

Offered: 3/31/75
Referred: Resources

1 IN THE SENATE

BY ORSINI

2 SPONSOR SUBSTITUTE FOR 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 affecting all the people and exists as a delicately
16 balanced ecosystem;

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

19 (3) the protection and orderly development of the natural and
20 scenic resources of the coastal zone is of paramount concern to present
21 and 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

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 may
20 be removed for cause only.

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

29 Sec. 46.27.040. COMPENSATION AND PER DIEM. (a) Public members of

1 the council receive compensation at the rate of \$100 per day for each
2 day they are engaged in the performance of their duties as members of
3 the council.

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

6 Sec. 46.27.050. QUORUM. Six members of the council constitute a
7 quorum for the transaction of business, but to constitute a quorum, of
8 those present at least one shall be a member from those appointed by the
9 governor and at least one shall be a member from those appointed by the
10 legislature. A member of the council, except a public member, may
11 designate a representative within his department or division to repre-
12 sent him at any council meeting, and the representative shall have all
13 the privileges and powers conferred upon the member himself.

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

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

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

24 (2) contract for any necessary services;

25 (3) consult and cooperate with

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

29 (B) agents and officials of municipal, state and federal

1 agencies concerned with or having jurisdiction over coastal zone
2 management;

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

6 (5) acquire on behalf of a state agency by any means, includ-
7 ing the exercise of eminent domain, any interest in land the council
8 considers necessary to effectuate the purposes of this chapter;

9 (6) adopt regulations under the Administrative Procedure Act
10 (AS 44.62); unless otherwise specified in this chapter, regulations
11 adopted under this chapter take effect 45 days after the beginning of
12 the first legislative session, unless disapproved by concurrent resolu-
13 tion of the legislature;

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

16 Sec. 46.27.080. REGIONAL ADVISORY COMMITTEES. (a) Within 120
17 days from the effective date of this Act, the council shall

18 (1) define no fewer than eight, nor more than twelve, regions
19 for the coastal zone of the state; regional boundaries shall be formed
20 based on broad ecological, social and economic considerations;

21 (2) establish a nine-member advisory committee for each of
22 the regions defined under this subsection; committee members shall be
23 residents of the region they represent, and shall be selected to reflect
24 the major interests of the region.

25 (b) Recommendations from the advisory committees shall be for-
26 warded to the council or the commission for consideration. The advisory
27 committee in each region may, consistent with regulations adopted by the
28 council or commission, elect one advisory committee member from that
29 region to present the recommendations of that region's advisory committee

1 to meetings of the council or commission. The person elected is en-
2 titled to travel and per diem allowed by law for the time necessary to
3 present the recommendations. When the council or commission chooses not
4 to follow an advisory committee recommendation, it shall inform the
5 committee of this action and state the reasons for not following the
6 recommendation.

7 (c) The council may adopt regulations in accordance with the
8 Administrative Procedure Act (AS 44.62) to implement the provisions of
9 this section.

10 ARTICLE 2. ALASKA COASTAL ZONE PLAN.

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

14 (b) The council may prepare and adopt the Alaska coastal zone plan
15 for a particular region or regions of the coastal zone, before prepara-
16 tion and adoption of the full plan under (a) of this section. Portions
17 of the plan prepared and adopted under this subsection shall be incor-
18 porated, with changes the council considers necessary, into the Alaska
19 coastal zone plan prepared and adopted under (a) of this section.

20 (c) Plans prepared under (a) or (b) of this section, as appropri-
21 ate, for the coastal zone, take effect 45 days after the beginning of
22 the first legislative session after the adoption of the plans prepared
23 under (a) or (b) of this section, unless disapproved by a majority of
24 each house of the legislature.

