

1 IN THE SENATE

BY ORSINI

SS

2 SENATE BILL NO. 242

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 coastal zone management; and
7 providing for an effective date."

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 27. COASTAL ZONE MANAGEMENT.

11 ARTICLE 1. ESTABLISHMENT OF ALASKA COASTAL ZONE

12 MANAGEMENT PLANNING COUNCIL.

13 Sec. 46.27.010. LEGISLATIVE FINDINGS. The legislature finds that

14 (1) the coastal zone of the state is a distinct and valuable
15 natural resource belonging to all the people and exists as a delicately
16 balanced ecosystem;

17 (2) the demands upon the resources of the coastal zone is
18 immense, and will increase dramatically in the future;

19 (3) the permanent protection of the natural and scenic re-
20 sources of the coastal zone is of paramount concern to present and
21 future citizens of the state and the nation;

22 (4) the capacity of the coastal zone to withstand the demands
23 upon it are uniquely limited;

24 (5) the degree of planning and resource allocation which has
25 occurred in the coastal zone has all too often been motivated by short-
26 term parochial considerations and expediency, unrelated or contradictory
27 to sound ecological and economic planning principles; and

28 (6) in order to promote the public health and welfare, there
29 exists a critical need to engage in comprehensive land and water use

SS

1 planning in the coastal zone and to establish the means by which the
2 planning process may be effectively and uniformly implemented.

3 Sec. 46.27.020. ALASKA COASTAL ZONE MANAGEMENT PLANNING COUNCIL.

4 There is created the Alaska Coastal Zone Management Planning Council.

5 The council shall consist of the following:

6 (1) commissioner of the Department of Environmental Conser-
7 vation;

8 (2) commissioner of the Department of Natural Resources;

9 (3) director of the division of policy development and
10 planning, who shall act as chairman of the council;

11 (4) commissioner of the Department of Commerce;

12 (5) seven public appointees selected under sec. 30 of this
13 chapter.

14 Sec. 46.27.030. 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 before their appointment. The term
17 of office of the public members of the council appointed by the governor
18 is four years.

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

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

25 (d) The legislature shall appoint four public members to the
26 council who shall serve for two-year terms and may not be full-time
27 employees of the state immediately before their appointment. These
28 members serve at the pleasure of their appointing bodies and shall be
29 selected as follows: one by the majority caucus of the senate, one by

1 the minority caucus of the senate, one by the majority caucus of the
2 house of representatives, and one by the minority caucus of the house of
3 representatives.

4 Sec. 46.27.040. COMPENSATION AND PER DIEM. (a) Public members of
5 the council receive compensation at the rate of \$100 per day for each
6 day they are engaged in the performance of their duties as members of
7 the council.

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

10 Sec. 46.27.050. QUORUM. Six members of the council constitute a
11 quorum for the transaction of business. A member of the council,
12 except a public member, may designate a representative within his
13 department or division to represent him at any council meeting, and the
14 representative shall have all the privileges and powers conferred upon
15 the member himself.

16 Sec. 46.27.060. COUNCIL STAFF. The council shall utilize the
17 staff of the division of policy development and planning in discharging
18 the powers and duties conferred by this chapter. The director of the
19 division, upon the concurrence of the council, may contract with or
20 employ personnel he considers necessary to carry out the powers and
21 duties conferred on the council by this chapter.

22 Sec. 46.27.070. POWERS OF THE COUNCIL. The council may

23 (1) apply for and accept grants, contributions and appro-
24 priations, including application for and acceptance of federal funds
25 which may become available for coastal zone planning or management;

26 (2) contract for any necessary services;

27 (3) consult and cooperate with

28 (A) persons, organizations and groups, public or private
29 interested in, affected by, or concerned with coastal zone manage-

1 ment; and

2 (B) agents and officials of municipal, state and
3 federal agencies concerned with or having jurisdiction over coastal
4 zone management;

5 (4) appear and participate in proceedings before a municipal,
6 state or federal agency or legislative body involving or affecting the
7 purposes of the council;

8 (5) acquire on behalf of a state agency by any means,
9 including the exercise of eminent domain, any interest in land the
10 council considers necessary to effectuate the purposes of this
11 chapter;

12 (6) adopt regulations under the Administrative Procedure Act
13 (AS 44.62); unless otherwise specified in this chapter, regulations
14 adopted under this chapter take effect only upon approval by concurrent
15 resolution of the legislature;

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

18 ARTICLE 2. ALASKA COASTAL ZONE PLAN.

19 Sec. 46.27.100. ALASKA COASTAL ZONE PLAN. (a) On or before
20 December 31, 1978, the council shall prepare and adopt, in conformity
21 with secs. 110 - 170 of this chapter, the Alaska coastal zone plan.

