

ALASKA STATE LEGISLATURE

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Senator Click Bishop

SJR 12 – Sponsor Statement SECTION 404 CWA PERMIT PROGRAM

SJR 12 supports the State of Alaska – Department of Environmental Conservation’s efforts to seek assumption of the dredge and fill permitting program under Section 404 of the Clean Water Act (CWA) and urges Congress to appropriate funds for states that have assumed primacy.

Designed for states’ assumption, Section 404 regulates the discharge of dredged or fill material into waters of the United States (WOTUS), including wetlands. Alaska has a vested interest in assuming the program considering approximately 43% of Alaska’s surface is wetlands – including tundra, permafrost areas, marshes, bogs, and similar areas. Activities regulated under this program that require a permit include fill for development (residential, commercial, or recreational), water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and mining projects.

State assumption of the 404 program offers several significant benefits for Alaskans in terms of overall program efficiency and wetland resource protection. Based on the experience of states that have already assumed primacy (Michigan, New Jersey, and Florida), benefits include improved resource protection, increased program efficiency, effective allocation of federal and state agency resources, improved integration with other state resource programs, increased regulatory program stability, and increased control over projects affecting the health of the State’s environment and economy. One of the most significant benefits of assumption is the potential for greater control over compensatory mitigation.

The fact that only three states have assumed 404 program administration highlights the significant hurdles associated with this process. The biggest hurdle to assumption is cost; currently, no federal funding is available for states that assume 404 primacy. There are 47 states that have assumed primacy over the 402 program, which the State of Alaska already has, and receive associated federal funding.

SJR 12 states that the Alaska State Legislature supports U.S. Congressional action to effectuate Congress’s intent that states assume 404 programs by authorizing and appropriating adequate funding for states to assume the Section 404 permitting program and supports federal funding for states to implement Section 404 dredge and fill permitting responsibilities.