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1 IN THE HOUSE

BY ORSINI AND PARKER

2 HOUSE BILL NO. 653

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the State Land Use Process Examination
7 Commission."

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

9 * Section 1. AS 46 is amended by adding a new chapter to read:

10 CHAPTER 29. STATE LAND USE PROCESS EXAMINATION COMMISSION.

11 Sec. 46.29.010. FINDINGS. The legislature finds that

12 (1) there is a state interest in a more efficient system of
13 land use planning and decision making so as to avoid situations which
14 too frequently are unrelated or contradictory to sound environmental,
15 economic, and social land use considerations;

16 (2) adequate data and information on land use and systematic
17 methods of collection, classification, and utilization of it are
18 necessary for making wise land use decisions;

19 (3) significant land use decisions of widespread importance
20 are being made without adequate opportunity for property owners, users
21 of the land, and the public to be informed about the alternatives to
22 the decisions or to meaningfully participate in the decisions;

23 (4) many federal, state, local agencies, and private citizens
24 and organizations conduct or assist activities which have a substantial
25 impact on the use of land, location of population and economic growth,
26 and the quality of the environment, and which, because of the lack of
27 consistent land use policies, often result in needless, undesirable,
28 and costly conflicts among federal, state, and local governments,
29 thereby subsidizing undesirable and costly patterns of development;

1 and

2 (5) intelligent land use planning and management can and
3 should be a singularly important process for preserving and enhancing
4 the environment, encouraging beneficial economic development, and
5 maintaining conditions capable of improving the quality of life.

6 Sec. 46.29.020. PURPOSE. It is the purpose of this chapter to

7 (1) promote the general welfare and to provide full and
8 wise application of the resources of the state in strengthening the
9 environmental, recreational, economic, and social well-being of the
10 people of the state, and the legislature, recognizing that the state's
11 land is its most valuable resource and that the maximum benefit to all
12 from this resource can best be achieved with the development and
13 implementation of sound and coordinated land use policies, declares
14 that it is the continuing policy of the state to cooperate with and
15 render assistance to local governments in the development and imple-
16 mentation of the policies which will govern the wise and balanced use
17 of the state's land resource;

18 (2) institute a process which will lead to recommendations
19 which will be enacted to encourage and assist local governments to
20 more effectively exercise their responsibilities for the planning and
21 management of their land base through the development and implementation
22 of state land use programs;

23 (3) promote the development of systematic methods for the
24 exchange of data and information pertinent to land use decision making
25 among all levels of government and the public;

26 (4) study the substance of land use policies of various
27 levels of government;

28 (5) provide a means for meaningful participation of property
29 owners, users of the land, and the public in land use planning and

1 management;

2 (6) make recommendations leading to the development and
3 implementation of a permanent state land use program.

4 Sec. 46.29.030. COMMISSION CREATED. There is created the State
5 Land Use Process Examination Commission.

6 Sec. 46.29.040. COMPOSITION OF COMMISSION. (a) The commission
7 consists of nine members, as follows:

8 (1) the governor or his designee;

9 (2) four members appointed by the governor and serving at
10 his pleasure, only one of whom may be a state employee;

11 (3) two members appointed by the speaker of the house and
12 two members appointed by the president of the senate, serving at the
13 pleasure of the appointing authority, none of whom may be state employees.

14 (b) In appointing the members, consideration shall be given to
15 representation by commercial and industrial land users in the state,
16 recreational land users, wilderness users, environmental groups,
17 Alaska Natives, and other citizens.

18 Sec. 46.29.050. CREATION OF LAND USE ADVISORY COMMITTEE. (a)
19 There is created a land use advisory committee to assist and advise
20 the commission, consisting of 12 members, four of whom shall be members
21 of the legislature; seven of whom shall be the commissioners or their
22 representatives from the following departments: community and regional
23 affairs, commerce, economic development, environmental conservation,
24 fish and game, highways, and natural resources; and the remaining
25 member shall be the attorney general.

26 (b) The legislative members shall be appointed as follows: two
27 members of the senate appointed by the president of the senate, one
28 from each major political party; two members of the house appointed by
29 the speaker of the house, one from each major political party.

1 Sec. 46.29.060. TERMS OF OFFICE. Each member of the commission
2 and the land use advisory committee shall serve a two-year term.
3 Vacancies shall be filled by the initial appointing source.

4 Sec. 46.29.070. ORGANIZATION AND MEETINGS OF THE COMMISSION;
5 ADVISORY COMMITTEE ATTENDANCE. Following appointment of its members,
6 the commission shall meet, organize and elect from its membership a
7 chairman, vice-chairman and a secretary. The commission shall meet
8 upon call of the chairman or a majority of the commission members. At
9 each meeting of the commission, the members of the advisory committee
10 shall have the right to attend and participate, but not vote.