22 (b) The council may prepare and adopt the Alaska coastal zone
23 plan for a particular region or regions of the coastal zone, before
24 preparation and adoption of the full plan under (a) of this section.
25 Portions of the plan prepared and adopted under this subsection shall be
26 incorporated, with changes the council considers necessary, into the
27 Alaska coastal zone plan prepared and adopted under (a) of this section.

28 (c) Plans prepared under (a) or (b) of this section, as appropri-
29 ate, for the coastal zone, take effect 45 days after the beginning of

1 the first legislative session after the adoption of the plans prepared
2 under (a) or (b) of this section, unless disapproved by a majority of
3 each house of the legislature.

4 Sec. 46.27.110. PURPOSES. The Alaska coastal zone plan shall be
5 consistent with the following objectives and goals:

6 (1) the maintenance, restoration and enhancement of the
7 overall quality of the coastal zone environment;

8 (2) the development of industrial and commercial enterprises
9 dependent upon the coastal zone for siting and which are consistent with
10 the social, economic and environmental interests of the state;

11 (3) the orderly, balanced utilization and preservation of all
12 living and nonliving coastal resources consistent with sound conserva-
13 tion and sustained yield principles;

14 (4) the consideration of optimum desirable population densi-
15 ties within the coastal zone;

16 (5) the protection and enhancement of significant historic,
17 cultural, natural and aesthetic values, and natural systems or processes
18 within the coastal zone;

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

23 (7) the recognition of the need for a continuing supply of
24 direct and indirect energy sources to fill the needs of the state and to
25 contribute the state's just and equitable share in meeting national
26 energy needs; and

27 (8) the full and fair evaluation of all demands on the land,
28 including environmental, economic and social demands.

29 Sec. 46.27.120. DATA DEVELOPMENT. The council shall, whenever

1 possible, use existing state agencies in the accumulation of land and
2 water data. The council shall establish mechanisms to provide for:

3 (1) data coordination between existing federal, state and
4 local agencies, the Joint Federal-State Land Use Planning Commission,
5 the Alaska Coastal Zone Regulatory Commission and the council;

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

8 (3) the efficient accumulation of data necessary to effectuate
9 the coastal zone planning process in a manner which minimizes
10 duplication of data accumulation efforts.

11 Sec. 46.27.130. PUBLIC PARTICIPATION. (a) The council shall hold
12 at least twelve public hearings throughout the state before preparation
13 of the Alaska coastal zone plan under sec. 100(a) of this chapter. The
14 times and locations for these hearings shall be established to provide
15 maximum public participation from all regions of the state. Upon comple-
16 tion of the Alaska coastal zone plan, but before its adoption under sec.
17 100(a) of this chapter, the council shall hold at least six public
18 hearings throughout the state for review of the plan. The council may
19 amend or supplement the plan upon completion of the hearings.

20 (b) The council shall hold at least three public hearings within
21 the affected region before preparation of a portion of the Alaska
22 coastal zone plan under sec. 100(b) of this chapter. In addition, the
23 council shall, upon completion of any portion of the Alaska coastal zone
24 plan, but before its adoption under sec. 100(b) of this chapter, hold at
25 least one public hearing within the affected region for review of that
26 portion of the plan. The council may amend or supplement that portion
27 of the plan upon completion of the hearing.

28 (c) Hearings under this section shall be conducted according to
29 regulations adopted by the council under the provisions of the Adminis-

1 trative Procedure Act (AS 44.62), and shall be held at locations within
2 or adjacent to the coastal zone.

3 (d) The council may adopt regulations under the Administra-
4 tive Procedure Act (AS 44.62) for means of public participation other
5 than public hearings, including but not limited to public opinion sur-
6 veys. Other means of public participation may be substituted for up to
7 one-third of the public hearings required before preparation of the plan
8 or portions of a plan, as appropriate, as specified in (a) or (b) of
9 this section.

