

**CS FOR HOUSE BILL NO. 28(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/4/98

Referred: Finance

Sponsor(s): REPRESENTATIVES THERRIAULT, Kelly

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act modifying the Alaska coastal management program and the  
2 responsibilities of the Alaska Coastal Policy Council."

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

4 \* **Section 1.** AS 44.19.145(a) is amended to read:

5 (a) The office shall

6 (1) provide technical assistance to the governor and the legislature in  
7 identifying long range goals and objectives for the state and its political subdivisions;

8 (2) prepare and maintain a state comprehensive development plan;

9 (3) provide information and assistance to state agencies to aid in  
10 governmental coordination and unity in the preparation of agency plans and programs;

11 (4) review planning within state government as may be necessary for  
12 receipt of federal, state, or other funds;

13 (5) participate with other countries, provinces, states, or subdivisions  
14 of them in international or interstate planning, and assist the state's local governments,

1 governmental conferences, and councils in planning and coordinating their activities;

2 (6) encourage educational and research programs that further state  
3 planning and development, and provide administrative and technical services for them;

4 (7) publish such statistical information or other documentary material  
5 as will further the provisions and intent of AS 44.19.141 - 44.19.152;

6 (8) assist the governor and the Department of Community and Regional  
7 Affairs in coordinating state agency activities that have an effect on the solution of  
8 local and regional development problems;

9 (9) serve as a clearinghouse for information, data, and other materials  
10 that may be helpful or necessary to federal, state, or local governmental agencies in  
11 discharging their respective responsibilities or in obtaining federal or state financial or  
12 technical assistance;

13 (10) review all proposals for the location of capital improvements by  
14 any state agency and advise and make recommendations concerning location of these  
15 capital improvements;

16 (11) render, on behalf of the state, all federal consistency  
17 determinations and certifications authorized by 16 U.S.C. 1456 (sec. 307, Coastal Zone  
18 Management Act of 1972), and each conclusive state consistency determination when  
19 a project requires a permit, lease, or authorization from two or more state resource  
20 agencies; **a consistency determination made under this paragraph is subject to**  
21 **AS 46.40.096(h).**

22 \* **Sec. 2.** AS 46.40.030 is amended to read:

23 **Sec. 46.40.030. Development of district coastal management programs.**

24 Coastal resource districts shall develop and adopt district coastal management programs  
25 in accordance with the provisions of this chapter. The program adopted by a coastal  
26 resource district shall be based upon a municipality's existing comprehensive plan or  
27 a new comprehensive resource use plan or comprehensive statement of needs, policies,  
28 objectives, and standards governing the use of resources within the coastal area of the  
29 district. The program must be consistent with the guidelines and standards adopted by  
30 the council under AS 46.40.040 and must include

31 (1) a delineation within the district of the boundaries of the coastal area

1 subject to the district coastal management program; **the delineation required by this**  
 2 **paragraph**

3 **(A) may include only a zone of direct interaction in which**  
 4 **physical and biological processes are a function of direct contact between**  
 5 **land and sea, and a zone of direct influence that is landward of the zone**  
 6 **of direct interaction and that is closely affected and influenced by the**  
 7 **proximity between land and sea;**

8 **(B) may not include areas landward of the areas described**  
 9 **in (A) of this paragraph;**

10 (2) a statement, list, or definition of the land and water uses and  
 11 activities subject to the district coastal management program;

12 (3) a statement of policies to be applied to the land and water uses  
 13 subject to the district coastal management program;

14 (4) regulations, as appropriate, to be applied to the land and water uses  
 15 subject to the district coastal management program;

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

19 (6) a summary or statement of the policies **that** [WHICH] will be  
 20 applied and the procedures **that** [WHICH] will be used to determine whether specific  
 21 proposals for land or water uses or activities shall be allowed; and

22 (7) a designation of, and the policies **that** [WHICH] will be applied to  
 23 the use of, areas within the coastal resource district **that** [WHICH] merit special  
 24 attention.

25 \* **Sec. 3.** AS 46.40.030 is amended by adding a new subsection to read:

26 (b) In developing statements of policies and regulations under (a) of this  
 27 section, a coastal resource district may not incorporate by reference statutes and  
 28 administrative regulations adopted by state agencies.

29 \* **Sec. 4.** AS 46.40.094 is amended by adding a new subsection to read:

30 (d) A consistency determination made under this section is subject to  
 31 AS 46.40.096(h).

1     \* **Sec. 5.** AS 46.40.096 is amended by adding a new subsection to read:

2             (h) In a consistency review or determination process authorized by this section  
3             or set out in a regulation adopted under authority of AS 46.40.010 - 46.40.210,

4                     (1) a state agency or coastal resource district may only stipulate to a  
5             matter or subject for which the agency or district has authority under a statute outside  
6             of this chapter; and

7                     (2) the agency responsible for a consistency review or determination  
8             may not accept a stipulation as a part of the consistency determination if the stipulation  
9             violates (1) of this subsection.

10    \* **Sec. 6.** AS 46.40.096(d)(4), 46.40.096(e), 46.40.096(f), 46.40.100(b), 46.40.100(c),  
11 46.40.100(d), 46.40.100(e), 46.40.100(f), and 46.40.100(g) are repealed.

12    \* **Sec. 7.** MODIFICATION OF APPROVED COASTAL MANAGEMENT PROGRAM  
13 PLANS. (a) In a municipality or coastal resource service area for which the Alaska Coastal  
14 Policy Council has approved a district coastal management program as to which the  
15 boundaries of the coastal area subject to the district coastal management program are not, on  
16 the effective date of this Act, consistent with AS 46.40.030(1), as amended by sec. 2 of this  
17 Act, or are not consistent with the prohibition of AS 46.40.030(b), added by sec. 3 of this Act,  
18 the municipality or coastal resource service area shall submit to the Alaska Coastal Policy  
19 Council, within one year of the effective date of this Act, program modifications to conform  
20 the boundaries of the coastal area subject to the district coastal management program to  
21 AS 46.40.030(1), as amended by sec. 2 of this Act or to conform the program to the  
22 requirements of AS 46.40.030(b), added by sec. 3 of this Act.

23             (b) If a municipality or coastal resource service area does not comply with (a) of this  
24 section, the Alaska Coastal Policy Council may enter an order modifying the boundaries of  
25 the coastal area subject to the district coastal management program to conform to  
26 AS 46.40.030(1), as amended by sec. 2 of this Act, or deleting the incorporation by reference  
27 of statutes and administrative regulations in violation of AS 46.40.030(b), added by sec. 3 of  
28 this Act.