11 Sec. 46.29.080. COMMISSION ASSISTANCE. The commission may
12 employ professional personnel, including legal, administrative and
13 clerical assistance, and engage the services of research agencies,
14 persons or groups as it considers desirable. All elected and appointed
15 officials of the state and its political subdivisions are authorized
16 and directed to furnish the commission, upon its request, with
17 information, statistics and reports as are necessary, and shall
18 cooperate with the commission to the fullest extent. The commission
19 may receive and utilize gifts or grants and funds from federal or other
20 governmental agencies.

21 Sec. 46.29.090. COMPENSATION. The members of the commission and
22 the advisory committee may not receive compensation for their services,
23 but shall receive per diem and travel expenses as provided for other
24 boards and commissions while engaged in the performance of their duties.

25 Sec. 46.29.100. RECOMMENDATIONS. The commission, in consultation
26 with the advisory committee, shall make recommendations for the forma-
27 tion of an adequate state land use planning process designed to lead
28 to the institution and accomplishment of the following:

- 29 (1) a permanent land use planning commission;

1 (2) procedures for the development of a set of state land
2 use policies and objectives;

3 (3) the preparation and continuing revision of a state
4 inventory of land and natural resources;

5 (4) the compilation and continuing revision of data, on a
6 statewide basis, related to population densities and trends, economic
7 characteristics and projections, environmental conditions and trends,
8 and directions and extent of urban and rural growth;

9 (5) projections of the nature, quantity, and compatibility
10 of land needed and suitable for recreation, parks, and open space;
11 scientific and educational purposes; protection of areas of critical
12 environmental concern; conservation and preservation of natural resources;
13 agriculture, mineral development, and forestry; industry and commerce,
14 including the development, generation, and transmission of energy; solid
15 waste management and resource recovery; transportation; urban develop-
16 ment, including the revitalization of existing communities, the develop-
17 ment of new towns, and the economic diversification of existing
18 communities which possess a narrow economic base; rural development,
19 taking into consideration future demands for and limitations upon
20 products of the land; and health, educational, and other state and
21 local governmental services: the projections to include consideration
22 of multiple-use siting of facilities and activities;

23 (6) the preparation and continuing revision of an inventory
24 of environmental, geological, and physical conditions, including soil
25 types which influence the desirability of various uses of land;

26 (7) the monitoring of land use data periodically to deter-
27 mine changes in land usage, the comparison of such changes to federal
28 and local land use plans, programs, and projections, and the reporting
29 of the findings to the affected local governments, state agencies, and

1 federal agencies by request;

2 (8) the preparation and continuing revision of an inventory
3 of state, local government, and private needs and priorities concerning
4 the use of federal lands within the state;

5 (9) the preparation and continuing revision of an inventory
6 of public and private institutional and financial resources, including
7 citizen public interest organizations, available for land use planning
8 and management within the state and of state and local programs and
9 activities which have a land use impact of more than local concern;

10 (10) the establishment of methods for identifying large-scale
11 development and development of public facilities or utilities of
12 regional benefit, and inventorying and designating areas of critical
13 environmental concern, areas which are suitable for key facilities,
14 and areas which are or may be impacted by key facilities, which
15 methods shall provide for an appeals process for any interested party
16 as defined by state law or regulation concerning the designation or
17 deletion of any land or facility in or from such areas when such areas
18 are designated other than by state law;

19 (11) the provision, where appropriate, of technical assistance
20 for, and training programs for state and local agency personnel con-
21 cerned with, the development and implementation of state and local land
22 use programs;

23 (12) the establishment of arrangements for the exchange of
24 land use planning information and data among state agencies and local
25 governments, with the federal government, among the several states and
26 interstate agencies, and with the public;

27 (13) the establishment of a process for public education
28 concerning land use planning and management and other land use-related
29 activities;

1 (14) the participation of the public, property owners, users
2 of the land, and the appropriate officials or representatives of local
3 governments in the statewide planning process and in the formulation
4 of definitions, guidelines, and regulations for the administration of
5 the statewide planning process, such participation, except in any
6 proceedings of the legislature, to include public hearings with adequate
7 public notice;

8 (15) the consideration of the impact of state programs and
9 activities, land use policies, and a permanent land use program on
10 the local property tax base and revenues and on rights of private
11 property owners;

12 (16) a study of past, present, and future land use controls
13 in the state on state, federal, and local governmental levels;

14 (17) a recommendation to the governor and the legislature
15 for a reasonable consolidation of existing land use controls with a
16 recommendation for any additional controls;

17 (18) a recommendation for necessary or appropriate
18 constitutional amendments and appropriate legislation regarding state
19 land use policy and planning for consideration by the legislature to be
20 submitted to the legislature and governor no later than December 1,
21 1975;

22 (19) the holding of hearings in at least six separate munici-
23 palities and the conducting of other studies and investigations as are
24 required to carry out the purposes of this chapter, consulting appropri-
25 ate federal agencies as necessary.