10 Sec. 46.27.140. MUNICIPALITIES. (a) The council shall obtain
11 copies of all master plans, zoning and subdivision ordinances, and other
12 ordinances affecting land or water use adopted by municipalities in
13 whole or in part within a coastal zone. In addition, the council shall
14 adopt mechanisms which will provide for a full understanding of the
15 needs, goals and objectives of each municipality as they pertain to land
16 and water use within a coastal zone.

17 (b) Plans or portions of plans prepared under sec. 100(a) or (b)
18 of this chapter shall be for that geographical area of the plan con-
19 tained within a municipality, in accordance with the need, goals,
20 objectives, and other information required under (a) of this section,
21 unless the council determines that it is in the state interest to do
22 otherwise.

23 Sec. 46.27.150. BASIS FOR ALASKA COASTAL ZONE PLAN. The Alaska
24 coastal zone plan shall be based on the following:

25 (1) information received from existing state agencies under
26 sec. 120 of this chapter;

27 (2) information, opinions and data received from hearings and
28 other public participation under sec. 130 of this chapter;

29 (3) submissions of municipalities received under sec. 140 of

1 this chapter and other elected officials;

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

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

5 Sec. 46.27.160. GENERAL COMPONENTS. The Alaska coastal zone plan
6 shall consist of those maps, texts and statements of policies and
7 objectives that the council considers necessary to implement this
8 chapter.

9 Sec. 46.27.170. SPECIFIC COMPONENTS. The Alaska coastal zone plan
10 shall contain at least the following components:

11 (1) specific definition of the landward boundary of the
12 coastal zone;

13 (2) a statement of planning principles and assumptions used
14 in developing the plan;

15 (3) a component which includes the following elements;

16 (A) a land use element;

17 (B) a transportation element;

18 (C) a conservation element for the preservation and
19 management of the scenic and other natural resources of the coastal
20 zone;

21 (D) a public access element for maximum visual and
22 physical use and enjoyment of the coastal zone by the public;

23 (E) a recreation element;

24 (F) a public services and key facilities element for the
25 general location, scale, and provision for the siting of those
26 facilities in the least environmentally destructive manner; this
27 element shall include a siting study for major power plants;

28 (G) an aquatic mineral and living resources element;

29 (H) a population element;

1 (I) an educational or scientific use element;
2 (J) an energy production, transportation and conversion
3 element;

4 (K) an economic element;

5 (4) reservations of land or water in the coastal zone for
6 certain uses, or the prohibition of certain uses in specific areas;

7 (5) an identification of uses of regional benefit, and a
8 provision for the siting of those uses within the coastal zone;

9 (6) exemptions from the permit requirement imposed by sec.
10 320 of this chapter; however, an exemption may be granted upon a finding
11 by the council that the exempted development will cause, individually or
12 cumulatively, no more than minor adverse environmental impact, and will
13 not otherwise frustrate the purposes and objectives specified in this
14 chapter, or the coastal zone plan;

15 (7) a precise ranking of priorities of uses within the
16 coastal zone.

17 Sec. 46.27.180. ANNUAL REVIEW. (a) The council shall annually
18 review the Alaska coastal zone plan to determine its conformity with the
19 purposes of this chapter and make revisions necessary to ensure con-
20 formity. The council shall adopt regulations establishing procedures,
21 including procedures for public participation, for the annual review.

22 (b) Regulations and regulation changes to the plan under this
23 section take effect 45 days after the beginning of the first legislative
24 session after the adoption of the regulations or changes, as appropri-
25 ate, unless disapproved by a majority of each house of the legislature.

26 ARTICLE 3. ALASKA COASTAL ZONE REGULATORY COMMISSION.

27 Sec. 46.27.210. ALASKA COASTAL ZONE REGULATORY COMMISSION. There
28 is created the Alaska Coastal Zone Regulatory Commission. The commis-
29 sion shall consist of five members who are appointed by the governor

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

5 Sec. 46.27.220. TERM OF OFFICE AND VACANCY. (a) The term of
6 office of each commission member is six years. A person may not be
7 reappointed to the commission for a second consecutive six-year term.

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

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

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

25 Sec. 46.27.230. QUALIFICATIONS. (a) Members of the commission
26 and the executive director must be persons who, as a result of training,
27 experience and attainments, have a general interest in and knowledge of
28 environmental, social and economic trends and information.

