

Introduced: 2/14/75  
Referred: Resources, Judiciary  
and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 169

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to land and water use and establish-  
7 ing the Alaska Land and Water Use Planning Council and  
8 Regulatory Commission."

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

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

11 CHAPTER 28. ALASKA LAND AND WATER USE.

12 ARTICLE 1. ESTABLISHMENT OF ALASKA LAND AND WATER

13 USE PLANNING COUNCIL.

14 Sec. 46.28.010. LEGISLATIVE FINDINGS. The legislature finds and  
15 declares that the rapid growth and development of the state and the  
16 resulting demands on its land and water resources make new and innova-  
17 tive measures necessary to: (1) encourage planned and orderly land and  
18 water use development; (2) provide for the needs of fisheries, agri-  
19 culture, forestry, tourism, industry, business, residential communities,  
20 recreation, and the preservation of Alaska's uniquely diverse environ-  
21 mental experience; (3) encourage uses of land and other natural resources  
22 which are in accordance with their character and adaptability; (4)  
23 conserve soil, water and forest resources; (5) protect the beauty of  
24 the landscape and fish and wildlife; and (6) promote the efficient and  
25 economical use and conservation of public resources. In order to  
26 promote these goals, there is a need to engage in comprehensive state  
27 land and water use planning and resource allocation.

28 Sec. 46.28.020. ALASKA LAND AND WATER USE PLANNING COUNCIL.

29 There is created the Alaska Land and Water Use Planning Council. The

1 council shall consist of the following:

- 2 (1) commissioner of the Department of Environmental Con-  
3 servation;
- 4 (2) commissioner of the Department of Natural Resources;
- 5 (3) commissioner of the Department of Fish and Game;
- 6 (4) commissioner of the Department of Highways;
- 7 (5) commissioner of the Department of Community and Regional  
8 Affairs;
- 9 (6) commissioner of the Department of Public Works;
- 10 (7) director of the division of policy development and  
11 planning, who shall act as chairman of the council;
- 12 (8) three public appointees selected under sec. 30 of this  
13 chapter.

14 Sec. 46.28.030. PUBLIC APPOINTEES. (a) The governor shall  
15 appoint three public members to the council who may not be full time  
16 employees of the state immediately prior to their appointment. The  
17 term of office of the public members of the council is four years.

18 (b) Members of the council selected under this section serve at  
19 the pleasure of the governor.

20 (c) Public members of the council shall be selected, unless  
21 precluded by (a) of this section, from the state members of the Joint  
22 Federal-State Land Use Planning Commission, except the governor or his  
23 designee, selected under AS 41.40.030.

24 Sec. 46.28.040. COMPENSATION AND PER DIEM. (a) Public members  
25 of the council receive compensation at the rate of \$100 per day for  
26 each day they are engaged in the performance of their duties as members  
27 of the council.

28 (b) Public members of the council are entitled to per diem and  
29 travel expenses authorized by law for boards and commissions.

1           Sec. 46.28.050. QUORUM. Six members of the council constitute a  
2 quorum for the transaction of business. A member of the council,  
3 except a public member, may designate a representative within his  
4 department or division to represent him at any council meeting, and  
5 the representative shall have all the privileges and powers conferred  
6 upon the member himself.

7           Sec. 46.28.060. COUNCIL STAFF. The council shall utilize the  
8 staff of the division of policy development and planning in discharging  
9 the powers and duties conferred by this chapter. The director of the  
10 division, upon the concurrence of the council, may employ personnel he  
11 considers necessary to carry out the powers and duties conferred on  
12 the council by this chapter.

13           Sec. 46.28.070. POWERS OF THE COUNCIL. The council may

14           (1) apply for and accept grants, contributions and appro-  
15 priations, including application for and acceptance of federal funds  
16 which may become available for comprehensive land and water use planning

17           (2) contract for any necessary services;

18           (3) consult and cooperate with

19                   (A) persons, organizations and groups, public or  
20 private, interested in, affected by, or concerned with land and  
21 water use; and

22                   (B) agents and officials of state and federal agencies  
23 concerned with or having jurisdiction over land or water use  
24 within the state;

25           (4) appear and participate in proceedings before a state or  
26 federal agency or legislative body involving or affecting the purposes  
27 of the council;

28           (5) acquire on behalf of a state agency by any means,  
29 including the exercise of eminent domain, any interest in land the

1 council considers necessary to effectuate the purposes of this chapter;

2 (6) adopt regulations under the Administrative Procedure  
3 Act (AS 44.62); or

4 (7) take any action it considers necessary to carry out the  
5 provisions of this chapter.