26 Sec. 46.29.110. (a) COMMISSION REPORT AND PROPOSED LEGISLATION.
27 The commission, in consultation with the advisory committee, shall
28 develop and submit to the governor and legislature no later than
29 September 1, 1975 an interim report and proposed legislation needed

1 to create a reasonable land use planning process for the implementation
2 of the objectives specified in this chapter.

3 (b) In developing the process under sec. 100 of this chapter, the
4 commission shall make the process capable of addressing itself to the
5 program as specified in this section. In addition, if time and re-
6 sources permit, the commission shall make its own recommendations
7 relating to the development of an adequate state land use program,
8 which program shall include

9 (1) the statewide land use planning process as developed
10 in sec. 100 of this chapter;

11 (2) a statement of state land use policies and objectives;

12 (3) methods of implementation for

13 (A) exercising control over the use and development
14 of land in areas of critical environmental concern to assure that
15 the use and development will not substantially impair the historic,
16 cultural, scientific, or esthetic values or natural systems or
17 processes within fragile or historic lands; that loss or reduction
18 of long-range continuity and the concomitant endangering of future
19 water, food, and fiber requirements within renewable resource lands
20 are minimized or eliminated; and that unreasonable dangers to
21 life and property within natural hazard lands are minimized or
22 eliminated;

23 (B) exercising control over the use of land within
24 areas which are or may be impacted by key facilities, including
25 the site location and the location of major improvement and major
26 access features of key facilities;

27 (C) assuring that local regulations do not arbitrarily
28 or capriciously restrict or exclude development of public facili-
29 ties or utilities of regional benefit;

1 (D) influencing the location of new communities and
2 controlling the use of land around new communities;

3 (E) controlling proposed large-scale development of
4 more than local significance in its impact upon the environment;

5 (F) assuring that any source of air, water, noise, or
6 other pollution pertaining to the areas and developmental activi-
7 ties listed in this chapter will not be located where it will
8 result in a violation of an applicable air, water, noise, or other
9 pollution standard or implementation plan;

10 (G) assuring that all state and local agency programs
11 and services which significantly affect land use are not inconsis-
12 tent with the state land use program;

13 (H) periodically revising and updating the state land
14 use program to meet changing conditions;

15 (I) assuring, except in proceedings of the legislature,
16 the participation of appropriate officials or representatives of
17 local governments, property owners, users of the land, and the
18 public in the development of subsequent revisions in, the imple-
19 mentation of, and the formulation of guidelines and regulations
20 concerning the state land use program; and

21 (J) including, with respect to the Coastal Zone Manage-
22 ment Act of 1972 (86 Stat. 1280), an adequate method for the
23 coordination of the state land use program with the state's manage-
24 ment program approved under that Act; the method shall include
25 the consolidation of the state's management program and the state
26 land use program into a single program for the purposes of annual
27 submission to the Secretary of the Interior for determination of
28 eligibility for grants and to the Secretary of Commerce for deter-
29 mination of eligibility for grants under sec. 306 of the Coastal

1 Zone Management Act of 1972.

2 (c) Where possible, methods of implementation considered in
3 (b)(3) of this section shall be made so as to encourage the employment
4 of land use controls by general purpose local governments.

5 (d) The methods of implementation considered in (b)(3) of this
6 section shall include either one or a combination of the two following
7 general techniques:

8 (1) implementation by general purpose local governments
9 under criteria and standards established by the state, implementation
10 to be subject to state administrative review with state authority to
11 disapprove the implementation if it fails to meet the criteria and
12 guidelines; and

13 (2) direct state land use planning and regulation.

14 (e) Any method of implementation considered to be employed by
15 the state shall include the authority of the state to prevent arbitrary
16 and capricious restriction or prohibition of development of public
17 facilities or utilities of regional benefit, and to prohibit the use
18 of land within areas which, under the state land use program, have
19 been designated as areas of critical environmental concern, areas which
20 are or may be impacted by key facilities, or areas which are presently
21 or potentially subject to large-scale development, large-scale subdi-
22 visions, and land sales or development projects, which use is inconsis-
23 tent with the requirements of the state land use program as they pertain
24 to areas of critical environmental concern, key facilities, large-scale
25 development, large-scale subdivisions, and land sales or development
26 projects.