29 (b) In order for a person to serve on the commission, he must have

1 been a continuous bona fide resident of the state for the 12 months
2 immediately before his appointment.

3 Sec. 46.27.240. QUORUM. Three members of the commission consti-
4 tute a quorum for the transaction of business.

5 Sec. 46.27.250. OATH OF OFFICE. Before entering office, each
6 commissioner and the executive director of the commission shall take and
7 subscribe to the oath prescribed for principal officers of the state.

8 Sec. 46.27.260. COMPENSATION OF MEMBERS OF COMMISSION. Members of
9 the commission are in the exempt service under AS 39.25.110 and are
10 entitled to receive an annual salary equal to the pay of a superior
11 court judge.

12 Sec. 46.27.270. EMPLOYMENT OF COMMISSION PERSONNEL. The commission
13 may employ an executive director and other personnel, including hearing
14 officers, it considers necessary to carry out the duties of the commis-
15 sion.

16 Sec. 46.27.280. REMOVAL OF COMMISSIONERS. Members of the com-
17 mission may be removed by the governor for cause.

18 Sec. 46.27.290. POWERS OF THE COMMISSION. The commission may

19 (1) contract for any necessary services, including legal
20 services;

21 (2) consult and cooperate with

22 (A) persons, organizations and groups, public or pri-
23 vate, interested in, affected by, or concerned with coastal zone
24 management; and

25 (B) agents and officials of municipal, state and federal
26 agencies concerned with or having jurisdiction over coastal zone
27 management;

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

1 (4) conduct investigations, hold hearings and compel the
2 attendance of witnesses and the production of accounts, books and
3 documents by the issuance of a subpoena;

4 (5) upon request of a concerned party, intervene or mediate
5 coastal zone management disputes between the federal government and
6 political subdivisions of the state;

7 (6) adopt regulations under the Administrative Procedure Act
8 (AS 44.62); unless otherwise specified in this chapter, regulations
9 adopted under this chapter take effect upon approval by concurrent
10 resolution of the legislature;

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

13 ARTICLE 4. IMPLEMENTATION.

14 Sec. 46.27.310. INTERIM REGULATIONS. (a) Within 120 days of the
15 effective date of this chapter, the council shall adopt interim regu-
16 lations defining the landward extent of the coastal zone in conformity
17 with this chapter. The landward definition may be statewide, regional
18 or site specific. The definition of the landward extent of the coastal
19 zone established under this section may be revised in the Alaska coastal
20 zone plan, or portion of the plan.

21 (b) Interim regulations adopted under (a) of this section take
22 effect 45 days after the beginning of the first legislative session
23 after the adoption of the regulations, unless disapproved by a majority
24 of each house of the legislature.

25 Sec. 46.27.320. PERMIT REQUIREMENT. Upon the effective date of
26 the regulations required by sec. 310 of this chapter, no person may
27 undertake any development within the coastal zone, as defined under sec.
28 310 of this chapter, or in the Alaska coastal zone plan, or portion of
29 the plan, without a permit from the commission.

1 Sec. 46.27.330. EXEMPTIONS. Notwithstanding sec. 320 of this
2 chapter, the commission may adopt regulations exempting from the permit
3 requirement in particular areas of the coastal zone certain types of
4 development which will not, individually or cumulatively, result in more
5 than minor adverse environmental impacts, and which will not result in
6 coastal zone usages inconsistent with the developing Alaska coastal zone
7 plan. No regulation under this section is effective unless approved by
8 the Alaska Coastal Zone Planning Council, and shall continue in effect
9 only until the effective date of the Alaska coastal zone plan, or portion
10 of the plan.

11 Sec. 46.27.335. CONDITIONS. The commission may require stipula-
12 tions or conditions to a permit it considers necessary to carry out the
13 purposes of this chapter.