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

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

29 (2) the development of industrial and commercial enterprises

1 which are consistent with the social, economic and environmental inter-
2 ests of the state;

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

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

8 (5) the protection and enhancement of significant historic,
9 cultural, natural and aesthetic values, and natural systems or processes
10 within the coastal zone;

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

15 (7) the recognition of the need for a continuing supply of
16 direct and indirect energy sources to fill the needs of the state and to
17 contribute the state's just and equitable share in meeting national
18 energy needs; and

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

21 Sec. 46.27.120. DATA DEVELOPMENT. The council shall, whenever
22 possible, use existing state agencies in the accumulation of land and
23 water data. The council shall establish mechanisms to provide for:

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

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

29 (3) the efficient accumulation of data necessary to effectu-

1 ate the coastal zone planning process in a manner which minimizes
2 duplication of data accumulation efforts.

3 Sec. 46.27.130. PUBLIC PARTICIPATION. (a) The council shall hold
4 at least twelve public hearings throughout the state before preparation
5 of the Alaska coastal zone plan under sec. 100(a) of this chapter. The
6 times and locations for these hearings shall be established to provide
7 maximum public participation from all areas of the state. Upon comple-
8 tion of the Alaska coastal zone plan, but before its adoption under sec.
9 100(a) of this chapter, the council shall hold at least six public
10 hearings throughout the state for review of the plan. The council may
11 amend or supplement the plan upon completion of the hearings.

12 (b) The council shall hold at least three public hearings within
13 the affected area before preparation of a portion of the Alaska coastal
14 zone plan under sec. 100(b) of this chapter. In addition, the council
15 shall, upon completion of any portion of the Alaska coastal zone plan,
16 but before its adoption under sec. 100(b) of this chapter, hold at least
17 one public hearing within the affected area for review of that portion
18 of the plan. The council may amend or supplement that portion of the
19 plan upon completion of the hearing.

20 (c) Hearings under this section shall be conducted according to
21 regulations adopted by the council under the provisions of the Adminis-
22 trative Procedure Act (AS 44.62), and shall be held at locations within
23 or adjacent to the coastal zone.

24 (d) The council may adopt regulations under the Administra-
25 tive Procedure Act (AS 44.62) for means of public participation other
26 than public hearings, including but not limited to public opinion sur-
27 veys. Other means of public participation may be substituted for up to
28 one-third of the public hearings required before preparation of the plan
29 or portions of a plan, as appropriate, as specified in (a) or (b) of

1 this section.

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

9 (b) For the unorganized borough contained within the coastal zone,
10 plans and regulations adopted by the council under this chapter, and
11 regulations adopted by the commission under this chapter, shall be
12 implemented by the appropriate state agencies.

13 (c) For municipalities without planning and zoning capability and
14 authority, portions of which are contained within the coastal zone,
15 plans adopted by the council under this chapter, and regulations adopted
16 by the council or commission, shall be in accordance with the needs,
17 goals, objectives, and other information required under (a) of this
18 section, unless the council or commission determines that it is in the
19 state's best interest to do otherwise. When the council or commission
20 chooses not to comply with a formal request by the municipality, it
21 shall inform the municipality of the reasons for not complying with the
22 request. Plans and regulations adopted under this chapter shall be
23 implemented by the appropriate state agency.

24 (d) For municipalities with planning and zoning capability and
25 authority, portions of which are contained within the coastal zone,
26 plans adopted by the council under sec. 100 of this chapter, and regu-
27 lations adopted by the council or commission, shall address only uses of
28 regional benefit, areas of critical environmental concern, key facili-
29 ties, and large-scale development. These plans and regulations shall be

1 in accordance with the needs, goals, objectives, and other information
2 acquired under (a) of this section, unless the council determines it
3 is in the state's best interest to do otherwise. When the council
4 or commission chooses not to comply with a formal request by the
5 municipality, it shall inform the municipality of the reasons for not
6 complying with the request. Plans and regulations adopted under
7 this chapter shall, when possible, be implemented by the municipality.
8 The council and commission shall periodically review the performance
9 of the municipality in complying with the provisions of this chapter.