6 ARTICLE 2. ALASKA LAND AND WATER USE PLAN.

7 Sec. 46.28.120. ALASKA LAND AND WATER USE PLAN. (a) On or  
8 before December 31, 1978, the council shall prepare and adopt, in  
9 conformity with secs. 130 - 190 of this chapter, the Alaska land and  
10 water use plan.

11 (b) The council may prepare and adopt the Alaska land and water  
12 use plan for a particular region or regions of the state, including  
13 all or part of the coastal zone of the state, prior to preparation and  
14 adoption of the full plan under (a) of this section. Portions of the  
15 plan prepared and adopted under this subsection shall be incorporated,  
16 with changes the council considers necessary, into the Alaska land and  
17 water use plan prepared and adopted under (a) of this section.

18 Sec. 46.28.130. PURPOSES. The Alaska land and water use plan  
19 shall be consistent with the following objectives and goals:

20 (1) the maintenance, restoration and enhancement of the  
21 overall quality of the Alaska environment;

22 (2) the development of industrial and commercial enterprises  
23 consistent with the social, economic and environmental interests of  
24 the state;

25 (3) the orderly, balanced utilization and preservation of  
26 all living and non-living resources consistent with sound conservation  
27 and sustained yield principles;

28 (4) the consideration of optimum desirable population  
29 densities within the state;

1 (5) the protection and enhancement of significant historic,  
2 cultural, natural and aesthetic values, and natural systems or pro-  
3 cesses;

4 (6) the prevention of damage to or degradation of state or  
5 federal public lands, reserved for recreation, wilderness, scenic or  
6 species protection purposes, as a result of inconsistent land or water  
7 usages adjacent to those lands;

8 (7) the recognition of the need for a continuing supply of  
9 direct and indirect energy sources to fill the needs of the state and  
10 to contribute the state's just and equitable share in meeting national  
11 energy needs;

12 (8) the full and fair evaluation of all demands on the  
13 land, including environmental, economic and social demands;

14 (9) the need to provide a full range of employment oppor-  
15 tunities, public services and housing options to the citizens of the  
16 state;

17 (10) the need to prevent significant deterioration of  
18 existing air and water quality.

19 Sec. 46.28.140. DATA DEVELOPMENT. The council shall, whenever  
20 possible, use existing state agencies in the accumulation of land and  
21 water data. The council shall establish mechanisms to provide for:

22 (1) data coordination between existing federal, state and  
23 local agencies, the Joint Federal-State Land Use Planning Commission,  
24 the Alaska Land and Water Use Regulatory Commission and the council;

25 (2) the identification by the council of the needs, goals  
26 and objectives of existing state agencies;

27 (3) the efficient accumulation of data necessary to effectuate  
28 the land and water use planning process in a manner which minimizes  
29 duplication of data accumulation efforts.

1           Sec. 46.28.150. PUBLIC PARTICIPATION. (a) The council shall  
2 hold at least twelve public hearings throughout the state prior to the  
3 development of the Alaska land and water use plan under sec. 120(a) of  
4 this chapter. The times and locations for these hearings shall be  
5 established to provide maximum public participation from all regions  
6 of the state. Upon the completion of the Alaska land and water use  
7 plan, but before its adoption under sec. 120(a) of this chapter, the  
8 council shall hold at least six public hearings throughout the state  
9 for review of the plan. The council may amend or supplement the plan  
10 upon completion of the hearings.

11           (b) The council shall hold at least three public hearings within  
12 the affected region prior to adoption of a portion of the Alaska land  
13 and water use plan under sec. 120(b) of this chapter. In addition,  
14 the council shall, upon completion of any portion of the Alaska land  
15 and water use plan, but prior to its adoption under sec. 120(b) of  
16 this chapter, hold at least one public hearing within the affected  
17 region for review of that portion of the plan. The council may amend  
18 or supplement that portion of the plan upon completion of the hearing.

