

**SENATE BILL NO. 308**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

**BY SENATOR THERRIAULT**

**Introduced: 2/19/02**

**Referred: Resources, Finance**

**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."**

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 46.40.040 is amended to read:

9 **Sec. 46.40.040. Duties of the Alaska Coastal Policy Council.** Through the  
10 public hearing process and the recording of the minutes of the hearings, the Alaska  
11 Coastal Policy Council shall

12 (1) by regulation, adopt under the provisions of AS 44.62  
13 (Administrative Procedure Act) for the use of and application by coastal resource  
14 districts and state agencies for carrying out their responsibilities under this chapter,

1 guidelines and standards for

2 (A) identifying the boundaries of the coastal area subject to the  
3 district coastal management program;

4 (B) determining the land and water uses and activities subject  
5 to the district coastal management program;

6 (C) developing policies applicable to the land and water uses  
7 subject to the district coastal management program;

8 (D) developing regulations applicable to the land and water  
9 uses subject to the district coastal management program;

10 (E) developing policies and procedures to determine whether  
11 specific proposals for the land and water uses or activities subject to the district  
12 coastal management program shall be allowed;

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

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

17 (2) develop and maintain a program of technical and financial  
18 assistance to aid coastal resource districts in the development and implementation of  
19 district coastal management programs;

20 (3) undertake review and approval of district coastal management  
21 programs in accordance with this chapter;

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

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

27 (6) by regulation, establish a consistency review and determination or  
28 certification process that conforms to the requirements of AS 46.40.096;

29 **(7) adopt regulations under the provisions of AS 44.62**  
30 **(Administrative Procedure Act) that establish procedures for periodic review of**  
31 **an approved district coastal management program to ensure that the program is**

1 substantially consistent with the provisions of this chapter and the guidelines and  
 2 standards adopted by the council, to ensure that the approved program is  
 3 implemented and enforced, and to ensure that the program does not arbitrarily  
 4 or unreasonably restrict or exclude uses of state concern;

5 (8) adopt regulations under the provisions of AS 44.62  
 6 (Administrative Procedure Act) that establish procedures for revocation of  
 7 approval of a district coastal management program, after notice to the district  
 8 and a reasonable opportunity to cure the deficiencies in the program, upon a  
 9 finding that the program is not substantially consistent with the provisions of this  
 10 chapter or the guidelines and standards adopted by the council, that the program  
 11 has not been implemented or is not enforced, or that the program arbitrarily or  
 12 unreasonably restricts or excludes uses of state concern.

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

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

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

19 (2) prepare proposed consistency determinations;

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

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

24 (B) may occur only if requested by

25 (i) the project applicant;

26 (ii) a state resource agency; or

27 (iii) an affected coastal resource district;

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

31 \* **Sec. 4.** AS 46.40.096(e), 46.40.096(f), 46.40.100(b), 46.40.100(c), 46.40.100(d),

1 46.40.100(e), 46.40.100(f), and 46.40.100(g) are repealed.

2 \* **Sec. 5.** MODIFICATION OF APPROVED COASTAL MANAGEMENT PROGRAM  
3 PLANS. (a) In a municipality or coastal resource service area for which the Alaska Coastal  
4 Policy Council has approved a district coastal management program that is not consistent with  
5 the prohibition of AS 46.40.030(b), added by sec. 1 of this Act, the municipality or coastal  
6 resource service area shall submit to the Alaska Coastal Policy Council, within one year after  
7 the effective date of this Act, program modifications to conform the program to the  
8 requirements of AS 46.40.030(b), added by sec. 1 of this Act.

9 (b) If a municipality or coastal resource service area does not comply with (a) of this  
10 section, the Alaska Coastal Policy Council may enter an order deleting the incorporation by  
11 reference of statutes and administrative regulations in violation of AS 46.40.030(b), added by  
12 sec. 1 of this Act.