10 (e) For a municipality with planning and zoning capability
11 and authority, or a combined association of municipalities whose
12 association has planning and zoning authority and capability, and
13 whose boundaries are largely coincidental with, or greater than, a
14 region as defined under sec. 80(a) of this chapter, plans adopted
15 under sec. 100 of this chapter shall pertain only to those uses of
16 regional benefit, areas of critical environmental concern, key
17 facilities, and large-scale developments, which have statewide impli-
18 cations, as determined by the council. The council shall adopt
19 guidelines for planning and zoning by the municipality or association
20 of municipalities for uses of regional benefit, areas of critical
21 environmental concern, key facilities, and large-scale developments
22 which have regional implications. Regulations adopted by the council
23 or commission shall pertain only to plans developed under this sub-
24 section. Plans and regulations adopted under this subsection shall be
25 in accordance with the needs, goals, objectives, and other information
26 acquired under (a) of this section, unless the council determines it is
27 in the state's best interest to do otherwise. When the council or
28 commission chooses not to comply with a formal request by the munici-
29 pality, or association of municipalities, it shall inform the munici-

1 pality, or association of municipalities, of the reasons for not comply-
2 ing with the request. Plans and regulations adopted under this chapter
3 shall, when possible, be implemented by the municipality or association
4 of municipalities. The council and commission shall periodically review
5 the performance of the municipality, or association of municipalities,
6 in complying with the provisions of this chapter.

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

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

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

13 (3) submissions of municipalities received under sec. 140 of
14 this chapter and other elected officials;

15 (4) recommendations from regional advisory committees under
16 sec. 80 of this chapter;

17 (5) the purposes and objectives specified in this chapter;

18 (6) data that the council may solicit or receive from other
19 sources.

20 Sec. 46.27.160. GENERAL COMPONENTS. The Alaska coastal zone plan
21 shall consist of those maps, texts and statements of policies and
22 objectives that the council considers necessary to implement this
23 chapter.

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

26 (1) specific definition of the landward boundary of the
27 coastal zone;

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

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- (3) a component which includes the following elements;
 - (A) a land use element;
 - (B) a transportation element;
 - (C) a conservation element for the preservation and management of the scenic and other natural resources of the coastal zone;
 - (D) a public access and recreation element for maximum visual and physical use and enjoyment of the coastal zone by the public;
 - (E) a public services and key facilities element for the general location, scale, and provision for the siting of those facilities in the least environmentally destructive manner; this element shall include a siting study for major power plants;
 - (F) an aquatic mineral and living resources element;
 - (G) a population element;
 - (H) an educational or scientific use element;
 - (I) an energy production, transportation and conversion element;
 - (J) an economic element;
- (4) reservations of land or water in the coastal zone for certain uses, or the prohibition of certain uses in specific areas;
- (5) an identification of uses of regional benefit, and a provision for the siting of those uses within the coastal zone;
- (6) exemptions from the permit requirement imposed by sec. 320 of this chapter; however, an exemption shall be granted upon a finding by the council that the exempted development will cause, individually or cumulatively, no more than minor adverse environmental impact, and will not otherwise frustrate the purposes and objectives specified in this chapter, or the coastal zone plan;

1 (7) a ranking of priorities of uses within the coastal zone.

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

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

11 ARTICLE 3. ALASKA COASTAL ZONE REGULATORY COMMISSION.

12 Sec. 46.27.210. ALASKA COASTAL ZONE REGULATORY COMMISSION. There
13 is created the Alaska Coastal Zone Regulatory Commission. The commis-
14 sion shall consist of five members who are appointed by the governor and
15 confirmed by a majority of the members of the legislature in joint
16 session. Upon appointment by the governor, a member of the commission
17 may exercise the powers conferred upon him by this chapter until his
18 name has been submitted to and rejected by the legislature.

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

22 (b) Two initial appointees shall serve terms of two years. Two
23 initial appointees shall serve terms of four years. The remaining
24 initial appointee shall serve a six-year term. Notwithstanding (a) of
25 this section, initial appointees serving two and four year terms may be
26 reappointed to a subsequent six-year term. At the time of the initial
27 appointment the governor shall designate whether the appointee is
28 serving a two, four, or six year term.

