to convey the land;

29 (5) land is classified for waterfront development or for another use that
30 is consistent or compatible with the use proposed by the municipality, or the proposed
31 use of the land is consistent or compatible with a land use plan adopted by the

1 municipality or [,] the department [, OR THE ALASKA COASTAL POLICY
2 COUNCIL]; and

3 (6) land

4 (A) is required for the accomplishment of a public or private
5 development approved by the municipality;

6 (b) is the subject of a lease from the state to the municipality;

7 or

8 (C) has been approved for lease to the municipality.

9 * Sec. 3. AS 44.33.781 is amended to read:

10 **Sec. 44.33.781. Planning assistance for development and maintenance of**
11 **district coastal management plans [PROGRAMS].** The department shall conduct a
12 program of research, training, and technical assistance to coastal resource districts
13 necessary for the development, [AND] implementation, and maintenance of district
14 coastal management plans [PROGRAMS] under AS 46.40. The technical assistance
15 shall include the direct granting to the coastal resource districts of a portion of any
16 funds received by the state from the federal coastal zone management program, in
17 amounts to be individually determined for each coastal resource district by the
18 commissioner of community and economic development. State agencies shall assist
19 the department in carrying out the purposes of this section.

20 * Sec. 4. AS 44.62.800(1) is amended to read:

21 (1) "agency" means a department, an institution, or a division or other
22 administrative unit of the executive branch of state government authorized or required
23 by law to make regulations, except that "agency" does not include

24 (A) a board, [;] a commission; [;] a council, [EXCEPT THE
25 ALASKA COASTAL POLICY COUNCIL ESTABLISHED IN
26 AS 46.39.020;] an authority, [;] or a public corporation of the executive branch
27 of state government authorized or required by law to make regulations; or

28 (B) the Department of Corrections;

29 * Sec. 5. AS 46.39.010 is amended by adding a new subsection to read:

30 (c) The department may adopt regulations necessary to implement this
31 chapter.

1 * Sec. 6. AS 46.39.030 is amended to read:

2 **Sec. 46.39.030. Powers of the department [COUNCIL].** The department
3 [COUNCIL] may

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

7 (2) contract for necessary services;

8 (3) consult and cooperate with

9 (A) persons, organizations, and groups, public or private,
10 interested in, affected by, or concerned with coastal area planning and
11 management;

12 (B) agents and officials of the coastal resource districts of the
13 state, and federal and state agencies concerned with or having jurisdiction over
14 coastal planning and management;

15 (4) take any reasonable action necessary to carry out the provisions of
16 this chapter or AS 46.40 [AS 46.39.020 - 46.39.050].

17 * Sec. 7. AS 46.39.040 is amended to read:

18 **Sec. 46.39.040. Duties of the department [COUNCIL].** In conformity with
19 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the
20 department [COUNCIL] shall

21 (1) [THROUGH THE PUBLIC HEARING PROCESS AND THE
22 RECORDING OF THE MINUTES OF THE HEARINGS,] develop statewide
23 [GUIDELINES AND] standards for the Alaska coastal management program, and
24 criteria for the preparation [OF,] and approval of district coastal management
25 plans [APPROVE,] in accordance with AS 46.40 [, THE ALASKA COASTAL
26 MANAGEMENT PROGRAM];

27 (2) establish continuing coordination among state agencies to facilitate
28 the development and implementation of the Alaska coastal management program; in
29 carrying out its duties under this paragraph, the department [COUNCIL] shall initiate
30 an interagency program of comprehensive coastal resource planning for each
31 geographic region of the state [DESCRIBED IN AS 46.39.020(a)(1)];

1 (3) assure continued provision of data and information to coastal
2 resource districts to carry out their planning and management functions under the
3 program.

4 * Sec. 8. AS 46.40.010 is amended to read:

5 **Sec. 46.40.010. Development of Alaska coastal management program. (a)**

6 The department [ALASKA COASTAL POLICY COUNCIL ESTABLISHED IN
7 AS 46.39.020] shall approve, in accordance with this chapter, the Alaska coastal
8 management program.

9 (b) The department [COUNCIL] may approve the Alaska coastal
10 management program for a portion or portions of the coastal area before approving the
11 complete program under (a) of this section. Portions of the program approved under
12 this subsection shall be incorporated into the Alaska coastal management program.

13 (c) The Alaska coastal management program shall be reviewed by the
14 department [COUNCIL] and, when appropriate, revised to

15 (1) add newly approved district coastal management plans
16 [PROGRAMS], or revisions and amendments to the Alaska coastal management
17 program;

18 (2) integrate newly approved district coastal management plans
19 [PROGRAMS], or revisions and amendments of district coastal management plans
20 [PROGRAMS], with existing approved plans [PROGRAMS] and with plans
21 developed by state agencies;

22 (3) add new or revised state statutes, policies, regulations, or other
23 appropriate material;

24 (4) review the effectiveness of implementation of district coastal
25 management plans [PROGRAMS]; and

26 (5) consider new information acquired by the state and coastal resource
27 districts.

28 (d) All reviews and revisions shall be in accordance with the statewide
29 [GUIDELINES AND] standards and district plan criteria adopted [BY THE
30 COUNCIL] under AS 46.40.040.

31 * Sec. 9. AS 46.40.030 is amended to read:

1 **Sec. 46.40.030. Development of district coastal management plans**
2 **[PROGRAMS].** (a) Coastal resource districts shall develop and adopt district coastal
3 management plans [PROGRAMS] in accordance with the provisions of this chapter.
4 The plan [PROGRAM] adopted by a coastal resource district shall be based upon a
5 municipality's existing comprehensive plan or a new comprehensive resource use plan
6 or comprehensive statement of needs, policies, objectives, and standards governing the
7 use of resources within the coastal area of the district. The plan [PROGRAM] must
8 meet [BE CONSISTENT WITH] the statewide [GUIDELINES AND] standards and
9 district plan criteria adopted [BY THE COUNCIL] under AS 46.40.040 and must
10 include

11 (1) a delineation within the district of the boundaries of the coastal area
12 subject to the district coastal management plan [PROGRAM];

13 (2) a statement, list, or definition of the land and water uses and
14 activities subject to the district coastal management plan [PROGRAM];

15 (3) a statement of policies to be applied to the land and water uses
16 subject to the district coastal management plan [PROGRAM];

17 (4) [REGULATIONS, AS APPROPRIATE, TO BE APPLIED TO
18 THE LAND AND WATER USES SUBJECT TO THE DISTRICT COASTAL
19 MANAGEMENT PROGRAM;

20 (5) a description of the uses and activities that [WHICH] will be
21 considered proper and the uses and activities that [WHICH] will be considered
22 improper with respect to the land and water within the coastal area;

23 [(6) A SUMMARY OR STATEMENT OF THE POLICIES WHICH
24 WILL BE APPLIED AND THE PROCEDURES WHICH WILL BE USED TO
25 DETERMINE WHETHER SPECIFIC PROPOSALS FOR LAND OR WATER USES
26 OR ACTIVITIES SHALL BE ALLOWED;] and

27 (5) [(7)] a designation of, and the policies that [WHICH] will be
28 applied to the use of, areas within the coastal resource district that [WHICH] merit
29 special attention.

30 (b) In developing enforceable policies in its coastal management plan
31 [STATEMENTS OF POLICIES AND REGULATIONS] under (a) of this section, a

1 coastal resource district shall meet the requirements of AS 46.40.070 and may not
2 duplicate, restate, or incorporate by reference statutes and administrative regulations
3 adopted by state or federal agencies.