19           (c) Hearings under this section shall be conducted according to  
20 regulations adopted by the council.

21           Sec. 46.28.160. MUNICIPALITIES. The council shall obtain copies  
22 of all master plans, zoning and subdivision ordinances, and other  
23 ordinances affecting land or water use adopted by municipalities of  
24 the state. In addition, the council shall adopt mechanisms which will  
25 provide for a full understanding of the needs, goals and objectives of  
26 each municipality as they pertain to land and water use.

27           Sec. 46.28.170. BASIS FOR ALASKA LAND AND WATER USE PLAN. The  
28 Alaska land and water use plan shall be based on the following:

- 29           (1) information received from existing state agencies under

1 sec. 140 of this chapter;

2 (2) information, opinions and data received at public  
3 hearings held under sec. 150 of this chapter;

4 (3) submissions of municipalities received under sec. 160  
5 of this chapter;

6 (4) the purposes and objectives specified in this chapter;

7 (5) data that the council may solicit or receive from other  
sources.

9 Sec. 46.28.180. GENERAL COMPONENTS. The Alaska land and water  
10 use plan shall consist of those maps, texts and statements of policies  
11 and objectives that the council considers necessary to implement this  
12 chapter.

14 Sec. 46.28.190. SPECIFIC COMPONENTS. The Alaska land and water  
use plan shall contain at least the following components:

15 (1) a statement of planning principles and assumptions used  
16 in developing the Alaska land and water use plan;

17 (2) the designation of areas of critical environmental  
18 concern within the state, and criteria and guidelines for the future  
19 delineation of additional areas of critical environmental concern;

20 (3) use restrictions and explicit statements of policy as  
21 to each area of critical environmental concern, which restrictions and  
22 policies shall reflect the values and characteristics of areas of  
23 critical environmental concern and the desirability of permitting in  
24 areas of critical environmental concern only those uses and developments  
25 which are essential and minimally disruptive of environmental values  
26 and which cannot feasibly be located elsewhere;

27 (4) the identification of development activities of more  
28 than local impact and criteria and guidelines for the further identi-  
29 fication of these development activities;

1 (5) criteria for evaluation of permit applications for each  
2 type of development activity of more than local impact, which criteria  
3 shall be designed to ameliorate the adverse impacts of development of  
4 more than local impact, or to exclude certain developments of more  
5 than local impact from areas where their location would not be consis-  
6 tent with the goals and objectives of the plan;

7 (6) a key facilities element for the general location,  
8 scale and provision of key facilities in the state in the least environ-  
9 mentally destructive manner, including a siting study of major power  
10 plants;

11 (7) a component identifying uses of regional benefit, and  
12 a provision for the necessary siting of those uses;

13 (8) a population element;

14 (9) recommendations for additional legislation to provide  
15 powers necessary to implement the plan, in addition to the powers con-  
16 ferred by this chapter;

17 (10) methods by which data, data analysis and the plan  
18 itself may be revised and supplemented by the council.

19 Sec. 46.28.200. ANNUAL REVIEW. The council shall annually  
20 review the Alaska land and water use plan to determine its conformity  
21 with the purposes of this chapter and make revisions necessary to  
22 ensure conformity. The council shall adopt regulations establishing  
23 procedures, including procedures for public participation, for the  
24 annual review.

25 ARTICLE 3. ALASKA LAND AND WATER USE REGULATORY COMMISSION.

26 Sec. 46.28.210. ALASKA LAND AND WATER USE REGULATORY COMMISSION.  
27 There is created the Alaska Land and Water Use Regulatory Commission.  
28 The commission shall consist of five members who are appointed by the  
29 governor and confirmed by a majority of the members of the legislature

1 in joint session. Upon appointment by the governor, a member of the  
2 commission may exercise the powers conferred upon him by this chapter  
3 until his name has been submitted to and rejected by the legislature.

4 Sec. 46.28.220. TERM OF OFFICE AND VACANCY. (a) The term of  
5 office of each commission member is six years. A person may not be  
6 reappointed to the commission for a second consecutive six-year term.

