

SENATE BILL NO. 47

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR PEARCE

Introduced: 1/21/91

Referred: C&RA and Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Coastal Policy Council."

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

3 * Section 1. AS 46.40.100(b) is amended to read:

4 (b) On petition of a coastal resource district, a citizen of the district, or a state agency,
 5 stating [SHOWING] that a district coastal management program is not being implemented,
 6 enforced, or complied with, the council may [SHALL] convene a public hearing to consider the
 7 matter. After the public hearing, the council may make a recommendation to the coastal
 8 resource district or to a state agency that it considers appropriate and may revise the
 9 Alaska coastal management program under AS 46.40.010(c) [A HEARING CALLED UNDER
 10 THIS SUBSECTION SHALL BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE
 11 PROCEDURE ACT (AS 44.62). AFTER THE HEARING, THE COUNCIL MAY ORDER
 12 THAT THE COASTAL RESOURCE DISTRICT OR STATE AGENCY TAKE ANY ACTION
 13 WHICH THE COUNCIL CONSIDERS NECESSARY TO IMPLEMENT, ENFORCE OR
 14 COMPLY WITH THE DISTRICT COASTAL MANAGEMENT PROGRAM].

1 * Sec. 2. AS 46.40.100(c) is amended to read:

2 (c) At a hearing convened under (b) of this section concerning implementation of,
3 enforcement of, or compliance with [IN DETERMINING WHETHER] an approved district
4 coastal management program [IS BEING IMPLEMENTED, ENFORCED OR COMPLIED
5 WITH] by a coastal resource district that [WHICH] exercises zoning authority or control
6 [CONTROLS] on the use of resources within the coastal area, the council may consider whether
7 [SHALL FIND IN FAVOR OF THE DISTRICT IF]

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

9 (2) variances are being granted according to procedures and criteria that
10 [WHICH] are elements of the district coastal management program, or the variance is otherwise
11 approved by the council; and

12 (3) procedures and standards adopted by the coastal resource district as required
13 by this chapter or by the guidelines and standards adopted by the council and subsequently
14 approved by the legislature have been followed and considered.

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

16 (d) At a hearing convened under (b) of this section concerning implementation,
17 enforcement, or compliance by a state agency [IN DETERMINING WHETHER A STATE
18 AGENCY IS COMPLYING] with a district coastal management program with respect to its
19 exercise of regulation or control of the resources within the coastal area, the council may
20 consider whether [SHALL FIND IN FAVOR OF THE AGENCY IF]

21 (1) the use or activity for which the permit, license, or approval is granted is
22 consistent with the district coastal management program and regulations adopted under it [; AND

23 (2) THE USE OR ACTIVITY FOR WHICH THE PERMIT, LICENSE OR
24 APPROVAL IS GRANTED IS CONSISTENT WITH REQUIREMENTS IMPOSED BY STATE
25 STATUTE, REGULATION, OR LOCAL ORDINANCE APPLICABLE TO THE USE OF
26 ACTIVITY].

27 * Sec. 4. AS 46.40.100(e) is amended to read:

28 (e) Notwithstanding the powers conferred on the council under (b), (c), and (d) of
29 this section, the council does not have appellate jurisdiction over a case in which an action
30 by a municipality or a state agency is challenged as inconsistent with the Alaska coastal
31 management program. The superior courts of the state have exclusive appellate jurisdiction

1 over that action [TO ENFORCE LAWFUL ORDERS OF THE COUNCIL].