4 * Sec. 10. AS 46.40.040 is amended to read:

5 Sec. 46.40.040. Statewide standards and district plan criteria [DUTIES
6 OF THE ALASKA COASTAL POLICY COUNCIL]. Except as provided in (b)
7 of this section and AS 41.17. the department [THROUGH THE PUBLIC
8 HEARING PROCESS AND THE RECORDING OF THE MINUTES OF THE
9 HEARINGS, THE ALASKA COASTAL POLICY COUNCIL] shall

10 (1) by regulation, adopt under the provisions of AS 44.62
11 (Administrative Procedure Act) for the use of and application by coastal resource
12 districts and state agencies for carrying out their responsibilities under this chapter,
13 statewide [GUIDELINES AND] standards and district coastal management plan
14 criteria for

15 (A) identifying the boundaries of the coastal area subject to the
16 Alaska [DISTRICT] coastal management program;

17 (B) determining the land and water uses and activities subject
18 to the Alaska [DISTRICT] coastal management program;

19 (C) developing policies applicable to the land and water uses
20 subject to the Alaska [DISTRICT] coastal management program;

21 (D) developing regulations applicable to the land and water
22 uses subject to the Alaska [DISTRICT] coastal management program;

23 (E) developing policies and procedures to determine whether
24 specific proposals for the land and water uses or activities subject to the
25 Alaska [DISTRICT] coastal management program shall be allowed;

26 (F) designating and developing policies for the use of areas of
27 the coast that [WHICH] merit special attention; and

28 (G) measuring the progress of a coastal resource district in
29 meeting its responsibilities under this chapter;

30 (2) develop and maintain a program of technical and financial
31 assistance to aid coastal resource districts in the development and implementation of

1 district coastal management plans [PROGRAMS];

2 (3) undertake review and approval of district coastal management
3 plans [PROGRAMS] in accordance with this chapter;

4 (4) initiate a process for identifying and managing uses of state
5 concern within specific areas of the coast;

6 (5) develop procedures or guidelines for consultation and coordination
7 with federal agencies managing land or conducting activities potentially affecting the
8 coastal area of the state;

9 (6) by regulation, establish a consistency review and determination or
10 certification process that conforms to the requirements of AS 46.40.096.

11 * Sec. 11. AS 46.40.040 is amended by adding new subsections to read:

12 (b) AS 46.03, AS 46.04, AS 46.09, AS 46.14, and the regulations adopted
13 under those statutes constitute the exclusive enforceable policies of the Alaska coastal
14 management program for those purposes. For those purposes only,

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

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

27 (c) For a consistency review described in (b)(2) of this section, the
28 department, in addition to its review under AS 46.40.096 of all other enforceable
29 policies applicable to the project, shall coordinate with the Department of
30 Environmental Conservation and issue the Department of Environmental
31 Conservation's finding of whether the activity satisfies the requirements of the statutes

1 and regulations described in (b)(2) of this section.

2 * Sec. 12. AS 46.40.050 is repealed and reenacted to read:

3 **Sec. 46.40.050. Submission of district plans by coastal resource districts.**

4 (a) A coastal resource district must review and resubmit its coastal management plan
5 for reapproval every 10 years after its approval by the department under
6 AS 46.40.060.

7 (b) Within 30 months after certification of the organization of a new coastal
8 resource district, the coastal resource district shall complete and submit to the
9 department a proposed district coastal management plan. If, after receipt of a written
10 request for extension from the coastal resource district, the department considers an
11 extension proper, the department may grant an extension to a date that is within 54
12 months after certification of the results of the coastal resource district's organization.
13 A request under this subsection must include the reasons for the extension.

14 * Sec. 13. AS 46.40.060 is amended to read:

15 **Sec. 46.40.060. Review and approval by the department [COUNCIL].** (a)
16 If, upon submission of a district coastal management plan [PROGRAM] for approval,
17 the department [COUNCIL] finds that the plan meets [PROGRAM IS
18 SUBSTANTIALLY CONSISTENT WITH] the provisions of this chapter and the
19 statewide [GUIDELINES AND] standards and district plan criteria adopted by the
20 department [COUNCIL] and does not arbitrarily or unreasonably restrict or exclude
21 uses of state concern, the department [COUNCIL] may approve [GRANT
22 SUMMARY APPROVAL OF] the district coastal management plan [PROGRAM], or
23 may approve portions of the district plan that meet those requirements [PROGRAM
24 WHICH ARE CONSISTENT].

25 (b) If the department [COUNCIL] finds that a district coastal management
26 plan [PROGRAM] is not approvable or is approvable only in part under (a) of this
27 section, it shall direct that deficiencies in the plan [PROGRAM] submitted by the
28 coastal resource district be mediated. In mediating the deficiencies, the department
29 [COUNCIL] may call for one or more public hearings in the district. The department
30 [COUNCIL] shall meet with officials of the coastal resource district in order to resolve
31 differences.

1 (c) If, after mediation, the differences have not been resolved [TO THE
2 MUTUAL AGREEMENT OF THE COASTAL RESOURCE DISTRICT AND THE
3 COUNCIL, THE COUNCIL SHALL CALL FOR A PUBLIC HEARING AND
4 SHALL RESOLVE THE DIFFERENCES IN ACCORDANCE WITH AS 44.62
5 (ADMINISTRATIVE PROCEDURE ACT). AFTER A PUBLIC HEARING HELD
6 UNDER THIS SUBSECTION], the department [COUNCIL] shall enter findings
7 and, by order, may require

8 (1) that the district coastal management plan [PROGRAM] be
9 amended to satisfy [MAKE IT CONSISTENT WITH] the provisions of this chapter
10 or meet the statewide [GUIDELINES AND] standards and district plan criteria
11 adopted by the department [COUNCIL];

12 (2) that the district coastal management plan [PROGRAM] be revised
13 to accommodate a use of state concern; or

14 (3) any other action be taken by the coastal resource district as
15 appropriate.

16 (d) The superior courts of the state have jurisdiction to enforce orders of the
17 department [COUNCIL] entered under (c) of this section.

18 * Sec. 14. AS 46.40.070 is repealed and reenacted to read:

19 **Sec. 46.40.070. Requirements for department review and approval.** (a)

20 The department shall approve a district coastal management plan submitted for review
21 and approval if

22 (1) the district coastal management plan meets the requirements of this
23 chapter and the statewide standards and district plan criteria adopted by the
24 department; and

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

26 (A) are clear and concise as to the activities and persons
27 affected by the policies, and the requirements of the policies;

28 (B) use precise, prescriptive, and enforceable language; and

29 (C) do not address a matter regulated or authorized by state or
30 federal law unless the enforceable policies relate specifically to a matter of
31 local concern; for purposes of this subparagraph, "matter of local concern"

1 means a specific coastal use or resource within a defined portion of the
2 district's coastal zone, that is

- 3 (i) demonstrated as sensitive to development;
4 (ii) not adequately addressed by state or federal law;

5 and

6 (iii) of unique concern to the coastal resource district as
7 demonstrated by local usage or scientific evidence.

8 (b) A decision by the department under this section shall be given within 90
9 days after submission of the district coastal management plan to the department.

10 * Sec. 15. AS 46.40.090 is amended to read:

11 **Sec. 46.40.090. Implementation of district coastal management plans**
12 **[PROGRAMS].** (a) A district coastal management plan [PROGRAM] approved
13 under this chapter [BY THE COUNCIL AND THE LEGISLATURE] for a coastal
14 resource district that [WHICH] does not have and exercise zoning or other controls on
15 the use of resources within the coastal area shall be implemented by appropriate state
16 agencies as provided in AS 46.40.096. Implementation shall be in accordance with
17 the comprehensive use plan or the statement of needs, policies, objectives, and
18 standards adopted by the district.

19 (b) A coastal resource district that [WHICH] has and exercises zoning or
20 other controls on the use of resources within the coastal area shall implement its
21 district coastal management plan [PROGRAM]. Implementation shall be in
22 accordance with the comprehensive use plan or the statement of needs, policies,
23 objectives, and standards adopted by the district.

24 * Sec. 16. AS 46.40.094(a) is amended to read:

25 (a) The provisions of this section apply to a use or activity for which a
26 consistency determination is required if

27 (1) at the time the proposed use or activity is initiated, there is
28 insufficient information to evaluate and render a consistency determination for the
29 entirety of the proposed use or activity;

30 (2) the proposed use or activity is capable of proceeding in discrete
31 phases based upon developing information that was not available to the project

1 **applicant at the time of the previous** [OBTAINED IN THE COURSE OF A] phase;
2 and

3 (3) each subsequent phase of the proposed use or activity is subject to
4 discretion to implement alternative decisions based upon the developing information.

5 * **Sec. 17.** AS 46.40.096(a) is amended to read:

6 (a) The **department** [COUNCIL] shall, by regulation, establish a consistency
7 review and determination process that conforms to the requirements of this section.