7 (b) Two initial appointees shall serve terms of two years. Two  
8 initial appointees shall serve terms of four years. The remaining  
9 initial appointee shall serve a six-year term. Notwithstanding (a) of  
10 this section, initial appointees serving two and four year terms may  
11 be reappointed to a subsequent six-year term. At the time of the  
12 initial appointment the governor shall designate whether the appointee  
13 is serving a two, four, or six year term.

14 (c) A vacancy on the commission shall be filled by appointment  
15 by the governor, and the appointment shall be confirmed by a majority  
16 of the members of the legislature in joint session. An appointee  
17 selected to fill a vacancy shall hold office for the balance of the  
18 full term for which his predecessor on the commission was appointed  
19 and, notwithstanding (a) of this section, he may be reappointed to one  
20 subsequent six year term.

21 (d) A vacancy in the commission does not impair the authority of  
22 a quorum of commissioners to exercise the powers and perform the  
23 duties of the commission.

24 Sec. 46.28.230. QUALIFICATIONS. (a) Members of the commission  
25 and the executive director must be persons who, as a result of training,  
26 experience and attainments, have a general interest in and knowledge  
27 of environmental, social and economic trends and information.

28 (b) A member of the commission or the executive director may not  
29 be an officer, director, trustee, partner or joint venturer, or other-

1 wise have a substantial pecuniary interest in an industry or business  
2 primarily engaged in the extraction or processing of natural resources  
3 or land development or land acquisition.

4 (c) In order for a person to serve on the commission, he must  
5 have been a continuous bona fide resident of the state for the 12  
6 months immediately before his appointment.

7 Sec. 46.28.240. QUORUM. Three members of the commission consti-  
8 tute a quorum for the transaction of business.

9 Sec. 46.28.250. OATH OF OFFICE. Before entering office, each  
10 commissioner and the executive director of the commission shall take  
11 and subscribe to the oath prescribed for principal officers of the  
12 state.

13 Sec. 46.28.260. COMPENSATION OF MEMBERS OF COMMISSION. Members  
14 of the commission are in the exempt service under AS 39.25.110 and are  
15 entitled to receive an annual salary equal to the pay of a superior  
16 court judge.

17 Sec. 46.28.270. EMPLOYMENT OF COMMISSION PERSONNEL. The com-  
18 mission may employ an executive director and other personnel, including  
19 hearing officers, it considers necessary to carry out the duties of  
20 the commission.

21 Sec. 46.28.280. REMOVAL OF COMMISSIONERS. Members of the com-  
22 mission may be removed by the governor for cause.

23 Sec. 46.28.290. POWERS OF THE COMMISSION. The commission may

24 (1) contract for any necessary services, including legal  
25 services;

26 (2) consult and cooperate with

27 (A) persons, organizations and groups, public or  
28 private, interested in, affected by, or concerned with land use  
29 and resource allocation in the state; and

1 (B) agents and officials of state and federal agencies  
2 concerned with or having jurisdiction over land use or resource  
3 allocation in the state;

4 (3) sue to obtain any remedy to restrain violations of this  
5 chapter and be sued;

6 (4) conduct investigations, hold hearings and compel the  
7 attendance of witnesses and the production of accounts, books, and  
8 documents by the issuance of subpoenas;

9 (5) adopt regulations under the Administrative Procedure  
10 Act (AS 44.62);

11 (6) upon request of a concerned party, intervene in or  
12 mediate land or water use disputes between the federal government and  
13 political subdivisions of the state; or

14 (7) take any action it considers necessary to carry out the  
15 provisions of this chapter.

16 ARTICLE 4. DEVELOPMENT PERMITS.

17 Sec. 46.28.300. NECESSITY OF OBTAINING A PERMIT. Upon the  
18 adoption of the Alaska land and water use plan under sec. 120(a) of  
19 this chapter, or a portion of the plan under sec. 120(b) of this  
20 chapter, no person may undertake without a development permit from the  
21 commission:

22 (1) a development within an area of critical environmental  
23 concern identified in the plan or portion of the plan;

24 (2) a development of more than local impact within the  
25 state or, for portions of the plan prepared under sec. 120(b) of this  
26 chapter, the affected region.

