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1 IN THE HOUSE

2 HOUSE BILL NO. 212

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the issuance of permits and
7 consistency determinations."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. FINDINGS. The legislature finds that

10 (1) the orderly development of state resources is being unneces-
11 sarily delayed by the number of agencies involved in the permitting pro-
12 cess;

13 (2) the uncertainties created by the proliferation of agency
14 reviews, the number of agencies involved in the permit process, and unjusti-
15 fied agency requirements on the processing of permit applications have
16 cost residents of the state millions of dollars in lost employment and
17 higher prices;

18 (3) the public interest has not been advanced by the protracted
19 delay in the processing of permit applications by state agencies;

20 (4) the social, economic, and environmental health and well-
21 being of the residents of the state will be promoted by reducing the number
22 of agencies and agency reviews involved in the permit process; and

23 (5) the efficiency of state permitting procedures will be en-
24 hanced by using state resource agencies as lead agencies on coastal zone
25 consistency determinations.

26 * Sec. 2. AS 44.19.145(a) is amended to read:

27 (a) The office shall

28 (1) provide technical assistance to the governor and the
29 legislature in identifying long range goals and objectives for the

- 1 state and its political subdivisions;
- 2 (2) prepare and maintain a state comprehensive development
3 plan;
- 4 (3) provide information and assistance to state agencies to
5 aid in governmental coordination and unity in the preparation of
6 agency plans and programs;
- 7 (4) review planning within state government as may be
8 necessary for receipt of federal, state, or other funds;
- 9 (5) participate with other countries, provinces, states, or
10 subdivisions of them in international or interstate planning, and
11 assist Alaska's local governments, governmental conferences, and
12 councils, in planning and coordinating their activities;
- 13 (6) encourage educational and research programs that fur-
14 ther state planning and development, and provide administrative and
15 technical services for them;
- 16 (7) publish such statistical information or other documen-
17 tary material as will further the provisions and intent of AS 44.19.-
18 141 - 44.19.152;
- 19 (8) assist the governor and the Department of Community and
20 Regional Affairs in coordinating the activities of state agencies that
21 [WHICH] have an impact on the solution of local and regional develop-
22 ment problems;
- 23 (9) serve as a clearinghouse for information, data, and
24 other materials that [WHICH] may be helpful or necessary to federal,
25 state, or local governmental agencies in discharging their respective
26 responsibilities or in obtaining federal or state financial or techni-
27 cal assistance;
- 28 (10) review all proposals for the location of capital im-
29 provements by any state agency and advise and make recommendations

1 concerning location of these capital improvements;

2 (11) select a lead agency under AS 46.40.005 to render, on
3 behalf of the state, all federal consistency determinations and certi-
4 fications authorized by 16 U.S.C. 1456 (Sec. 307, Coastal Zone Manage-
5 ment Act of 1972), and a conclusive state consistency determination
6 when a project requires two or more state or federal permits, leases,
7 or authorizations.

8 * Sec. 3. AS 44.37.020 is amended by adding a new subsection to read:

9 (c) The Department of Natural Resources shall administer each
10 permit relating to the development of natural resources identified in
11 (a) of this section. In performing its functions under this sub-
12 section, the department shall consult with other resource agencies.
13 The department shall consider documented facts, data, opinions, con-
14 clusions, or recommendations submitted by other resource agencies but
15 may reach a contrary opinion, conclusion, or recommendation. The
16 department shall balance competing factors in reaching its final
17 decision. No other agency has the authority to balance competing
18 factors regarding a permit relating to the development of natural
19 resources identified in (a) of this section.

20 * Sec. 4. AS 46.40 is amended by adding a new section to read:

21 Sec. 46.40.005. CONSISTENCY DETERMINATIONS. (a) The lead
22 agency for consistency determinations under this chapter that involve
23 resource development activities on state and federal land, water, and
24 state submerged land is the Department of Natural Resources. The lead
25 agency for activities that do not involve resource development on
26 state and federal land and water and state submerged land is the
27 agency designated by the director of management and budget under
28 AS 44.19.145(a).

29 (b) The director of management and budget shall make the

1 designations of lead agencies under (a) of this section by administra-
2 tive order published in the Alaska Administrative Journal. The
3 director of management and budget may revise a designation by adminis-
4 trative order published in the Alaska Administrative Journal.

5 (c) In performing its functions under this section, the lead
6 agency shall consult with other resource agencies and with coastal
7 resource districts established under this chapter. The lead agency
8 shall consider documented facts, data, opinions, or recommendations
9 submitted by another agency of the state or by a coastal resource
10 district with an approved district coastal management program within
11 its area of expertise. The lead agency shall balance competing fac-
12 tors in reaching its final decision and may make a recommendation
13 contrary to a recommendation received from another agency.

14 (d) Except when required by federal law, a state agency other
15 than the state agency designated under AS 44.19.145(a) may not make a
16 recommendation to a federal permitting agency.

17 (e) In making a consistency determination under this section for
18 an activity that is occurring outside the boundaries of a coastal
19 resource district with an approved district plan, the lead agency and
20 each resource agency shall consider statewide standards and guidelines
21 adopted by the Alaska Coastal Policy Council under AS 46.40.040(1).

22 * Sec. 5. The director of management and budget shall make the initial
23 designations under AS 46.40.005(b), as enacted in sec. 4 of this Act, not
24 later than October 1, 1987.