8 * **Sec. 18.** AS 46.40.096(b) is amended to read:

9 (b) If a consistency review is not subject to AS 46.39.010 because the project
10 for which a consistency review is made requires a permit, lease, or authorization from
11 only one state **resource** agency, that state **resource** agency shall coordinate the
12 consistency review of the project. The state **resource** agency shall coordinate the
13 consistency review according to the requirements of the regulations adopted by the
14 **department** [COUNCIL] under this section.

15 * **Sec. 19.** AS 46.40.096(c) is amended to read:

16 (c) The regulations adopted by the **department** [COUNCIL] under this
17 section must include provisions for public notice and provide the opportunity for
18 public comment. The regulations adopted under this subsection may make
19 distinctions relating to notice based upon differences in project type, anticipated effect
20 of the project on coastal resources and uses, other state or federal notice requirements,
21 and time constraints. However, a notice given under this subsection must contain
22 sufficient information, expressed in commonly understood terms, to inform the public
23 of the nature of the proposed project for which a consistency determination is sought,
24 and must explain how the public may comment on the proposed project.

25 * **Sec. 20.** AS 46.40.096(d) is amended to read:

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

28 (1) request consistency review comments for the proposed project
29 from state resource agencies, affected coastal resource districts, and other interested
30 parties as determined by regulation adopted by the **department** [COUNCIL];

31 (2) prepare proposed consistency determinations;

1 (3) coordinate subsequent reviews of proposed consistency
2 determinations prepared under (2) of this subsection; a subsequent review of a
3 proposed consistency determination under this paragraph

4 (A) is limited to a review by the department [STATE
5 RESOURCE AGENCIES]; [AND]

6 (B) may occur only if requested by

7 (i) the project applicant;

8 (ii) a state resource agency; or

9 (iii) an affected coastal resource district; and

10 (C) shall be completed by the department within 45 days
11 after the initial request for subsequent review under this paragraph;

12 (4) render the final consistency determination and certification.

13 * Sec. 21. AS 46.40.096(g) is amended to read:

14 (g) The reviewing entity shall [MAY] exclude from the consistency review
15 and determination process for a project

16 (1) an activity that

17 (A) is authorized under a general or nationwide permit that has
18 previously been determined to be consistent with the Alaska [APPLICABLE]
19 coastal management program [PROGRAMS]; or

20 (B) is subject to authorization by the Department of
21 Environmental Conservation under the requirements described in
22 AS 46.40.040(b):

23 (2) activities excluded from a consistency review under AS 41.17;

24 and

25 (3) the issuance of an authorization or permit issued by the Alaska Oil
26 and Gas Conservation Commission.

27 * Sec. 22. AS 46.40.096 is amended by adding new subsections to read:

28 (i) For purposes of those activities of a proposed project that are subject to
29 (g)(1)(B) of this section, the consistency of those activities is determined by the
30 issuance of the applicable permits, certifications, approvals, and authorizations by the
31 Department of Environmental Conservation.

1 (j) Except as provided in AS 41.17, 16 U.S.C. 1456, and 15 C.F.R. Part 930, a
2 consistency review of a project under this section is triggered by an activity within the
3 areas described in (f) of this section that is subject to a state resource agency permit,
4 lease, authorization, approval, or certification.

5 (k) Except as provided in (g) of this section, AS 41.17, AS 46.40.040(b), and
6 AS 46.40.094, the scope of a consistency review of a project, once triggered under (j)
7 of this section, is limited to activities that are located within the areas described in (f)
8 of this section and that either are subject to a state resource agency permit, lease,
9 authorization, approval, or certification or are the subject of a coastal resource district
10 enforceable policy approved by the department under this chapter. The scope of a
11 consistency review subject to 16 U.S.C. 1456 is determined under 16 U.S.C. 1456 and
12 15 C.F.R. Part 930.

13 (l) The regulations adopted under (a) of this section apply, as authorized by 16
14 U.S.C. 1456(c), to

15 (1) activities within the coastal zone; and

16 (2) activities on federal land, including the federal outer continental
17 shelf, that would affect any land or water use or natural resource of the state's coastal
18 zone; for purposes of this paragraph, those activities consist of any activity on the
19 federal outer continental shelf and any activity on federal land that are within the
20 geographic boundaries of the state's coastal zone notwithstanding the exclusion of
21 federal land in 16 U.S.C. 1453(1).

22 (m) As part of the regulations adopted under (a) of this section, the department
23 shall establish a list of permits, certifications, leases, approvals, and authorizations
24 issued by a state resource or federal agency that will trigger a consistency review
25 under (j) of this section. In addition, the department shall establish in regulation
26 categories and descriptions of uses and activities that, for purposes of evaluating
27 consistency with the Alaska coastal management program, are determined to be
28 categorically consistent or generally consistent after the inclusion of standard
29 alternative measures. These categories of uses and activities must be as broad as
30 possible so as to minimize the number of projects that must undergo an individualized
31 consistency review under this section.

1 (n) Except as provided in (o) of this section, a consistency review under this
2 section shall be completed within 90 days after the receipt of a complete application
3 by the state. If a consistency review is not completed by the time specified in this
4 subsection, the activity subject to review is conclusively presumed consistent.

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

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

8 (2) are suspended

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

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

15 (C) during the period of time a consistency review is
16 undergoing a subsequent review under (d)(3) of this section.

17 (p) A consistency review and determination for those activities of a project not
18 excluded under (g) of this section may not be delayed or withheld pending issuance of
19 the permits, certifications, approvals, and authorizations referred to in (g) of this
20 section but shall proceed regardless of the status of those permits, certifications,
21 approvals, and authorizations.

22 * Sec. 23. AS 46.40.100(a) is amended to read:

23 (a) As provided in AS 46.40.090 and 46.40.096, municipalities
24 [MUNICIPALITIES] and state resource agencies shall administer land and water use
25 regulations or controls in conformity with district coastal management plans
26 [PROGRAMS] approved under this chapter [BY THE COUNCIL] and in effect.

27 * Sec. 24. AS 46.40.100(b) is amended to read:

28 (b) A party that is authorized under (g) of this section may file a petition
29 showing that a district coastal management plan [PROGRAM] is not being
30 implemented. A petition filed under this subsection may not seek review of a
31 proposed or final consistency determination regarding a specific project. On receipt of

1 a petition, the department [COUNCIL], after giving public notice in the manner
2 required by (f) of this section, shall convene a hearing to consider the matter. A
3 hearing called under this subsection shall be held in accordance with regulations
4 adopted under this chapter [BY THE COUNCIL]. After hearing, the department
5 [COUNCIL] may order that the coastal resource district or a state resource agency
6 take any action with respect to future implementation of the district coastal
7 management plan [PROGRAM] that the department [COUNCIL] considers
8 necessary, except that the department [COUNCIL] may not order that the coastal
9 resource district or a state agency take any action with respect to a proposed or final
10 consistency determination that has been issued.

11 * Sec. 25. AS 46.40.100(c) is amended to read:

12 (c) In determining whether an approved district coastal management plan
13 [PROGRAM] is being implemented by a coastal resource district that exercises zoning
14 authority or controls on the use of resources within the coastal area or by a state
15 resource agency, the department [COUNCIL] shall find in favor of the district or the
16 state resource agency, unless the department [COUNCIL] finds a pattern of
17 nonimplementation.

18 * Sec. 26. AS 46.40.100(e) is amended to read:

19 (e) The superior courts of the state have jurisdiction to enforce lawful orders
20 of the department under this chapter [COUNCIL].

21 * Sec. 27. AS 46.40.100(f) is amended to read:

22 (f) Upon receipt of a petition under (b) of this section, the department
23 [COUNCIL] shall give notice of the hearing at least 10 days before the scheduled date
24 of the hearing. The notice must

25 (1) contain sufficient information in commonly understood terms to
26 inform the public of the nature of the petition; and

27 (2) indicate the manner in which the public may comment on the
28 petition.

29 * Sec. 28. AS 46.40.100(h) is amended to read:

30 (h) If the department [COUNCIL] finds a pattern of nonimplementation
31 under (c) of this section, the department [COUNCIL] may order a coastal resource

1 district or a state resource agency to take action with respect to future implementation
2 of the district coastal management plan [PROGRAM] that the department
3 [COUNCIL] considers necessary to implement the district coastal management plan
4 [PROGRAM]. The department's [COUNCIL'S] determination under (c) of this
5 section and any order issued under this subsection shall be considered a final
6 administrative order for purposes of judicial review under AS 44.62.560.