27 Sec. 46.28.305. PERMIT EXEMPTIONS. Notwithstanding sec. 300 of  
28 this chapter, the commission may adopt regulations exempting from the  
29 permit requirement in particular areas of critical environmental

1 concern certain types of developments which will not, individually or  
2 cumulatively, result in adverse environmental impacts, and which will  
3 not result in land or water usages inconsistent with the Alaska land  
4 and water use plan, or portion of the plan. No regulation adopted  
5 under this section is effective unless approved by the Alaska Land and  
6 Water Use Planning Council.

7 Sec. 46.28.310. PERMIT CONFORMITY WITH PLAN. The commission  
8 shall grant, condition or deny a permit according to the use restrictions,  
9 guidelines and policies that appear in the Alaska land and water use  
10 plan, or applicable portion of it.

11 Sec. 46.28.320. GUIDELINES AND PROCEDURES. The commission shall  
12 establish procedures for the review of permit applications under sec.  
13 300 of this chapter and under secs. 410 - 440 of this chapter, in-  
14 cluding:

15 (1) the creation of regional entities which the commission  
16 considers necessary to conveniently and expeditiously review permit  
17 applications;

18 (2) provision for adequate notice and public participation  
19 in the permit review process;

20 (3) provision for appeal and review of commission action by  
21 any person aggrieved by a decision of the commission;

22 (4) mechanisms for early consultation between the commission  
23 and permit applicants;

24 (5) the creation of extraordinary majority requirements for  
25 the approval of permit applications for particular development activi-  
26 ties or development within particular areas;

27 (6) establishment of mandatory terms and conditions on some  
28 or all permits;

29 (7) mechanisms for review and comment on a permit appli-

1 cation by other concerned agencies, and provisions for the full utili-  
2 zation of existing state agencies in reviewing permit applications.

3 Sec. 46.28.330. OTHER PERMITS. A permit obtained from the com-  
4 mission under sec. 210 of this chapter does not excuse the applicant  
5 from obtaining any other permit required by law.

6 ARTICLE 5. LOCAL PLANNING.

7 Sec. 46.28.350. EXISTING PLANS. Comprehensive plans and zoning,  
8 subdivision, and other ordinances and regulations adopted before the  
9 effective date of the Alaska land and water use plan, or portion of  
10 the plan, remain in effect until revised according to this chapter.  
11 It is intended that existing planning efforts and activities continue  
12 and that existing efforts be utilized in achieving the purposes of  
13 this chapter.

14 Sec. 46.28.360. REPORT OF MUNICIPAL PLAN; USES OF REGIONAL  
15 BENEFIT. One year from the effective date of the Alaska land and  
16 water use plan, or portion of the plan, and annually thereafter, each  
17 municipality exercising the zoning and platting power shall report to  
18 the commission on the status of its comprehensive plan. The report  
19 shall include:

20 (1) a copy of the comprehensive plan reviewed by the  
21 governing body, and a copy of all zoning and subdivision ordinances  
22 and regulations;

23 (2) a statement of progress made during the preceding year  
24 toward inclusion within the municipal planning process of uses of  
25 regional benefit identified in the Alaska land and water use plan, or  
26 portion of the plan, for the region in which the municipality is  
27 located.

28 Sec. 46.28.370. COMMISSION GUIDELINES. The commission shall  
29 adopt regulations establishing standards for its review of local

1 reports submitted under sec. 360 of this chapter. These regulations  
2 shall reflect the need to prevent arbitrary or unreasonable exclusion  
3 of uses of regional benefit by the municipality, and shall require  
4 that the municipality give full and fair consideration to regional,  
5 state and national interests, as well as those of the municipality  
6 itself, in the siting of these usages.

7 Sec. 46.28.380. COMMISSION ACTION. (a) Upon an initial deter-  
8 mination by the commission that a municipality has unreasonably or  
9 arbitrarily excluded uses of regional benefit identified for the  
10 region in the Alaska land and water use plan, or applicable portion of  
11 the plan, it shall schedule, upon 90 days notice to the municipality,  
12 a public hearing to be held within the municipality. If the commission  
13 finds, based on the report of the municipality submitted under sec.  
14 360 of this chapter, evidence adduced at the public hearing, and other  
15 evidence which the commission may consider, that the municipality has  
16 unreasonably or arbitrarily excluded a use of regional benefit identi-  
17 fied for the region in the Alaska land and water use plan, or applicable  
18 portion of the plan, it shall issue an order directing the municipality  
19 to adopt, amend or supplement any comprehensive plan or any zoning,  
20 subdivision or other land use ordinance, or to take any other action  
21 the commission finds necessary to correct the arbitrary or unreasonable  
22 exclusion.