29 (c) A vacancy on the commission shall be filled by appointment by

1 the governor, and the appointment shall be confirmed by a majority of
2 the members of the legislature in joint session. An appointee selected
3 to fill a vacancy shall hold office for the balance of the full term for
4 which his predecessor on the commission was appointed and, notwith-
5 standing (a) of this section, he may be reappointed to one subsequent
6 six year term.

7 (d) A vacancy in the commission does not impair the authority of
8 a quorum of commissioners to exercise the powers and perform the duties
9 of the commission.

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

14 (b) In order for a person to serve on the commission, he must have
15 been a continuous bona fide resident of the state for the 12 months
16 immediately before his appointment.

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

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

22 Sec. 46.27.260. COMPENSATION OF MEMBERS OF COMMISSION. Members of
23 the commission are in the exempt service under AS 39.25.110 and are
24 entitled to receive an annual salary equal to the pay of a superior
25 court judge.

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

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

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

4 (1) contract for any necessary services, including legal
5 services;

6 (2) consult and cooperate with

7 (A) persons, organizations and groups, public or pri-
8 vate, interested in, affected by, or concerned with coastal zone
9 management; and

10 (B) agents and officials of municipal, state and federal
11 agencies concerned with or having jurisdiction over coastal zone
12 management;

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

15 (4) conduct investigations, hold hearings and compel the
16 attendance of witnesses and the production of accounts, books and
17 documents by the issuance of a subpoena;

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

21 (6) adopt regulations under the Administrative Procedure Act
22 (AS 44.62); unless otherwise specified in this chapter, regulations
23 adopted under this chapter take effect upon approval by concurrent
24 resolution of the legislature;

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

27 ARTICLE 4. IMPLEMENTATION.

28 Sec. 46.27.310. INTERIM REGULATIONS. (a) Within 120 days of the
29 effective date of this chapter, the council shall adopt interim regu-

1 lations defining the landward extent of the coastal zone in conformity
2 with this chapter. The landward definition may be statewide, regional
3 or site specific. The definition of the landward extent of the coastal
4 zone established under this section may be revised in the Alaska coastal
5 zone plan, or portion of the plan.

6 (b) Interim regulations adopted under (a) of this section take
7 effect 45 days after the beginning of the first legislative session
8 after the adoption of the regulations, unless disapproved by a majority
9 of each house of the legislature.

10 Sec. 46.27.320. PERMIT REQUIREMENT. Upon the effective date of
11 the regulations required by sec. 310 of this chapter, and subject to the
12 requirements of sec. 140 of this chapter, no person may undertake any
13 development within the coastal zone, as defined under sec. 310 of this
14 chapter, or in the Alaska coastal zone plan, or portion of the plan,
15 without a permit from the commission.

16 Sec. 46.27.330. EXEMPTIONS. Notwithstanding sec. 320 of this
17 chapter, the commission shall adopt regulations exempting from the
18 permit requirement in particular areas of the coastal zone certain types
19 of development which will not, individually or cumulatively, result in
20 more than minor adverse environmental impacts, and which will not result
21 in coastal zone usages inconsistent with the developing Alaska coastal
22 zone plan. No regulation under this section is effective unless ap-
23 proved by the Alaska Coastal Zone Planning Council, and shall continue
24 in effect only until the effective date of the Alaska coastal zone plan,
25 or portion of the plan.

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

29 Sec. 46.27.340. INTERIM CRITERIA. Upon the effective date of the

1 regulations required by sec. 310 of this chapter, and until the adoption
2 of the Alaska coastal zone plan under sec. 100(a) of this chapter, or a
3 portion of the plan under sec. 100(b) of this chapter, the commission
4 may grant a development permit only upon finding all of the following:

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

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

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

15 (4) that the proposed development is not inconsistent with
16 the Alaska coastal zone plan, or portion of the plan, to the extent the
17 plan or portion of it is identifiable.