7 * **Sec. 29.** AS 46.40.110 is repealed and reenacted to read:

8 **Sec. 46.40.110. Authority in the unorganized borough.** A coastal resource
9 service area in the unorganized borough organized under AS 29.03.020 and
10 AS 46.40.110 - 46.40.180 before the effective date of this bill section shall exercise
11 those authorities and perform those duties required under this chapter.

12 * **Sec. 30.** AS 46.40.140(a) is amended to read:

13 (a) Each coastal resource service area [, UPON ORGANIZATION,] shall have
14 an elected board representing the population of the service area. The board shall have
15 the powers and duties and perform the functions prescribed for or required of coastal
16 resource districts.

17 * **Sec. 31.** AS 46.40.140(d) is amended to read:

18 (d) The term of office of a member of a coastal resource service area board is
19 three years [, EXCEPT THAT THE TERMS OF THE MEMBERS OF THE FIRST
20 BOARD ELECTED AFTER ORGANIZATION OF A COASTAL RESOURCE
21 SERVICE AREA SHALL BE DETERMINED BY LOT, WITH TWO MEMBERS
22 SERVING ONE-YEAR TERMS, TWO MEMBERS SERVING TWO-YEAR
23 TERMS, AND THREE MEMBERS SERVING THREE-YEAR TERMS]. Members
24 serve until their successors are elected and have qualified. This section does not
25 prohibit the reelection of a board member.

26 * **Sec. 32.** AS 46.40.140(e) is amended to read:

27 (e) The lieutenant governor shall provide for the election of the members of
28 coastal resource service area boards. [THE FIRST ELECTION OF BOARD
29 MEMBERS SHALL OCCUR AT THE SAME TIME AS THE ORGANIZATION
30 ELECTION UNDER AS 46.40.130(b)].

31 * **Sec. 33.** AS 46.40.140(f) is amended to read:

1 (f) Election [EXCEPT FOR THE FIRST ELECTION] of members of coastal
2 resource service area boards [, ELECTIONS] shall be held annually on the date of
3 election of members of regional educational attendance area boards under
4 AS 14.08.071(b). [FOR AN ELECTION UNDER THIS SUBSECTION OR UNDER
5 (e) OF THIS SECTION, A NEWLY ELECTED BOARD MEMBER TAKES
6 OFFICE AT THE FIRST COASTAL RESOURCE SERVICE AREA BOARD
7 MEETING AFTER CERTIFICATION OF THE ELECTION.] If no candidate files
8 for election to a seat on the coastal resource service area board, the seat is considered
9 vacant at the time a newly elected member would have taken office.

10 * Sec. 34. AS 46.40.150 is amended to read:

11 Sec. 46.40.150. Elections in coastal resource service areas. Elections
12 [ORGANIZATION ELECTIONS] under AS 46.40.110 - 46.40.180 [AS 46.40.130
13 AND OTHER ELECTIONS, INCLUDING RECALL ELECTIONS CONDUCTED
14 UNDER AS 46.40.140,] shall be administered by the lieutenant governor in the
15 general manner provided in AS 15 (Election Code). In addition, the lieutenant
16 governor may adopt regulations necessary to the conduct of coastal resource service
17 area board elections. The state shall pay all election costs.

18 * Sec. 35. AS 46.40.180(a) is amended to read:

19 (a) Before adoption by a coastal resource service area board, [OR BY THE
20 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT UNDER
21 AS 46.40.170,] a district coastal management plan [PROGRAM] shall be submitted
22 for review to each city or village within the coastal resource service area. The council
23 of a city or traditional village council shall consider the plan [PROGRAM] submitted
24 for review. Within 60 days of submission, the council of a city or traditional village
25 council shall either approve the plan [PROGRAM] or enter objections to all or any
26 portion of the plan [PROGRAM].

27 * Sec. 36. AS 46.40.180(b) is amended to read:

28 (b) If a city or village within a coastal resource service area fails to approve a
29 portion of the district coastal management plan [PROGRAM] prepared and submitted
30 for approval under (a) of this section, the governing body shall advise the coastal
31 resource service area board [OR THE DEPARTMENT, AS APPLICABLE,] of its

1 objections to the proposed plan [PROGRAM] and suggest alternative elements or
2 components for inclusion in the district coastal management plan [PROGRAM]. New
3 matter submitted by a city or village that meets [WHICH IS SUBSTANTIALLY
4 CONSISTENT WITH] the statewide [GUIDELINES AND] standards and district
5 plan criteria adopted under this chapter [BY THE COUNCIL] shall be accepted
6 and the district coastal management plan [PROGRAM] modified accordingly. If a
7 city or village fails to provide objections and suggested alternatives within the time
8 limits established in this section, the coastal resource service area board [OR THE
9 DEPARTMENT, AS APPLICABLE,] may adopt the district coastal management
10 plan [PROGRAM] as initially offered.

11 * **Sec. 37.** AS 46.40.180(c) is amended to read:

12 (c) Objection by a city council under (b) of this section is limited to objection
13 to elements of the plan [PROGRAM] affecting resources or the use of resources
14 within the corporate limits of the city. Objection by a traditional village council under
15 (b) of this section is limited to objection to elements of the plan [PROGRAM]
16 affecting resources or the use of resources within the village or within two miles of the
17 village.

18 * **Sec. 38.** AS 46.40 is amended by adding a new section to read:

19 **Sec. 46.40.195. Construction with other laws.** Nothing in this chapter shall
20 be construed to

21 (1) diminish state jurisdiction, responsibility, or rights in the field of
22 planning, development, or control of land or water resources, submerged land, or
23 navigable water;

24 (2) affect in any way any state requirement imposed under a federal
25 authorization or federal waiver of sovereign immunity; or

26 (3) diminish the zoning or planning authority of municipalities under
27 AS 29.

28 * **Sec. 39.** AS 46.40.210(2) is amended to read:

29 (2) "coastal resource district" means each of the following that
30 contains a portion of the coastal area of the state:

31 (A) unified municipalities;

1 (B) organized boroughs of any class that exercise planning and
2 zoning authority;

3 (C) home rule and first class cities of the unorganized borough
4 or within boroughs that do not exercise planning and zoning authority;

5 (D) second class cities of the unorganized borough, or within
6 boroughs that do not exercise planning and zoning authority, that have
7 established a planning commission, and that, in the opinion of the
8 commissioner of community and economic development, have the capability
9 of preparing and implementing a comprehensive district coastal management
10 plan [PROGRAM] under AS 46.40.030;

11 (E) coastal resource service areas established and organized
12 under AS 29.03.020 and AS 46.40.110 - 46.40.180;

13 * Sec. 40. AS 46.40.210(3) is amended to read:

14 (3) "consistency review" means the evaluation of a proposed project,
15 the scope of which is determined under AS 46.40.094 and 46.40.096, against the
16 statewide standards adopted [BY THE COUNCIL] under AS 46.40.040 for those
17 evaluations and the enforceable policies in an applicable [A] district coastal
18 management plan [PROGRAM] approved [BY THE COUNCIL] under
19 AS 46.40.060;

20 * Sec. 41. AS 46.40.210(5) is amended to read:

21 (5) "department" means the Department of Natural Resources
22 [COMMUNITY AND ECONOMIC DEVELOPMENT];

23 * Sec. 42. AS 46.40.210(8) is amended to read:

24 (8) "uses of state concern" means those land and water uses that
25 [WHICH] would significantly affect the long-term public interest; "uses of state
26 concern" [THESE USES, SUBJECT TO COUNCIL DEFINITION OF THEIR
27 EXTENT,] include

28 (A) uses of national interest, including the use of resources for
29 the siting of ports and major facilities that [WHICH] contribute to meeting
30 national energy needs, construction and maintenance of navigational facilities
31 and systems, resource development of federal land, and national defense and

1 related security facilities that are dependent upon coastal locations;

2 (B) uses of more than local concern, including those land and
3 water uses that [WHICH] confer significant environmental, social, cultural, or
4 economic benefits or burdens beyond a single coastal resource district;