14 Sec. 46.27.340. INTERIM CRITERIA. Upon the effective date of the
15 regulations required by sec. 310 of this chapter, and until the adoption
16 of the Alaska coastal zone plan under sec. 100(a) of this chapter, or a
17 portion of the plan under sec. 100(b) of this chapter, the commission
18 may grant a development permit only upon finding all of the following:

19 (1) that the proposed development will not cause significant
20 adverse impacts upon the natural systems or processes of the coastal
21 zone, unless it is clearly demonstrated to be in the best state interest
22 to allow the adverse impacts;

23 (2) that the proposed development will not significantly
24 preclude land or water use options on surrounding land or water areas,
25 unless it is clearly demonstrated to be in the best state interest to
26 preclude these options;

27 (3) that the proposed development is not otherwise incon-
28 sistent with the objectives specified in sec. 110 of this chapter;

29 (4) that the proposed development is not inconsistent with

1 the Alaska coastal zone plan, or portion of the plan, to the extent the
2 plan or portion of it is identifiable.

3 (b) The applicant shall have the burden of proof on all issues.

4 Sec. 46.27.350. PERMIT PROCEDURES. (a) The commission may, upon
5 request or on its own motion, assign for public hearing, to a hearing
6 officer employed by the commission under sec. 270 of this chapter,
7 applications for development permits under sec. 320 of this chapter. At
8 the close of a hearing, the hearing officer shall promptly prepare a
9 recommendation for commission action upon the matter and submit a copy
10 of his recommendation to the commission and to each party to the pro-
11 ceeding.

12 (b) Public hearings held under (a) of this section shall be held
13 in the coastal municipality closest to the proposed development, subject
14 to schedules and times as the commission may establish.

15 (c) Hearings held under (a) of this section shall be held within
16 30 days of receipt of the permit application. However, the commission
17 may, upon notice to the applicant, postpone for a period, not in excess
18 of 30 days, the time requirements imposed by this subsection for the
19 purposes of combining several public hearings in one municipality or one
20 region.

21 (d) The commission shall prescribe by regulation the procedures
22 for permit applications and hearings and may require a reasonable
23 filing fee. Regulations governing the procedures for permit applica-
24 tions and hearings take effect 45 days after the beginning of the first
25 legislative session after adoption of the regulations, unless disapproved
26 by a majority of each house of the legislature.

27 (e) The commission shall review the recommendation of the hearing
28 officer and the record of the proceeding and issue its order with re-
29 spect to the application within 15 days of receipt of the recommendation

1 of the hearing officer. The commission may adopt, reject or amend the
2 recommendation of the hearing officer in any matter.

3 Sec. 46.27.360. VESTED RIGHTS: EXEMPTIONS. (a) If before the
4 effective date of the interim regulations adopted under sec. 310 of this
5 chapter a municipality has issued a building permit, a person who has
6 obtained a vested right under the permit is not required to secure a
7 permit from the commission; however, no substantial changes may be made
8 in the development except in accordance with this chapter. A person is
9 considered to have vested rights if, before the effective date of the
10 interim regulations adopted under sec. 310 of this chapter, he has in
11 good faith and in reliance upon the building permit diligently commenced
12 and performed substantial work on the development and incurred sub-
13 stantial liabilities for work and materials necessary for the develop-
14 ment. Expenses incurred in obtaining the enactment of an ordinance in
15 relation to the development or issuance of a permit are not considered
16 liabilities for work or material. The acquisition of vested rights in
17 one unit of a subdivision does not confer vested rights in other units
18 of the subdivision.

19 (b) A permit is not required for:

20 (1) repair or maintenance activities of any sort; however,
21 the activities may not result in an addition to, or enlargement or
22 expansion of, the object of the repair or maintenance activities;

23 (2) repairs and improvements not in excess of \$10,000 to
24 existing structures; however, the commission shall specify by regula-
25 tions those classes of development which involve a risk of adverse
26 environmental effect and may require that a permit be obtained;

27 (3) a development exempted by the council under sec. 170(6)
28 of this chapter, or by the commission under sec. 330 of this chapter.

29 Sec. 46.27.370. OTHER PERMITS. A permit issued by the commission

1 does not excuse the applicant from obtaining any other permit which may
2 be required by law.

3 Sec. 46.27.380. REPORT OF MUNICIPAL PLANS; USES OF REGIONAL
4 BENEFIT. One year from the effective date of the Alaska coastal zone
5 plan or portion of the plan, and annually thereafter, each municipality
6 which is in whole or in part within the coastal zone and which exercises
7 the zoning and platting power shall report to the commission on the
8 status of its comprehensive plan. The report shall include:

9 (1) a copy of the comprehensive plan reviewed by the govern-
10 ing body, and a copy of all zoning and subdivision ordinances and
11 regulations; and

12 (2) a statement of progress made during the preceding year
13 toward inclusion within the municipal planning process of uses of
14 regional benefit identified in the Alaska coastal zone plan, or portion
15 of the plan, for the coastal region in which the municipality is located.

