

SENATE JOINT RESOLUTION NO. 12 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

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

Amended: 5/13/23

Offered: 5/12/23

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; supporting the creation of a separate United States**
4 **Environmental Protection Agency region for the state; and expressing the intention of**
5 **the state to assume jurisdiction over the program when funding is available.**

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

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

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

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

1 Water Act; and

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

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

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

12 **WHEREAS** the United States Environmental Protection Agency Region 10 is based
13 in Seattle, Washington, with its primary office in Seattle and not in the state; and

14 **WHEREAS** the state presents unique geographic and physical features that make it
15 reasonable and necessary for the state to have a separate United States Environmental
16 Protection Agency region that is distinct from other states in the Pacific Northwest; and

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

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

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

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

29 **BE IT RESOLVED** that the Alaska State Legislature supports action by the United
30 States Congress to effectuate the intent of Congress that states assume primacy of dredge and
31 fill permitting programs under Section 404 of the Clean Water Act by authorizing and

1 appropriating adequate funding for states to have the option to assume primacy under Section
2 404 of the Clean Water Act; and be it

3 **FURTHER RESOLVED** that the Alaska State Legislature supports the creation of a
4 separate United States Environmental Protection Agency region for the state with sufficient
5 resources to reasonably perform their services in a timely and efficient manner; and be it

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

9 **COPIES** of this resolution shall be sent to the Honorable Joseph R. Biden, President
10 of the United States; the Honorable Kamala D. Harris, Vice President of the United States and
11 President of the U.S. Senate; the Honorable Kevin McCarthy, Speaker of the U.S. House of
12 Representatives; the Honorable Michael S. Regan, Administrator of the U.S. Environmental
13 Protection Agency; and the Honorable Lisa Murkowski and the Honorable Dan Sullivan, U.S.
14 Senators, and the Honorable Mary Peltola, U.S. Representative, members of the Alaska
15 delegation in Congress.