5 (C) the siting of major energy facilities, activities pursuant to a
6 state or federal oil and gas lease, or large-scale industrial or commercial
7 development activities that [WHICH] are dependent on a coastal location and
8 that [WHICH], because of their magnitude or the magnitude of their effect on
9 the economy of the state or the surrounding area, are reasonably likely to
10 present issues of more than local significance;

11 (D) facilities serving statewide or interregional transportation
12 and communication needs; and

13 (E) uses in areas established as state parks or recreational areas
14 under AS 41.21 or as state game refuges, game sanctuarie or critical habitat
15 areas under AS 16.20;

16 * Sec. 43. AS 46.40.210 is amended by adding new paragraphs to read:

17 (10) "coastal use or resource" means a land or water use or natural
18 resource of the coastal zone; "coastal use or resource" includes subsistence, recreation,
19 public access, fishing, historic or archaeological resources, geophysical resources, and
20 biological or physical resources found in the coastal zone on a regular or cyclical
21 basis;

22 (11) "coastal zone" means the coastal water including land within and
23 under that water, and adjacent shoreland, including the water within and under that
24 shoreland, within the boundaries approved by the former Alaska Coastal Policy
25 Council and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465
26 (Coastal Zone Management Act of 1972, as amended); "coastal zone" includes areas
27 added as a result of any boundary changes approved by the department and by the
28 United States Secretary of Commerce under 16 U.S.C. 1451 - 1465; "coastal zone"
29 does not include

30 (A) those lands excluded under 16 U.S.C. 1453(1); or

31 (B) areas deleted as a result of any boundary changes by the

1 department in conformance with 16 U.S.C. 1451 - 1465;

2 (12) "district coastal management plan" means a plan developed by a
3 coastal resource district, including enforceable policies of that plan, setting out
4 policies and standards to guide public and private uses of land and water within that
5 district and approved by the department as meeting the requirements of this chapter
6 and the regulations adopted under this chapter;

7 (13) "enforceable policy" means a policy established by this chapter or
8 approved by the department as a legally binding policy of the Alaska coastal
9 management program applicable to public and private activities;

10 (14) "project" means all activities that will be part of a proposed
11 development.

12 * Sec. 44. AS 38.05.037(b)(2); AS 39.50.200(b)(38); AS 44.62.800(2)(B); AS 46.39.020,
13 46.39.050; AS 46.40.080, 46.40.120, 46.40.130, 46.40.140(c), 46.40.160, 46.40.170,
14 46.40.200, and 46.40.210(4) are repealed.

15 * Sec. 45. The uncoded law of the State of Alaska is amended by adding a new section to
16 read:

17 ANNULMENT OF CERTAIN REGULATIONS. The following regulations are
18 annulled:

19 (1) 6 AAC 80.010 - 6 AAC 80.900;

20 (2) 6 AAC 85.020 - 6 AAC 85.900.

21 * Sec. 46. The uncoded law of the State of Alaska is amended by adding a new section to
22 read:

23 TRANSITION: GENERAL PROVISIONS. (a) The Department of Natural
24 Resources shall adopt regulations under AS 44.62 (Administrative Procedure Act)
25 implementing this Act in order that the regulations are effective no later than July 1, 2004.

26 (b) Until sec. 45 of this Act takes effect or the regulations attorney removes the
27 regulations under sec. 48(c) of this Act, whichever occurs first, regulations adopted to
28 implement the Alaska coastal management program at 6 AAC 80 and 6 AAC 85 remain in
29 effect and, notwithstanding any contrary provision of this Act, the Department of Natural
30 Resources may implement and enforce the regulations.

31 (c) Notwithstanding any contrary provision of this Act, the repeal of the Alaska

1 Coastal Policy Council enacted by sec. 44 of this Act, and the repeal of the Alaska Coastal
2 Policy Council's duties in AS 46.40.040, as amended by sec. 10 of this Act, a district coastal
3 management program, including its enforceable policies, approved by the former Alaska
4 Coastal Policy Council remains in effect for purposes of AS 46.39 and AS 46.40 until July 1,
5 2006, unless the Department of Natural Resources disapproves or modifies all or part of the
6 program before July 1, 2006.

7 (d) Consistency reviews pending on the day before the effective date of secs. 17 - 22
8 of this Act and initiated under the provisions of AS 46.40.096, as that section existed before
9 the changes made by secs. 17 - 22 of this Act, may, at the applicant's option exercised no
10 more than 60 days after the effective date of secs. 17 - 22 of this Act, be continued and
11 completed under the procedures and enforceable policies under the provisions of AS 46.39
12 and AS 46.40 as they existed before the changes made by this Act.

13 (e) Except as provided in (d) of this section, contracts, rights, liabilities, and
14 obligations created by or under a law repealed by this Act remain in effect notwithstanding
15 this Act's taking effect.

16 * Sec. 47. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 TRANSITION AND APPLICABILITY OF CERTAIN PROVISIONS:
19 SUBMISSION OF DISTRICT PLANS BY COASTAL RESOURCE DISTRICTS FOR
20 INITIAL IMPLEMENTATION OF THIS ACT. (a) Within one year after the effective date
21 of regulations adopted by the Department of Natural Resources implementing changes to
22 AS 46.40.010 - 46.40.090, enacted by secs. 8 - 15 and 44 of this Act, or by July 1, 2005,
23 whichever is later, coastal resource districts shall review their existing district coastal
24 management program and submit to the Department of Natural Resources for review and
25 approval a revised district coastal management plan meeting the requirements of AS 46.40, as
26 amended by this Act, and the implementing regulations.

27 (b) Upon request, the Department of Natural Resources shall consult with coastal
28 resource districts to identify plan amendments that will meet the standards and guidelines
29 established under this Act.

30 (c) AS 46.40.070(b), enacted by sec. 14 of this Act, does not apply to a revised
31 district coastal management plan submitted under (a) of this section.

1 * **Sec. 48.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **REVISOR'S INSTRUCTIONS.** (a) The revisor of statutes is instructed to

4 (1) change the heading of

5 (A) AS 46.39 from "Coastal Management Administration; Alaska
6 Coastal Policy Council" to "Coastal Management Administration";

7 (B) article 2 of AS 46.40 from "Coastal Management Programs in the
8 Unorganized Borough" to "Coastal Management Plans in the Unorganized Borough";

9 (C) AS 46.40.180 from "Approval of programs in coastal resource
10 service areas" to "Approval of plans in coastal resource service areas";

11 (2) delete the heading of article 2 of AS 46.39 and renumber article 3 of
12 AS 46.39 as article 2.

13 (b) Wherever in the Alaska Administrative Code the terms "Alaska Coastal Policy
14 Council" or "Coastal Policy Council" are used, or the term "council" is used to refer to the
15 Alaska Coastal Policy Council, the regulations attorney is instructed to change those terms to
16 read as "Department of Natural Resources," "DNR," "department" or "commissioner of
17 natural resources" when to do so would be consistent with AS 44.62.125(b)(6) and the
18 changes made by this Act.

19 (c) If regulations adopted by the Department of Natural Resources under sec. 46 of
20 this Act take effect before the effective date of sec. 45 of this Act, the regulations attorney is
21 instructed to remove from the Alaska Administrative Code the regulations listed in sec. 45 of
22 this Act, as being obsolete. The lieutenant governor shall notify the regulations attorney of
23 the effective date of the regulations adopted by the Department of Natural Resources under
24 sec. 46 of this Act.

25 * **Sec. 49.** Section 45 of this Act takes effect July 1, 2005.

26 * **Sec. 50.** Except as provided in sec. 49 of this Act, this Act takes effect immediately under
27 AS 01.10.070(c).

HB

191

Alaska State Legislature

Juneau
State Capitol Bldg., Rm. 434
Juneau, AK 99801-1182
Phone (907) 465-4976
Fax (907) 465-3883
Toll Free 866-465-4976



Fairbanks
119 N Cushman, Ste 213
Fairbanks, AK 99701
Phone (907) 452-6084
Fax (907) 452-6096

Representative Mike Kelly

House District 7

SPONSOR STATEMENT

HB 191

(WO 24-LS0461\G)

"An Act relating to defined contribution systems for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

HB 191 is the last of three bills (HB 170 & HB177) introduced by the sponsor in response to the growing unfunded liability in our state retirement systems.