16 Sec. 46.27.390. COMMISSION GUIDELINES. (a) The commission shall
17 adopt regulations establishing standards for its review of local reports
18 submitted under sec. 380 of this chapter. These regulations shall
19 reflect the need to prevent arbitrary or unreasonable exclusion of uses
20 of regional benefit by the municipality, and shall require that the
21 municipality give full and fair consideration to regional, state and
22 national interests, as well as those of the municipality itself, in the
23 siting of these usages.

24 (b) Regulations under this section take effect unless disapproved
25 by a majority of each house of the legislature.

26 Sec. 46.27.400. COMMISSION ACTION. (a) Upon a initial deter-
27 mination by the commission that a municipality has unreasonably or
28 arbitrarily excluded uses of regional benefit identified for the region
29 in the Alaska coastal zone plan, or applicable portion of the plan, it

1 shall schedule, upon 90 days notice to the municipality, a public hear-
2 ing to be held within the municipality. If the commission finds, based
3 on the report of the municipality submitted under sec. 380 of this
4 chapter, evidence adduced at the public hearing, and other evidence
5 which the commission may consider, that the municipality has unreasonably
6 or arbitrarily excluded a use of regional benefit identified for the
7 region in the Alaska coastal zone plan, or applicable portion of the
8 plan, it shall issue an order directing the municipality to adopt, amend
9 or supplement any comprehensive plan or any zoning, subdivision or other
10 land use ordinance, or to take any other action the commission finds
11 necessary to correct the arbitrary or unreasonable exclusion.

12 (b) If a municipality has under consideration a comprehensive plan
13 or zoning, subdivision or other ordinance or regulation pertaining to
14 the siting of uses of regional benefit identified for the region in the
15 Alaska coastal zone plan, or portion of the plan, and shows satisfactory
16 progress toward the adoption of the comprehensive plan or the ordinance
17 or regulation, the commission may grant a reasonable extension of time
18 after the date set in this section for municipal review and revision of
19 the plan or the ordinances or regulations.

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

22 (d) As used in this section, "exclusion" includes the failure to
23 make adequate provision for the siting of uses of regional benefit in
24 the municipality's comprehensive plan or land use ordinances or regula-
25 tions.

26 Sec. 46.27.410. STATE LANDS. (a) Upon the effective date of this
27 chapter, and until the adoption of the Alaska coastal zone plan under
28 sec. 100(a) of this chapter, or until the adoption of a portion of the
29 plan under sec. 100(b) of this chapter, no state land within the coastal

1 zone may be sold, leased, transferred or otherwise alienated or encum-
2 bered.

3 (b) Notwithstanding (a) of this section, the commission may, upon
4 a petition of the commissioner of the Department of Natural Resources
5 and after public hearing, exempt lands specified in the petition from
6 the moratorium imposed by (a) of this section if the commission finds
7 all of the following:

8 (1) the proposed sale or lease is essential to the main-
9 tenance of a necessary flow of revenue to the state;

10 (2) the proposed usage for the land or water area will not
11 cause significant adverse environmental impacts, unless there is a
12 compelling state interest not to apply this paragraph;

13 (3) the proposed usage will not significantly reduce land or
14 water use alternatives in the surrounding area, unless there is a com-
15 pelling state interest not to apply this paragraph;

16 (4) the proposed usage is not in conflict with the Alaska
17 coastal zone plan, to the extent that the plan, or portion of the plan,
18 is identifiable at the time of the proposed conveyance; and

19 (5) all documents of conveyance will contain restrictions or
20 covenants adequate to insure that the actual usage of the land or water
21 area will not be inconsistent with the use classification of the land or
22 water area.

23 (c) Upon the adoption of the Alaska coastal zone plan under sec.
24 100(a) of this chapter, or upon adoption of a portion of the plan under
25 sec. 100(b) of this chapter, state land may be sold, leased, transferred
26 and otherwise alienated and encumbered for only those uses for which the
27 land has been classified in the plan or portion of the plan.