23 (b) If a municipality has under consideration a comprehensive  
24 plan or zoning, subdivision or other ordinance or regulation pertaining  
25 to the siting of uses of regional benefit identified for the region in  
26 the Alaska land and water use plan, or portion of the plan, and shows  
27 satisfactory progress toward the adoption of the comprehensive plan or  
28 the ordinance or regulation, the commission may grant a reasonable  
29 extension of time after the date set in this section for municipal

1 review and revision of the plan or the ordinances or regulations.

2 (c) The commission may enforce orders issued under this section  
3 through injunction or other appropriate proceedings.

4 (d) As used in this section, "exclusion" includes the failure to  
5 make adequate provision for the siting of uses of regional benefit in  
6 the municipality's comprehensive plan or land use ordinances or  
7 regulations.

8 ARTICLE 6. APPEALS TO THE COMMISSION.

9 Sec. 46.28.390. APPEALS TO THE COMMISSION. (a) In the manner  
10 provided in sec. 400 of this chapter, the commission shall review:

11 (1) upon petition by any person whose interests are sub-  
12 stantially affected, any action taken by a federal or state agency  
13 alleged to be in conflict with the Alaska land and water use plan;

14 (2) upon petition by any person whose interests are sub-  
15 stantially affected, any municipal comprehensive plan provision or any  
16 zoning, subdivision or other ordinance or regulation, or other action,  
17 alleged to be in violation of secs. 370 - 390 of this chapter.

18 (b) A petition filed with the commission under (a) of this  
19 section shall be filed no later than 60 days after the date of the  
20 final adoption or approval of the action or comprehensive plan upon  
21 which the petition is based.

22 (c) A review proceeding conducted by the commission under this  
23 section shall be based on the administrative record, if any, prepared  
24 with respect to the proceedings for the adoption or approval of the  
25 comprehensive plan provision or action that is the subject of the  
26 review proceeding.

27 (d) The commission shall adopt regulations for the conduct of  
28 review proceedings held under this section and sec. 400 of this chapter.

29 (e) A municipality, state agency, or any person whose interests

1 are substantially affected may, upon approval by the commission,  
2 intervene and be made a party to a review proceeding conducted by the  
3 commission under this section.

4 Sec. 46.28.400. PROCEDURE. (a) In carrying out the provisions  
5 of sec. 390 of this chapter, the chairman of the commission shall  
6 assign each petition to be reviewed to a hearing officer employed by  
7 the commission under sec. 270 of this chapter, who shall conduct the  
8 review proceeding.

9 (b) A hearing officer shall conduct the review proceeding in  
10 accordance with the regulations adopted by the commission. The hearing  
11 officer shall determine the matter within 45 days following the date  
12 of the filing of the petition by preparing a recommendation for com-  
13 mission action and submitting a copy of his recommendation to the  
14 commission and to each party to the proceeding.

15 (c) The commission shall review the recommendation of the hearing  
16 officer and the record of the proceeding and issue its order with  
17 respect to the review proceeding within 60 days following the date of  
18 the filing of the petition upon which the review proceeding is based.  
19 The commission may adopt, reject or amend the recommendation of the  
20 hearing officer in any matter.

21 (d) An order of the commission issued under (c) of this section  
22 is not valid unless all members of the commission have received the  
23 recommendation of the hearing officer in the matter.

24 (e) If, after review of the recommendation of the hearing officer  
25 and the record of the review proceeding, the commission is unable to  
26 reach a decision in the matter without further information or evidence  
27 not contained in the record of the proceeding, it may refer the matter  
28 back to the hearing officer and request that additional information or  
29 evidence be acquired by him or that he correct any errors or defi-

1           ciencies found by the commission to exist in his recommendation or the  
2 record of the proceeding.

3           (f) In case of a referral of a matter back to the hearing officer  
4 under (e) of this section, the 60 day period referred to in (c) of  
5 this section is extended for a reasonable interval not to exceed  
6 another 60 days.