HB 191 creates new tiers for the Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS). These new tiers involve a substantial shift in the structure of the retirement systems, from a Defined Benefit (DB) model to that of a Defined Contribution (DC).

In drafting this bill, the sponsor used the Tier Redesign Plan-Alternative 2 proposal¹, commissioned by the Division of Retirement and Benefits, with a notable exception. Unlike the Alternative 2 option wherein members are 100% vested at the time of entering the system, HB 191 creates a graduated vesting system over the first five years of employment.

HB 191 follows a growing trend of public and private pension plans converting from DB to DC plans for compelling reasons. A 2000 report² offers some historical background of this trend in the public sector. Since the mid 1990s, government entities are increasingly moving to full or partial DC plans as a means to provide flexibility and mitigate the risk of significant unfunded liability. In 1997, Michigan was the first state to move from a DB plan to a pure DC plan.

In drafting HB 191, the sponsor has identified a number of advantages in adopting a DC plan:

- Contribution amount is easily determined, easy to understand and usually constant from year to year, in the absence of DC amount changes.

¹ Mercer Human Resource Consulting. "State of Alaska: PERS & TRS Tier Redesign Study". 2004.

² "Texas House of Representatives: Interim Report 2000", p. 26

- DC plans often provide more income for non-career employees. In the new millennium, employees will be expected to change employers and careers more often than in the past.
- Account balances may be easily transferred to a terminating employee's next retirement plan hence the plans tend to be very portable.
- Employer and Employee contributions are allocated to individual accounts. Employees can easily identify a specific dollar amount that is earmarked for them.
- Pension benefits are continuously fully funded.
- Cost of administration is generally less than for a defined benefit plan.

We believe it is essential for the State of Alaska and other government employers in our state to be able to attract and retain high quality teachers and employees in order to provide essential services. A competitive retirement system is one tool to accomplish that objective. We believe a DC plan for new employees coupled with retirement health benefits and competitive wages will provide the best all-around method for maintaining a quality workforce in the future. It is essential that the Legislature take immediate action to address the \$5.6 billion unfunded liability of the PERS and TRS systems. A DC plan will help protect Alaskans from such liabilities in the future. A DC plan for new hires will not affect the retirement benefits of existing employees, but will have a positive impact by helping to reduce the unfunded liability over time.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 14, 2005

SUBJECT: Sectional Summary of HB 191 (Work Order No. 24-LS0461\G)

TO: Representative Mike Kelly
Attn: Heath Hilyard

FROM: Barbara R. Craver *BRC*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. This new section lists the sections in AS 14.25 (the Teachers' Retirement System or TRS) which only apply to teachers first hired before July 1, 2005.

Section 2. This new section adds a new article to AS 14.25 (TRS), which describe the retirement benefits that only apply to teachers first hired on or after July 1, 2005 (TRS Tier 3). The new statutes within this bill section are:

Sec. 14.25.310. Listing of the sections which apply to TRS Tier 3.

Sec. 14.25.320. This retirement system is a defined contribution system intended to qualify under the IRS as a qualified retirement plan.

Sec. 14.25.330. Provides the purpose of the retirement plan and the effective date.

Sec. 14.25.340. Members shall contribute 10 percent of base salary.

Sec. 14.25.350. Employers shall contribute a percentage of each member's base salary based on the years of service of a member, with a 100 percent contribution for all members with five or more years of service.

Sec. 14.25.360. Employers to transmit contributions to the retirement plan.

Sec. 14.25.370. Members are fully vested in all member and employer contributions as soon as those contributions are made.

Sec. 14.25.380. The distribution rules for the member's accumulated balance in the retirement plan.

Sec. 14.25.390. Terminated members may take the member's balance out of the plan, subject to limitations for married members (spouses must consent to the refund.)

SECTIONAL

Sec. 14.25.400. Allows for "qualified domestic relations orders" (QDROs) which may require the member's account to be divided as part of a divorce decree.

Sec. 14.25.410. Provides for members to transfer a distribution from the plan into another qualified plan.

Sec. 14.25.420. Requires the plan to begin distribution to members no later than the member's "required beginning date." Distribution must begin due to various circumstances, such as death of the member, date of a distribution election, date of retirement or the member attaining 70 1/2 years of age.

Sec. 14.25.430. Provides for how beneficiaries of the member's account are to be determined if the member dies.

Sec. 14.25.440. The retirement plan must make adjustments to the members' account as provided in this section.

Sec. 14.25.450. Adjustments required under AS 14.25.440 may be waived by the board upon an appeal by a member or beneficiary.

Sec. 14.25.495. Definitions for Tier 3 sections.

Section 3. Amends AS 14.40.671 which concerns University of Alaska teachers and the transfer of assets from a state retirement program into the University's program to include references to TRS Tier 3 and the new Public Employees' Retirement System Tier 4 (PERS Tier 4.)

Section 4. This new section lists the sections in AS 39.35 (the Public Employees' Retirement System or PERS), which only apply to members first hired before July 1, 2005.

Section 5. This new section adds a new article to AS 39.35 (PERS), which describe the retirement benefits that only apply to members first hired on or after July 1, 2005 (PERS Tier 4). The new statutes within this bill section are:

Sec. 39.35.700. The sections which apply only to PERS Tier 4.

Sec. 39.35.710. This retirement system is a defined contribution system intended to qualify under the IRS as a qualified retirement plan.

Sec. 39.35.720. Members serving as peace officers or fire fighters shall contribute 8.5 percent of compensation, and others shall contribute eight percent of compensation.

Sec. 39.35.730. Employers shall contribute a percentage of each member's base salary based on the years of service of a member, with a 100 percent contribution for all members with five or more years of service.

Sec. 39.35.740. Members are fully vested in all member and employer contributions as soon as those contributions are made.

Sec. 39.35.750. The distribution rules for the member's accumulated balance in the retirement plan.

Sec. 39.35.760. Terminated members may take the member's balance out of the plan, subject to limitations for married members (spouses must consent to the refund.)

Representative Mike Kelly

March 14, 2005

Page 3

Sec. 39.35.770. Allows for "qualified domestic relations orders" (QDROs) which may require the member's account to be divided as part of a divorce decree.

Sec. 39.35.780. Provides for members to transfer a distribution from the plan into another qualified plan (rollovers).

Sec. 39.35.790. Requires the plan to begin distribution to members no later than the member's "required beginning date." Distribution must begin due to various circumstances, such as death of the member, date of a distribution election, date of retirement or the member attaining 70 1/2 years of age.

Sec. 39.35.800. Provides for how beneficiaries of the member's account are to be determined if the member dies.

Sec. 39.35.810. The retirement plan must make adjustments to the members' account as provided in this section.

Sec. 39.35.820. Adjustments required under AS 14.25.440 may be waived by the board upon an appeal by a member or beneficiary.

Sec. 39.35.830. Provides that the Alaska State Pension Investment Board is the manager and fiduciary of the retirement fund.

Sec. 39.35.850. Provides for contributions and service credit for qualified military service under federal law.

Sec. 39.35.860. Provides that the retirement funds held for a member are not subject to taxation or seizure.

Sec. 39.35.870. Provides the time limit for an application for distribution.

Sec. 39.35.880. Makes defrauding the retirement system a Class A misdemeanor.

Sec. 39.35.895. Definitions for PERS Tier 4 sections.

Section 6. Tells the Revisor of Statutes to change the terms used in the TRS and PERS statutes to conform to the changes in the retirement plans made in this bill.

Section 7. The effective date section.

If I may be of further assistance, please advise.