28 ARTICLE 5. PROHIBITED ACTS AND PENALTIES.

29 Sec. 46.27.900. CIVIL PENALTY FOR VIOLATIONS. A person who
SB 242

1 violates a provision of this chapter, or a regulation, permit or lawful
2 order of the commission, is subject, in a civil action brought by the
3 attorney general, to a fine not to exceed \$100,000.

4 Sec. 46.27.910. WILFUL VIOLATIONS. A person who wilfully violates
5 a provision of this chapter, or a regulation, permit or lawful order of
6 the commission, is guilty of a misdemeanor and, upon conviction, is
7 punishable by a fine of not more than \$100,000, or by imprisonment for
8 not more than one year, or by both.

9 ARTICLE 6. GENERAL PROVISIONS.

10 Sec. 46.27.920. INJUNCTIONS. The superior courts of this state
11 have jurisdiction to restrain violations of this chapter and to enforce
12 lawful orders of the commission. In actions brought under this section,
13 the commission may obtain interlocutory relief without a showing of
14 irreparable harm or a favorable balance of the equities.

15 Sec. 46.27.930. JUDICIAL REVIEW. Any person aggrieved by an
16 action or decision of the commission, taken under this chapter, has a
17 right of judicial review in the superior court in the judicial district
18 affected by the action or decision within 30 days after the action or
19 decision is final.

20 Sec. 46.27.940. DEFINITIONS. As used in this chapter, unless the
21 context otherwise requires:

22 (1) "coastal zone" means the land and water area of the state
23 extending seaward to the outer boundaries of the territorial jurisdic-
24 tion of the state. Landward, it includes

25 (A) all lands inland from the natural salt water mean
26 high tide line to the extent necessary to control shorelands, and
27 to reach land usage which has a significant impact on the coastal
28 ecology;

29 (B) land within 250 feet of the normal high water mark

1 of any body of fresh water in excess of 10 acres in surface area;
2 and

3 (C) land within 250 feet of the normal high water mark
4 of free flowing rivers from the river mouth to that point of the
5 river at which it provides drainage for a watershed less than 25
6 square miles in area;

7 (2) "commission" means the Alaska Coastal Zone Regulatory
8 Commission;

9 (3) "council" means the Alaska Coastal Zone Management
10 Planning Council;

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

12 (A) the affixing or erection of any solid material or
13 structure;

14 (B) the grading, removing, mining or extraction of any
15 materials;

16 (C) dredging or filling operations;

17 (D) a change in the density or intensity of use of land,
18 including the subdivision of land, whether or not the subdivider
19 intends to erect any improvements on the land;

20 (E) the material alteration of the size of a structure;

21 or

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

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

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

29 (7) "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 line;
3 and

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

8 (A) parks and recreational facilities;

9 (B) cultural and historical areas of regional or state-
10 wide significance;

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

13 (D) airports and other transportation facilities;

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

16 (F) commercial and industrial employment.

17 Sec. 46.27.950. STATE AGENCIES. (a) All agencies of the state,
18 upon the adoption of the Alaska coastal zone plan, or a portion of the
19 plan, shall review their present statutory authority, administrative
20 regulations, and current policies and procedures as they pertain to land
21 and water use, for the purpose of determining whether there are any
22 deficiencies or inconsistencies which prohibit or frustrate full com-
23 pliance with the Alaska coastal zone plan, and shall, within one year of
24 the effective date of the plan, or portion of the plan, take whatever
25 action is necessary, including recommendations to the legislature for
26 additional or amended legislation, in order to facilitate full com-
27 pliance with and implementation of the Alaska coastal zone 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 coastal zone plan, or portion of the plan,
2 are not subject to the permit requirements of sec. 320 of this chapter.
3 However, before undertaking any development approved in the plan, or
4 portion of the plan, the responsible state agency shall submit detailed
5 plans of the development to the commission for review. Upon review of
6 the plans, the commission may attach stipulations or conditions to the
7 project it considers necessary to minimize the adverse environmental
8 impacts of the development, and to otherwise bring the development into
9 conformity with the plan, or portion of the plan. The commission shall
10 adopt regulations governing review of approved developments under this
11 subsection.

12 Sec. 46.27.960. SHORT TITLE. This chapter may be cited as the
13 Alaska Coastal Zone Planning Act.

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

15 (16) members of the Alaska Coastal Zone Regulatory Commission.

16 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).