27 (f) Any method of implementation employed by the state shall
28 include an appeals process for the resolution of, among other matters,
29 conflicts over any decision or action of a local government for any

1 area or use under the state land use program and over any decision or
2 action by the governor or state land use planning agency in the develop-
3 ment of, or under, the state land use program.

4 Sec. 46.29.120. LIFE OF COMMISSION AND ADVISORY COMMITTEE. The
5 commission and its advisory committee shall exist until December 1,
6 1975.

7 Sec. 46.29.130. DEFINITIONS. In this chapter,

8 (1) "areas of critical environmental concern" means areas
9 as defined and designated by the state on nonfederal lands where
10 uncontrolled or incompatible development could result in serious damage
11 to the environment, life or property, or the long-term public interest
12 which is of more than local significance; these areas, subject to
13 state definition of their extent, include

14 (A) "fragile or historic lands" where uncontrolled or
15 incompatible development could result in irreversible damage to
16 important historic, cultural, scientific, or esthetic values, or
17 natural systems which are of more than local significance, such
18 lands to include shorelands of rivers, lakes, and streams; rare
19 or valuable ecosystems and geological formations; significant
20 wildlife habitats; and unique scenic or historic areas;

21 (B) "natural hazard lands" where uncontrolled or incom-
22 patible development could unreasonably endanger life and property,
23 such lands to include flood plains and areas frequently subject
24 to weather disasters, areas of unstable geological, ice, or snow
25 formations, and areas with high seismic or volcanic activity;

26 (C) "renewable resource lands" where uncontrolled or
27 incompatible development which results in the loss or reduction of
28 continued long-range productivity could endanger future water,
29 food, and fiber requirements of more than local concern, such

1 lands to include watershed lands, aquifers and aquifer recharge
2 areas, significant agricultural and grazing lands, and forest
3 lands; and

4 (D) such additional areas as the state determines to
5 be of critical environmental concern;

6 (2) "commission" means the State Land Use Process Examination
7 Commission;

8 (3) "key facilities" means

9 (A) public facilities, as determined by the state,
10 on nonfederal lands which tend to induce development and urbaniza-
11 tion of more than local impact, including but not limited to

12 (i) any major airport designed to serve as a
13 terminal for regularly scheduled air passenger service or
14 one of state concern;

15 (ii) major interchanges between the interstate
16 highway system and frontage access streets or highways; major
17 interchanges between other limited access highways and
18 frontage access streets or highways;

19 (iii) major frontage access streets and highways,
20 both of state concern; and

21 (iv) major recreational lands and facilities;

22 (B) major facilities on nonfederal lands for the
23 development, generation, and transmission of energy;

24 (4) "large-scale development" means private development on
25 nonfederal lands which, because of its magnitude or the magnitude of
26 its effect on the surrounding environment, is likely to present issues
27 of more than local significance in the judgment of the state; in deter-
28 mining what constitutes "large-scale development", the state should
29 consider, among other things, the amount of pedestrian or vehicular

1 traffic likely to be generated; the number of persons likely to be
2 present; the potential for creating environmental problems such as air,
3 water, or noise pollution; the size of the site to be occupied; and
4 the likelihood that additional or subsidiary development will be
5 generated;

6 (5) "land sales or developmental projects", "projects", or
7 "project" means any of the activities set out in (A) - (C) of this
8 paragraph which occur 10 miles or more beyond the boundaries of any
9 standard metropolitan statistical area or of any other general purpose
10 local government certified by the governor as possessing the capability
11 and authority to regulate such activities:

12 (A) the partitioning or dividing into 50 or more lots
13 for sale or resale primarily for housing purposes within a period
14 of 10 years of a tract of land, or tracts of land in the same
15 vicinity, owned or controlled by a developer;

16 (B) the construction or improvement primarily for
17 housing purposes of 50 or more units within a period of 10 years
18 on a tract of land, or tracts of land in the same vicinity, owned
19 or controlled by a developer, including the construction of
20 detached dwellings, town houses, apartments, and trailer parks,
21 and adjacent uses and facilities, whatever their form of ownership
22 or occupancy; and

23 (C) such other projects as may be designated by the
24 state;

25 (6) "developer" means a person who directly or indirectly,
26 through any formal or informal combination or aggregation, owns or
27 controls a tract or tracts of land for which is proposed a "project"
28 as defined in (5)(A) of this section.
29