7           (g) The commission may enforce orders issued under (c) of this  
8 section by appropriate judicial proceedings brought in the superior  
9 court.

10                           ARTICLE 7. UNORGANIZED BOROUGH.

11           Sec. 46.28.410. ZONING. In areas of the unorganized borough  
12 where there is no municipality exercising the zoning and platting  
13 power, the commission shall exercise the zoning and platting power.

14           Sec. 46.28.420. INTERIM ZONING AND PLATTING. (a) The commission  
15 shall adopt interim zoning and platting regulations for the unorganized  
16 borough where there is no municipality exercising the zoning and  
17 platting power. Regulations issued under this section shall reflect  
18 the need to:

19                           (1) preserve land use options in order to facilitate the  
20 Alaska land and water use planning process;

21                           (2) minimize adverse environmental impacts of development  
22 in the unorganized borough;

23                           (3) prevent developmental sprawl and strip development;

24                           (4) insure adequate public services and amenities; and

25                           (5) coordinate the zoning and platting power conferred by  
26 this section with the developing land and water use planning process.

27           (b) Regulations issued under this section shall remain in effect  
28 until revised under sec. 430 of this chapter.

29           Sec. 46.28.430. PERMANENT ZONING AND PLATTING. Upon the adoption

1 of the Alaska land and water use plan pursuant to sec. 120(a) of this  
2 chapter, or a portion of the plan pursuant to sec. 120(b) of this  
3 chapter, the commission shall revise the zoning and platting regulations  
4 issued under sec. 420 of this chapter to the extent necessary to bring  
5 the zoning and platting regulations into conformity with the plan, or  
6 portion of the plan.

7 Sec. 46.28.440. PERMIT REQUIREMENT. Upon the effective date of  
8 the regulations issued under sec. 420 of this chapter, no person may  
9 undertake any development within the unorganized borough where there  
10 is no municipality exercising the zoning and platting power without a  
11 permit from the commission. Permits sought under this section shall  
12 be granted, conditioned or denied according to the zoning and platting  
13 regulations adopted under secs. 420 - 430 of this chapter.

14 ARTICLE 8. PROHIBITED ACTS AND PENALTIES.

15 Sec. 46.28.900. CIVIL PENALTY FOR VIOLATIONS. A person who  
16 violates a provision of this chapter, or a regulation or lawful order  
17 or permit of the commission, is subject, in a civil action brought by  
18 the commission, to a fine not to exceed \$100,000.

19 Sec. 46.28.910. WILFUL VIOLATIONS. A person who wilfully  
20 violates a provision of this chapter, or a regulation or lawful order  
21 or permit of the commission is guilty of a misdemeanor and, upon con-  
22 viction, is punishable by a fine of not more than \$100,000, or by  
23 imprisonment for not more than one year, or by both.

24 ARTICLE 9. GENERAL PROVISIONS.

25 Sec. 46.28.940. INJUNCTIONS. The superior courts of this state  
26 have jurisdiction to restrain violations of this chapter, and to  
27 enforce lawful orders of the commission. In actions brought under  
28 this section, the commission may obtain interlocutory relief without a  
29 showing of irreparable harm or a favorable balance of the equities.

1           Sec. 46.28.950. DEFINITIONS. As used in this chapter, unless  
2 the context otherwise requires.

3           (1) "areas of critical environmental concern" means those  
4 land or water areas of any size within the state which possess natural,  
5 ecological, scientific, recreational, aesthetic or historic features  
6 or values, for which state protection is necessary to carry out the  
7 purposes and objectives of the Alaska land and water use plan; these  
8 areas may include, but are not limited to:

9                   (A) estuaries, floodplains, lands subject to either  
10 continuous or periodic tidal influence, rivers and streams, wet-  
11 lands, deltas, and other areas of high biological productivity or  
12 developmental risk;

13                   (B) areas containing unusually high, or locally  
14 threatened, fish and wildlife populations;

15                   (C) open space in and near urban areas, the protection  
16 of which is necessary to preserve a diversity of environmental  
17 experience in or near population centers;

18                   (D) critical habitat areas including those designated  
19 under AS 16.20.220 - 16.20.274;

20                   (E) areas of significant recreational or tourism usage  
21 or potential;