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

19 Sec. 46.27.350. PERMIT PROCEDURES. (a) The commission may, upon
20 request or on its own motion, assign for public hearing, to a hearing
21 officer employed by the commission under sec. 270 of this chapter,
22 applications for development permits under sec. 320 of this chapter. At
23 the close of a hearing, the hearing officer shall promptly prepare a
24 recommendation for commission action upon the matter and submit a copy
25 of his recommendation to the commission and to each party to the pro-
26 ceeding.

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

1 (c) Hearings held under (a) of this section shall be held within
2 30 days of receipt of the permit application. However, the commission
3 may, upon notice to the applicant, postpone for a period, not in excess
4 of 30 days, the time requirements imposed by this subsection for the
5 purposes of combining several public hearings in one municipality or one
6 region.

7 (d) The commission shall prescribe by regulation the procedures
8 for permit applications and hearings and may require a reasonable
9 filing fee. Regulations governing the procedures for permit applica-
10 tions and hearings take effect 45 days after the beginning of the first
11 legislative session after adoption of the regulations, unless disap-
12 proved by a majority of each house of the legislature.

13 (e) The commission shall review the recommendation of the hearing
14 officer and the record of the proceeding and issue its order with re-
15 spect to the application within 15 days of receipt of the recommendation
16 of the hearing officer. The commission may adopt, reject or amend the
17 recommendation of the hearing officer in any matter.

18 Sec. 46.27.360. VESTED RIGHTS: EXEMPTIONS. (a) If before the
19 effective date of the interim regulations adopted under sec. 310 of this
20 chapter a municipality has issued a building permit, a person who has
21 obtained a vested right under the permit is not required to secure a
22 permit from the commission; however, no substantial changes may be made
23 in the development except in accordance with this chapter. A person is
24 considered to have vested rights if, before the effective date of the
25 interim regulations adopted under sec. 310 of this chapter, he has in
26 good faith and in reliance upon the building permit, or in areas of the
27 state not requiring a building permit, diligently commenced and per-
28 formed substantial work on the development and incurred substantial
29 liabilities for work and materials necessary for the development.

1 Expenses incurred in obtaining the enactment of an ordinance in relation
2 to the development or issuance of a permit are not considered liabilities
3 ties for work or material. The acquisition of vested rights in one unit
4 of a subdivision does not confer vested rights in other units of the
5 subdivision.

6 (b) A permit is not required for:

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

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

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

16 Sec. 46.27.370. OTHER PERMITS. A permit issued by the commission
17 does not excuse the applicant from obtaining any other permit which may
18 be required by law.

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

25 (1) a copy of the comprehensive plan reviewed by the govern-
26 ing body, and a copy of all zoning and subdivision ordinances and
27 regulations; and

28 (2) a statement of progress made during the preceding year
29 toward inclusion within the municipal planning process of uses of

1 regional benefit identified in the Alaska coastal zone plan, or portion
2 of the plan, for the coastal region in which the municipality is located

3 Sec. 46.27.390. COMMISSION GUIDELINES. (a) The commission shall
4 adopt regulations establishing standards for its review of local reports
5 submitted under sec. 380 of this chapter. These regulations shall
6 reflect the need to prevent arbitrary or unreasonable exclusion of uses
7 of state or regional benefit by the municipality, and shall require that
8 the municipality give full and fair consideration to regional, state and
9 national interests, as well as those of the municipality itself, in the
10 siting of these usages.

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

13 Sec. 46.27.400. COMMISSION ACTION. (a) Upon a initial deter-
14 mination by the commission that a municipality has unreasonably or
15 arbitrarily excluded uses of state or regional benefit identified for
16 the region in the Alaska coastal zone plan, or applicable portion of the
17 plan, it shall schedule, upon 90 days notice to the municipality, a
18 public hearing to be held within the municipality. If the commission
19 finds, based on the report of the municipality submitted under sec. 380
20 of this chapter, evidence adduced at the public hearing, and other
21 evidence which the commission may consider, that the municipality has
22 unreasonably or arbitrarily excluded a use of state or regional benefit
23 identified for the region in the Alaska coastal zone plan, or applicable
24 portion of the plan, it shall issue an order directing the municipality
25 to adopt, amend or supplement any comprehensive plan or any zoning,
26 subdivision or other land use ordinance, or to take any other action the
27 commission finds necessary to correct the arbitrary or unreasonable
28 exclusion.