BRC:jad

05-157.jad

Alaska State Legislature

Juneau
 State Capitol Bldg., Rm. 434
 Juneau, AK 99801-1182
 Phone (907) 465-4976
 Fax (907) 465-3883
 Toll Free 866-465-4976



Fairbanks
 119 N Cushman, Ste 213
 Fairbanks, AK 99701
 Phone (907) 452-6084
 Fax (907) 452-6096

Representative Mike Kelly
House District 7

SUMMARY CSHB 191 ()

Key Component	HB 191
Pure Defined Contribution Plan?	Yes
Employee Contribution Rates	TRS 10% PERS Public Safety 8.5% Others 8%
Employer Contribution Rates (Retirement/Non-medical)	Employer contributions will eventually reach 8% for TRS and 8.75% for PERS over the course of a five year period in the following increments: Year 1 – 0% Year 2 – 25% Year 3 – 50% Year 4 – 75% Year 5 – 100% (Pg. 3; Pp. 14-15)
Vesting	100% at the time of enrollment
Medical Benefits (Health Reimbursement Arrangement & Retiree Major Medical Insurance)	Yes. There are two components of the medical benefits provided in this bill depending upon the members' status (active or retired). <u>Health Reimbursement Arrangement</u> Established under AS 39.30.300, which creates a managed "trust" account, which is comprised of an employer contribution in the

	<p>amount of 1% employees average annual compensation not to exceed \$500.</p> <p><u>Retiree Major Medical Insurance</u> As noted above, as part of the employer contribution to the individual retirement accounts, the employer will pay 3.75% to provide for an insurance benefit at the time of retirement. In order to access this benefit a member must meet one of several criteria. In summary, these are:</p> <ul style="list-style-type: none">• The member must retire directly from the system;• In order to retire, the member must have 30 years of service to the system or be 65 and have at least 10 years of service with the system• The member has been an active member for the whole school year during the 12 months prior (<i>TRS only</i>)
<i>Investment Flexibility</i>	Yes. A member's ability to select from a number of investment options is expressly provided for.
<i>Rollovers</i>	Yes. This newest version of HB 191 includes provides to allow rollovers to and from qualified programs.
<i>Transfer Existing Employees to DC</i>	Yes. This version provides a one-year enrollment period, from the effective date of the bill, for existing non-vested employees to transfer their current balances to the DC plan.
<i>State Financial Assistance</i>	No. This plan makes no provision for a specific funding source to help mitigate current or future employer liability.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB191
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept Affected: Administration
 Title An Act relation to TRS and PERS creating a RDU Centralized Administrative Services
defined contribution and health reimbursement plans..... Component Retirement and Benefits
 Sponsor Representative Kelly
 Requester House State Affairs Component No. 64

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	265.5	216.5	152.1	152.1	152.1	152.1
Travel	37.5	17.5	3.5	5.0	5.0	5.0
Contractual	587.0	317.0	342.0	387.0	387.0	387.0
Supplies	18.0	5.0	5.0	5.0	5.0	5.0
Equipment	30.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	938.0	556.0	502.6	549.1	549.1	549.1

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	938.0	556.0	502.6	549.1	549.1	549.1
1005 GF/Program Receipts						
10. GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	938.0	556.0	502.6	549.1	549.1	549.1

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full Time	1	1	1	1	1	1
Part-time	2	2	2	2	2	2
Temporary	2	1	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will create a new defined contribution retirement plan and a health reimbursement arrangement for new employees of the PERS and TRS hired after the effective date of July 1, 2005. As the new plan significantly differs from the current defined benefit plans, the division will be required to reprogram its computer systems, set up and account for two new plans, create new plan publications and forms, train staff, employer contacts and new members, create new employee benefit education methods on the web, benefit seminars and one on one appointments, and to contract for financial planning services for members of the new plan. The fiscal note assumes fund manager fees, custody, and record keeper's individual account fees are separate.

Prepared by: Melanie Millhorn, Director Phone 465-4408
 Division: Retirement and Benefits Date/Time 3/29/05 2:18 PM
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/29/2005
 Agency: Department of Administration

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB191

ANALYSIS CONTINUATION

The estimated administrative costs to the division by fiscal year are as follows:

	FY 2006	FY 2007	FY 2008	FY 09-11
PERSONAL SERVICES:				
1 - Analyst-Pgmr III - DC-Benefits Sys - R 16	64.4	64.4	64.4	64.4
1 - Accountant II - Range 16 P/T	41.0	41.0	41.0	41.0
1-R&B Tech I/II-ER Rptng/Contrib. Recon.-Range 12, P/T	46.7	46.7	46.7	46.7
1-Non Permanent Publications Tech II or Spec I - Range 13	49.0	0.0	0.0	0.0
1-Non Permanent Retirement Counselor - Range 18	64.4	64.4	0.0	0.0
	<hr/>	<hr/>	<hr/>	<hr/>
	265.5	216.5	152.1	152.1
TRAVEL:				
Employer Reporting Software Upgrade Install & Help	30.0	15.0	0.0	0.0
Employer Plan Education	7.5	0.0	0.0	0.0
Regional Counselor travel	0.0	2.5	3.5	5.0
	<hr/>	<hr/>	<hr/>	<hr/>
	37.5	17.5	3.5	5.0
CONTRACTUAL:				
Communications & Postage	82.0	17.0	17.0	17.0
Computer system mods - Employer Reporting	80.0	5.0	5.0	5.0
Computer system mods - PERS / TRS Record Integration	80.0	5.0	5.0	5.0
Computer system mods - DC / Web / Remit Modules	80.0	10.0	10.0	10.0
Audit, Accting, Tax, Benefits Consulting, Legal	100.0	75.0	50.0	50.0
Training \ Risk Management	15.0	5.0	5.0	0.0
Employee financial planning services	150.0	200.0	250.0	300.0
	<hr/>	<hr/>	<hr/>	<hr/>
	587.0	317.0	342.0	387.0
SUPPLIES: Office supplies, calculators, desk-top software	18.0	5.0	5.0	5.0
EQUIPMENT: Workstation & cubicle, chairs, file cabinets, computers, telephone, set-up costs	30.0	0.0	0.0	0.0
	<hr/>	<hr/>	<hr/>	<hr/>
	48.0	5.0	5.0	5.0
 TOTAL	 938.0	 556.0	 502.6	 549.1

The above funding source is initially listed as General Fund because the existing tiers of PERS / TRS are Defined Benefit plans, and the present DC plans, SBS and DCP are legally separate from the intended plan. The new tier members would have to repay the startup costs through fees as the size of the fund grows.

The new plan effective date is July 1, 2005. Therefore, startup costs will start in FY 05, although they have not been provided for. Further, such startup costs also have the same issue, they really are not costs of the PERS and TRS Defined Benefit plans. Tiers 1, 2, and 3 are logically related, tier 4 PERS and Tier 3 TRS would not be. The purpose of the bill is to separate the DB and DC side. Some arrangement will have to be worked out to allow expenditure of funds for the startup that will be reimbursed later.

24-LS0461\i

Craver

3/30/05

CS FOR HOUSE BILL NO. 191()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY**Offered:
Referred:****Sponsor(s): REPRESENTATIVE KELLY****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the teachers' and public employees' retirement systems and creating
2 defined contribution, medical insurance benefits, and health reimbursement plans for
3 members of the teachers' retirement system and the public employees' retirement
4 system who are first hired on or after July 1, 2005; and providing for an effective date."

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

6 * Section 1. AS 14.25 is amended by adding a new section to read:

7 **Article 1. Teachers First Hired before July 1, 2005.**

8 **Sec. 14.25.005. Applicability of AS 14.25.005 - 14.25.012, 14.25.040 -**
9 **14.25.169, 14.25.173, 14.25.175, and 14.25.220.** The provisions of AS 14.25.005 -
10 14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175, and 14.25.220 apply only to
11 members first hired before July 1, 2005.

12 * Sec. 2. AS 14.25.220(41) is amended to read:

13 (41) "system" means the Teachers' Retirement System of Alaska,
14 which includes all retirement plans in this chapter;

1 * **Sec. 3.** AS 14.25.220 is amended by adding a new paragraph to read:

2 (46) "plan" means the defined benefit retirement plan provided to
3 members in AS 14.25.005 - 14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175,
4 and 14.25.220.

5 * **Sec. 4.** AS 14.25 is amended by adding new sections to read:

6 **Article 2. Teachers First Hired on or after July 1, 2005.**

7 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.495.** The provisions of
8 AS 14.25.310 - 14.25.495 apply only to members first hired on or after July 1, 2005.

9 **Sec. 14.25.320. Defined contribution retirement plan established; federal**
10 **qualification requirements.** (a) A defined contribution retirement plan for teachers
11 of the state is created.

