

CS FOR SENATE BILL NO. 308(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/6/02

Referred: Finance

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska coastal management program and the responsibilities of**
2 **the Alaska Coastal Policy Council; and providing for an effective date."**

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

4 *** Section 1.** AS 46.40.030 is amended by adding a new subsection to read:

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

8 *** Sec. 2.** AS 46.40.094 is amended by adding a new subsection to read:

9 (d) Notwithstanding any other provision of this section, for a natural gas
10 pipeline project from the Alaska North Slope following a route that parallels the Trans
11 Alaska Pipeline System and the Alaska Highway to the Canadian border or a route
12 that runs south to Alaska tidewater, any agency responsible for the consistency
13 determination with respect to proposed uses or activities involved in the project may,
14 in its discretion, conduct the review and make the consistency determination in

1 separate phases in a manner that promotes review of proposed uses and activities
2 based upon the project's design, construction sequence, and schedule.

3 * **Sec. 3.** AS 46.40.096(d) is amended to read:

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

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

9 (2) prepare proposed consistency determinations;

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

13 (A) is limited to a review by the state resource agencies; and

14 (B) may occur only if requested by

15 (i) the project applicant;

16 (ii) a state resource agency; or

17 (iii) an affected coastal resource district;

18 (4) after providing an opportunity [TO FILE A PETITION] for
19 **subsequent** review under [(e) OF] this **subsection** [SECTION], render **a** [THE] final
20 consistency determination and certification.

21 * **Sec. 4.** AS 46.40.100(b) is amended to read:

22 (b) A party that is authorized under [AS 46.40.096(e)(1) OR] (g) of this
23 section may file a petition showing that a district coastal management program is not
24 being implemented, enforced, or complied with; **a petition filed under this section**
25 **may not seek review of a proposed or final consistency determination regarding a**
26 **specific project**. On receipt of a petition, the council, after giving public notice in the
27 manner required by (f) of this section, shall convene a hearing to consider the matter.
28 A hearing called under this subsection shall be held in accordance with regulations
29 adopted by the council. After hearing,

30 [(1) IF THE PETITION WAS FILED UNDER AS 46.40.096(e) AND
31 THE COUNCIL FINDS THAT

1 (A) THE OFFICE OR THE STATE AGENCY
 2 RESPONSIBLE FOR COORDINATING THE CONSISTENCY REVIEW
 3 HAS NOT FAIRLY CONSIDERED THE PETITIONER'S COMMENTS IN
 4 THE DEVELOPMENT OF A PROPOSED CONSISTENCY
 5 DETERMINATION, THE COUNCIL SHALL REMAND THE PROPOSED
 6 CONSISTENCY DETERMINATION TO THE OFFICE, OR TO THE
 7 STATE AGENCY RESPONSIBLE FOR COORDINATING THE
 8 CONSISTENCY REVIEW, FOR PREPARATION OF A REVISED
 9 PROPOSED CONSISTENCY DETERMINATION THAT GIVES FAIR
 10 CONSIDERATION TO THE PETITIONER'S COMMENTS;

11 (B) A REMAND OF THE CONSISTENCY
 12 DETERMINATION IS NOT REQUIRED UNDER (A) OF THIS
 13 PARAGRAPH, THE COUNCIL SHALL DISMISS THE PETITION;

14 (2) IF THE PETITION WAS NOT FILED UNDER AS 46.40.096(e),]
 15 the council may order that the coastal resource district or a state agency take any
 16 action the council considers necessary to implement, enforce, or comply with the
 17 district coastal management program, **except that the council may not order that the**
 18 **coastal resource district or a state agency take any action with respect to a**
 19 **project for which a proposed or final consistency determination has been made.**

20 * **Sec. 5.** AS 46.40.100(c) is amended to read:

21 (c) **In** [EXCEPT WHEN A PETITION HAS BEEN FILED UNDER
 22 AS 46.40.096(e), IN] determining whether an approved district coastal management
 23 program is being implemented, enforced, or complied with by a coastal resource
 24 district that exercises zoning authority or controls on the use of resources within the
 25 coastal area, the council shall find in favor of the district if

26 (1) zoning or other regulations have been adopted and are being
 27 enforced;

28 (2) variances are being granted according to procedures and criteria
 29 that are elements of the district coastal management program, or the variance is
 30 otherwise approved by the council; and

31 (3) procedures and standards adopted by the coastal resource district as

1 required by this chapter or by the guidelines and standards adopted by the council and
 2 subsequently approved by the legislature have been followed and considered.

3 * **Sec. 6.** AS 46.40.100(d) is amended to read:

4 (d) **In** [EXCEPT WHEN A PETITION HAS BEEN FILED UNDER
 5 AS 46.40.096(e), IN] determining whether a state agency is complying with a district
 6 coastal management program with respect to its exercise of regulation or control of the
 7 resources within the coastal area, the council shall find in favor of the agency if

8 (1) the use or activity for which the permit, license, or approval is
 9 granted is consistent with the district coastal management program and regulations
 10 adopted under it; and

11 (2) the use or activity for which the permit, license, or approval is
 12 granted is consistent with requirements imposed by state statute, regulation, or local
 13 ordinance applicable to the use or activity.

14 * **Sec. 7.** AS 46.40.100(f) is amended to read:

15 (f) Upon receipt of a petition under (b) of this section, the council shall give
 16 notice of the hearing convened to consider the petition as follows:

17 (1) notice of the hearing shall be given at least 10 days before the
 18 scheduled date of the hearing

19 (A) by publication in

20 (i) a newspaper of statewide circulation; or

21 (ii) a newspaper of general circulation in the vicinity of
 22 the district coastal management program that is the subject of the
 23 petition; and

24 (B) by at least one of the following methods:

25 (i) publication through public service announcements
 26 on the electronic media serving the area affected by the district coastal
 27 management program;

28 (ii) posting in a conspicuous location in the vicinity of
 29 the proposed project or action;

30 (iii) notifying parties known or likely to be affected by
 31 the proposed project or action; or

1 (iv) another method calculated to effectively notify
2 affected interested parties;

3 (2) a notice provided under (1) of this subsection must

4 (A) contain sufficient information in commonly understood
5 terms to inform the public of the nature of the petition; and

6 (B) indicate the manner in which the public may comment on
7 the petition [IF THE PETITION IS FILED UNDER (b)(2) OF THIS
8 SECTION].

9 * **Sec. 8.** AS 46.40.100(g) is amended to read:

10 (g) The opportunity to petition under **(b)** [(b)(2)] of this section is limited to

11 (1) a coastal resource district;

12 (2) [A CITIZEN OF THE COASTAL RESOURCE DISTRICT; OR

13 (3)] a state agency.

14 * **Sec. 9.** AS 46.40.096(e) and 46.40.096(f) are repealed.

15 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).