29 (b) If a municipality has under consideration a comprehensive plan

1 or zoning, subdivision or other ordinance or regulation pertaining to
2 the siting of uses of state or regional benefit identified for the
3 region in the Alaska coastal zone plan, or portion of the plan, and
4 shows satisfactory progress toward the adoption of the comprehensive
5 plan or the ordinance or regulation, the commission may grant a reason-
6 able extension of time after the date set in this section for municipal
7 review and revision of the plan or the ordinances or regulations.

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

10 (d) As used in this section, "exclusion" includes the failure to
11 make adequate provision for the siting of uses of state or regional
12 benefit in the municipality's comprehensive plan or land use ordinances
13 or regulations.

14 Sec. 46.27.410. STATE LANDS. (a) Upon the effective date of this
15 chapter, and until the adoption of the Alaska coastal zone plan under
16 sec. 100(a) of this chapter, or until the adoption of a portion of the
17 plan under sec. 100(b) of this chapter, no state land within the coastal
18 zone, except that expressly defined by the council under sec. 100 of
19 this chapter, may be sold, leased, transferred or otherwise alienated or
20 encumbered.

21 (b) Notwithstanding (a) of this section, the commission may, upon
22 a petition of the commissioner of the Department of Natural Resources
23 and after public hearing, exempt lands specified in the petition from
24 the moratorium imposed by (a) of this section if the commission finds
25 all of the following:

26 (1) the proposed sale or lease is important for the main-
27 tenance of a necessary flow of revenue to the state;

28 (2) the proposed usage for the land or water area will not
29 cause significant adverse environmental impacts, unless there is a

1 compelling state interest not to apply this paragraph;

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

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

8 (5) all documents of conveyance will contain restrictions or
9 covenants adequate to insure that the actual usage of the land or water
10 area will not be inconsistent with the use classification of the land or
11 water area.

12 (c) Upon the adoption of the Alaska coastal zone plan under sec.
13 100(a) of this chapter, or upon adoption of a portion of the plan under
14 sec. 100(b) of this chapter, state land may be sold, leased, transferred
15 and otherwise alienated and encumbered for only those uses for which the
16 land has been classified in the plan or portion of the plan.

17 ARTICLE 5. PROHIBITED ACTS AND PENALTIES.

18 Sec. 46.27.900. CIVIL PENALTY FOR VIOLATIONS. A person who
19 violates a provision of this chapter, or a regulation, permit or lawful
20 order of the commission, is subject, in a civil action brought by the
21 attorney general, to a fine not to exceed \$100,000.

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

27 ARTICLE 6. GENERAL PROVISIONS.

28 Sec. 46.27.920. INJUNCTIONS. The superior courts of this state
29 have jurisdiction to restrain violations of this chapter and to enforce

1 lawful orders of the commission. In actions brought under this section,
2 the commission may obtain interlocutory relief without a showing of
3 irreparable harm or a favorable balance of the equities.

4 Sec. 46.27.930. JUDICIAL REVIEW. Any person aggrieved by an
5 action or decision of the commission, taken under this chapter, has a
6 right of judicial review in the superior court in the judicial district
7 affected by the action or decision within 30 days after the action or
8 decision is final.