12 (b) The retirement plan established by AS 14.25.310 - 14.25.495 is intended to
13 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
14 retirement plan established and maintained by the state for its employees, for the
15 employees of school districts and regional educational attendance areas in the state,
16 and for the employees of other employers whose participation is authorized by
17 AS 14.25.310 - 14.25.495 and who participate in this plan.

18 (c) An amendment to AS 14.25.310 - 14.25.495 does not provide a person
19 with a vested right to a benefit if the Internal Revenue Service determines that the
20 amendment will result in disqualification of the plan under the Internal Revenue Code.

21 **Sec. 14.25.330. Purpose and effective date.** (a) The purpose of
22 AS 14.25.310 - 14.25.495 is to encourage qualified teachers to enter and remain in
23 service with participating employers by establishing a defined contribution retirement
24 plan on behalf of the members.

25 (b) All eligible employees first hired on or after July 1, 2005, shall participate
26 in the plan set out in AS 14.25.310 - 14.25.495 in which retirement and death benefits
27 are provided through the purchase of annuity contracts, either fixed, variable, or a
28 combination of fixed and variable.

29 **Sec. 14.25.340. Contributions by members.** Each member shall contribute
30 to the plan an amount equal to 10 percent of the member's compensation accrued from
31 July 1 to the following June 30. The employer shall deduct the contribution from the

1 member's salary at the end of each payroll period, and the contribution shall be
2 credited by the plan to the member individual account. The contributions shall be
3 deducted from employee compensation before the computation of applicable federal
4 taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A
5 member may not have the option of making the payroll deduction directly in cash
6 instead of having the contribution picked up by the employer.

7 **Sec. 14.25.350. Contributions by employer.** (a) An employer shall
8 contribute to the plan a maximum of eight percent of each member's compensation
9 accrued from July 1 to the following June 30 as provided in this section.

10 (b) The maximum employer contribution rate to a member's individual
11 account is 4.25 percent of each member's compensation from July 1 to the following
12 June 30.

13 (c) The maximum employer contribution rate for retiree major medical
14 insurance is 3.75 percent of each member's compensation from July 1 to the following
15 June 30. This contribution shall be paid into the group health and life benefits fund
16 established by the commissioner of administration under AS 39.30.095 and shall be
17 accounted for in accordance with regulations established by the commissioner.

18 (d) Employer contributions under (b) and (c) of this section are graduated as a
19 percentage of the maximum employer contribution rate based upon the employee's
20 years of service with the employer. The employer contribution during the member's

21 (1) first year of service with the employer is zero percent;

22 (2) second year of service with the employer is 25 percent of the
23 maximum employer contribution rate;

24 (3) third year of service with the employer is 50 percent of the
25 maximum employer contribution rate;

26 (4) fourth year of service with the employer is 75 percent of the
27 maximum employer contribution rate;

28 (5) fifth and all subsequent years of service with the employer is 100
29 percent of the maximum employer contribution rate.

30 (e) For purposes of this section, "year of service" has the meaning given in
AS 14.25.220, except part-time service shall be credited on a pro rata basis only if the

1 part-time service was for regular employment that is at least 50 percent of full-time
2 service.

3 **Sec. 14.25.360. Transmittal of contributions.** (a) All contributions
4 deducted in accordance with AS 14.25.340 shall be transmitted to the plan for deposit
5 in the retirement fund not later than 15 days following the close of the payroll period,
6 with the final contributions due for any school year transmitted not later than July 15.

7 (b) The contributions of employers under AS 14.25.350 must be transmitted to
8 the plan for deposit in the retirement fund at the close of each pay period. If the
9 contributions are not submitted within 15 days after the close of each payroll period,
10 interest must be assessed on the outstanding contributions at one and one-half times
11 the most recent actuarially determined rate of earnings for the plan from the date that
12 contributions were originally due. In addition, the amount of the contributions and
13 interest may be deducted by the Department of Education and Early Development
14 from the state funds due the school district and the amount so deducted transmitted to
15 the plan for deposit in the retirement fund. Amounts due from the University of
16 Alaska and interest as prescribed in this section may be deducted by the commissioner
17 of administration from any state funds due the University of Alaska and the amount
18 deducted transmitted to the administrator for deposit in the retirement fund.

19 **Sec. 14.25.370. Retirement benefits and vesting.** A member is immediately
20 and fully vested in that member's contributions and in the employer contributions
21 made on that member's behalf to the member's individual account.

22 **Sec. 14.25.380. Investment of individual accounts.** (a) The board shall
23 provide a range of investment options and permit a participant to exercise investment
24 control over the participant's assets in the member's individual account as provided in
25 this section. If a participant exercises control over the assets in the individual account,
26 the participant is not considered a fiduciary for any reason on the basis of exercising
27 that control.

28 (b) A participant may direct investment of plan funds held in an account
29 among available investment funds in accordance with rules established by the board.

30 (c) A participant may elect to change or transfer all or a portion of the
31 participant's existing account balance among available investment funds not more

1 often than once each day in accordance with the rules established by the administrator.
2 Only the last election received by the administrator before the transmittal of
3 contributions to the trust fund for allocation to the individual account will be used to
4 direct the investment of the contributions received.

5 (d) Except to the extent clearly set out in the terms of the investment plans
6 offered by the employer to the employee, the employer is not liable to the participant
7 for investment losses if the prudent investment standard has been met.

8 (e) The employer, administrator, state, board, or a person or entity who is
9 otherwise a fiduciary is not liable by reason for any participant's investment loss that
10 results from the participant's directing the investment of plan assets allocated to the
11 participant's account.

12 (f) To the extent that a member's individual account has been divided as
13 provided in a qualified domestic relations order between participants, each participant
14 shall be treated as the holder of a separate individual account for purposes of
15 investment yields, decisions, transfers, and time limitations imposed by this section.

16 (g) In this section, "participant" means the person who has a vested right to an
17 individual account, such as a member, an alternate payee if the account is subject to a
18 qualified domestic relations order, the member's beneficiary if the member is
19 deceased, or an alternate payee's beneficiary if the alternate payee is deceased.

20 **Sec. 14.25.390. Distributions of member individual account.** (a) A
21 member is eligible to receive distribution of that person's member individual account
22 upon termination of service.

23 (b) Upon the death of a member or terminated member, the member individual
24 account of that deceased member is considered to belong to the designated
25 beneficiary, if any, of that deceased member. If a valid nomination of a designated
26 beneficiary is not on file with the board, the board, in a lump sum distribution, shall
27 distribute the member individual account to a legal representative, if any, of the
28 deceased member's estate.

29 (c) A former member or designated beneficiary may elect one or a
30 combination of several of the following methods of distribution of the member
31 individual account:

- 1 (1) a lump sum distribution to the recipient;
- 2 (2) a lump sum direct rollover to another qualified plan, to the extent
- 3 allowed by federal law;
- 4 (3) periodic distributions, as authorized by the board;
- 5 (4) no current distribution, in which case the accumulated balance
- 6 must remain in the plan until the former member or designated beneficiary elects a
- 7 method or methods of distribution under this subsection, to the extent allowed by
- 8 federal law.

9 (d) If the former member's individual account balance is less than \$5,000, the

10 board shall automatically refund the member's individual account balance upon

11 termination of employment. The member may waive the refund if the member

12 submits a written statement to the board, within 120 days after termination, requesting

13 that the member's individual account balance remain in the plan.

14 **Sec. 14.25.400. Refund upon termination.** (a) Except as provided in (b) of

15 this section, a terminated member is entitled to a refund of the balance of the member

16 individual account.

17 (b) A member who is terminated and who is married at the time of application

18 for a refund or whose rights to a refund are subject to a qualified domestic relations

19 order is entitled to receive a refund of the balance of the member individual account

20 only if the member's present spouse and each person entitled under the order consent

21 to the refund in writing on a form provided by the administrator. The administrator

22 may waive written consent from the person entitled under the order if the

23 administrator determines that the person cannot be located or for other reasons

24 established by regulation. The administrator may waive written consent from the

25 spouse if the administrator determines that

- 26 (1) the member was not married to the spouse during any period of the
- 27 member's employment with an employer;
- 28 (2) the spouse has no rights to benefits under AS 14.25.310 -
- 29 14.25.495 because of the terms of a qualified domestic relations order;
- 30 (3) the spouse cannot be located;
- 31 (4) the member and spouse have been married for less than two years