

SENATE JOINT RESOLUTION NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATORS BISHOP, Merrick, Bjorkman, Giessel, Myers, Wilson, Stevens

Introduced: 5/12/23

Referred: Resources

A RESOLUTION

1 **Supporting action by the United States Congress to authorize and appropriate adequate**
2 **funding for states that assume the dredge and fill permitting program under Section 404**
3 **of the Clean Water Act; and expressing the intention of the state to assume jurisdiction**
4 **over the program when funding is available.**

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

6 **WHEREAS** it is the intent of Congress that states have the option to assume
7 jurisdiction over the dredge and fill permitting program under Section 404 of the Clean Water
8 Act; and

9 **WHEREAS** the goals of the state in assuming primacy are to maintain wetland
10 protection, achieve consistency in program administration, and streamline the permit process;
11 and

12 **WHEREAS** the United States Environmental Protection Agency and the United
13 States Army Corps of Engineers are required to work with each state to develop guidelines
14 and processes for assuming primacy of the permitting program under Section 404 of the Clean
15 Water Act; and

1 **WHEREAS** the United States Environmental Protection Agency created a federal
2 advisory subcommittee to address the lack of clarity surrounding the identification of
3 assumable and nonassumable water; and

4 **WHEREAS** the United States Environmental Protection Agency is in the process of
5 revising the guiding regulations for state assumption of Section 404 primacy with the goal of
6 increasing clarity and facilitating state assumption of primacy; and

7 **WHEREAS**, with the exception of a few states and tribes seeking or considering
8 seeking assumption of primacy, most states and tribes remain reluctant to assume primacy of
9 the permitting program under Section 404 of the Clean Water Act primarily due to a lack of
10 funding to implement the program; and

11 **WHEREAS**, under a permitting program assumed by the state under Section 404 of
12 the Clean Water Act, the state will have control of permitting priorities, leading to potential
13 time and cost savings through a more coordinated permitting process without compromising
14 regulatory standards, requirements, or environmental protection; and

15 **WHEREAS** permits authorized under a permitting program assumed by the state
16 under Section 404 of the Clean Water Act will reflect the unique conditions of the state with
17 state-specific program guidance and include state implementation of mitigation requirements
18 with stable, risk-based, and predictable enforcement; and

19 **WHEREAS** the state manages limited fiscal resources that would make it challenging
20 to fully fund a permitting program assumed by the state under Section 404 of the Clean Water
21 Act, despite significant benefits of the state assuming primacy; and

22 **WHEREAS** other primacy programs receive federal funding for state implementation;

23 **BE IT RESOLVED** that the Alaska State Legislature supports action by the United
24 States Congress to effectuate the intent of Congress that states assume primacy of dredge and
25 fill permitting programs under Section 404 of the Clean Water Act by authorizing and
26 appropriating adequate funding for states to have the option to assume primacy under Section
27 404 of the Clean Water Act; and be it

28 **FURTHER RESOLVED** that the Alaska State Legislature supports federal funding
29 for states to implement the dredge and fill permitting responsibilities under Section 404 of the
30 Clean Water Act.

31 **COPIES** of this resolution shall be sent to the Honorable Joseph R. Biden, President

1 of the United States; the Honorable Kamala D. Harris, Vice President of the United States and
2 President of the U.S. Senate; the Honorable Kevin McCarthy, Speaker of the U.S. House of
3 Representatives; the Honorable Michael S. Regan, Administrator of the U.S. Environmental
4 Protection Agency; and the Honorable Lisa Murkowski and the Honorable Dan Sullivan, U.S.
5 Senators, and the Honorable Mary Peltola, U.S. Representative, members of the Alaska
6 delegation in Congress.