9 Sec. 46.27.940. DEFINITIONS. As used in this chapter, unless the
10 context otherwise requires,

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

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

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

29 (C) "renewable resource lands" where uncontrolled or

1 incompatible development which results in the loss or reduction of
2 continued long-range productivity could endanger future water,
3 food, and fiber requirements of more than local concern, such lands
4 to include watershed lands, aquifers and aquifer recharge areas,
5 significant agricultural and grazing lands, and forest lands; and

6 (D) such additional areas as the council or commission
7 determines to be of critical environmental concern;

8 (2) "coastal zone" means the land and water area of the state
9 extending seaward to the outer boundaries of the territorial jurisdic-
10 tion of the state; landward, it includes

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

15 (B) land within 250 feet of the normal high water mark
16 of any body of fresh water in excess of 10 acres in surface area;
17 and

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

22 (3) "commission" means the Alaska Coastal Zone Regulatory
23 Commission;

24 (4) "council" means the Alaska Coastal Zone Management
25 Planning Council;

26 (5) "development" means, on land or in or under water:

27 (A) the affixing or erection of any significant solid
28 material or structure;

29 (B) the grading, removing, mining or extraction of any

1 significant amount of materials;

2 (C) significant dredging or filling operations;

3 (D) a large-scale change in the density or intensity of
4 use of land, including the subdivision of land, whether or not the
5 subdivider intends to erect any improvements on the land;

6 (E) the material alteration of the size of a significant
7 structure; or

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

9 (6) "key facilities" means

10 (A) public facilities, as determined by the council,
11 which tend to induce development and urbanization of more than
12 local impact, including but not limited to

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

16 (ii) major interchanges between limited access
17 highways and frontage access streets or highways;

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

20 (iv) major recreational lands and facilities;

21 (B) major facilities for the development, generation,
22 and transmission of energy;

23 (7) "large-scale development" means private development
24 which, because of its magnitude or the magnitude of its effect on the
25 surrounding environment, is likely to present issues of more than local
26 significance in the judgment of the council; in determining what con-
27 stitutes "large-scale development", the council should consider, among
28 other things, the amount of pedestrian or vehicular traffic likely to be
29 generated; the number of persons likely to be present; the potential for

1 creating environmental problems such as air, water, or noise pollution;
2 the size of the site to be occupied; and the likelihood that additional
3 or subsidiary development will be generated;

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

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

10 (10) "structure" includes a building, road, railroad, pipe,
11 flume, conveyor, conduit, siphon, aqueduct, dam, bridge, dock, platform,
12 telephone line, and electrical power transmission and distribution line;
13 and

14 (11) "uses of regional benefit" means those land or water uses
15 which confer significant environmental, social or economic benefits
16 beyond the municipality or immediate geographical area in which they are
17 located, and include, but are not limited to,

18 (A) parks and recreational facilities;

19 (B) cultural and historical areas of regional or state-
20 wide significance;

21 (C) energy production, transmission, conversion and
22 transportation facilities;

23 (D) airports and other transportation facilities;

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

26 (F) commercial and industrial employment.

27 Sec. 46.27.950. STATE AGENCIES. (a) All agencies of the state,
28 upon the adoption of the Alaska coastal zone plan, or a portion of the
29 plan, shall review their present statutory authority, administrative

1 regulations, and current policies and procedures as they pertain to land
2 and water use, for the purpose of determining whether there are any
3 deficiencies or inconsistencies which prohibit or frustrate full compli-
4 ance with the Alaska coastal zone plan, and shall, within one year of
5 the effective date of the plan, or portion of the plan, take whatever
6 action is necessary, including recommendations to the legislature for
7 additional or amended legislation, in order to facilitate full compli-
8 ance with and implementation of the Alaska coastal zone plan.

9 (b) Notwithstanding any other provision of this chapter, develop-
10 ments undertaken by state agencies which have been specifically approved
11 or provided for in the Alaska coastal zone plan, or portion of the plan,
12 are not subject to the permit requirements of sec. 320 of this chapter.
13 However, before undertaking any development approved in the plan, or
14 portion of the plan, the responsible state agency shall submit detailed
15 plans of the development to the commission for review. Upon review of
16 the plans, the commission may attach stipulations or conditions to the
17 project it considers necessary to minimize the adverse environmental
18 impacts of the development, and to otherwise bring the development into
19 conformity with the plan, or portion of the plan. The commission shall
20 adopt regulations governing review of approved developments under this
21 subsection.

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

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

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

26 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
27 070(c).