22                   (F) significant subsistence, commercial or sport  
23 fishing and hunting areas;

24                   (G) areas of unique historical or cultural value;

25                   (H) areas adjacent to public lands withdrawn for  
26 recreation, wilderness, scenic or species protection purposes;

27           (2) "commission" means the Alaska Land and Water Use  
28 Regulatory Commission;

29           (3) "council" means the Alaska Land and Water Use Planning

1 Council;

2 (4) "development" means on land or in, on or under water,

3 (A) the affixing or erection of any solid material or  
4 structure;

5 (B) the grading, removing, mining or extraction of any  
6 materials;

7 (C) dredging or filling operations;

8 (D) a change in the density or intensity of use of  
9 land or water, including the subdivision of land, whether or not  
10 the subdivider intends to erect any improvements on the land;

11 (E) the material alteration of the size of an existing  
12 structure; or

13 (F) the removal or logging of major vegetation;

14 (5) "development of more than local impact" means a develop-  
15 ment which is likely to cause, either directly or indirectly, signifi-  
16 cant environmental, social, demographic or economic impact beyond the  
17 immediate geographical area in which the development is proposed to be  
18 located;

19 (6) "key facilities" means those facilities which provide  
20 necessary local, regional or statewide services, including power  
21 generation and transmission facilities;

22 (7) "municipality" includes both home rule and general law  
23 cities, boroughs, and municipalities unified under the provisions of  
24 AS 29.68.240 - 29.68.440;

25 (8) "person" includes any individual, public or private  
26 corporation, partnership, association, industry, firm, trust, estate,  
27 any agency of federal, state and local government, and any other  
28 entity;

29 (9) "structure" includes a building, road, railroad, pipe,

1 flume, conveyor, conduit, siphon, aqueduct, dam, bridge, dock, platform,  
2 telephone line, and electrical power transmission and distribution  
3 line;

4 (10) "uses of regional benefit" means those land or water  
5 uses which confer significant environmental, social or economic benefits  
6 beyond the municipality or immediate geographical area in which they  
7 are located, and include, but are not limited to:

8 (A) parks and recreational facilities;

9 (B) cultural and historical areas of regional or  
10 statewide significance;

11 (C) energy production, transmission, conversion and  
12 transportation facilities;

13 (D) airports and other transportation facilities; and

14 (E) schools, hospitals, libraries, sewerage treatment  
15 facilities and other critical public services.

16 Sec. 46.28.960. STATE AGENCIES. (a) All agencies of the state,  
17 upon the adoption of the Alaska land and water use plan, or a portion  
18 of the plan, shall review their present statutory authority, admini-  
19 strative regulations, and current policies and procedures as they  
20 pertain to land and water use, for the purpose of determining whether  
21 there are any deficiencies or inconsistencies which prohibit or frustrate  
22 full compliance with the Alaska land and water use plan, and shall,  
23 within one year of the effective date of the plan, or portion of the  
24 plan, take whatever action is necessary, including recommendations to  
25 the legislature for additional or amended legislation, in order to  
26 facilitate full compliance with and implementation of the Alaska land  
27 and water use plan.

28 (b) Notwithstanding any other provision of this chapter, develop-  
29 ments undertaken by state agencies which have been specifically approved

1 or provided for in the Alaska land and water use plan, or portion of  
2 the plan, are not subject to the permit requirements of sec. 300 or  
3 sec. 440 of this chapter. However, before undertaking any development  
4 approved in the plan, or portion of the plan, the responsible state  
5 agency shall submit detailed plans of the development to the commission  
6 for review. Upon review of the plan, the commission may attach stipu-  
7 lations or conditions to the project which it considers necessary to  
8 minimize the adverse environmental impacts of the development, and to  
9 otherwise bring the development into conformity with the plan, or  
10 portion of the plan. The commission shall adopt regulations governing  
11 review of approved developments under this subsection.

12 Sec. 46.28.970. SHORT TITLE. This chapter may be cited as the  
13 Alaska Land and Water Use Planning Act.

14 \* Sec. 2. AS 39.25.110 is amended by adding a new paragraph to read:

15 (16) members of the Alaska Land and Water Use Commission.

16 \* Sec. 3. AS 38.05.037 and 40.15.075 are repealed.  
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