

Introduced: 4/7/76
Referred: Resources

BY THE RESOURCES COMMITTEE
BY REQUEST

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 711

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the management of the coastal re-
7 sources of the state; and providing for an effective
8 date."

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 27. COASTAL RESOURCES MANAGEMENT.

12 ARTICLE 1. ESTABLISHMENT OF THE ALASKA COASTAL

13 RESOURCES MANAGEMENT PROGRAM.

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

15 (1) the coastal area of the state is rich in natural, com-
16 mercial, recreational, industrial, cultural, and aesthetic resources of
17 local, state, and national significance;

18 (2) there is a lack of information concerning the interrela-
19 tionships of coastal resources and their uses which hampers wise deci-
20 sion making by private citizens and public officials;

21 (3) the wise use of the coastal resources of the state is
22 essential for the present and future well-being of the people of this
23 state and the nation;

24 (4) there is a state interest in the effective management,
25 beneficial use, protection, development and enhancement of the coastal
26 resources of the state; and

27 (5) effective management of the coastal resources of the
28 state will be enhanced by shared decision making by local, state, and
29 federal government officials with the full understanding and participa-

1 tion of the public.

2 Sec. 46.27.020. DECLARATION OF POLICY. The legislature declares
3 that it is the state policy

4 (1) to preserve, protect, develop, and where possible, to
5 restore or enhance the coastal resources of the state for this and
6 succeeding generations;

7 (2) to encourage coordinated decision making in the coastal
8 area of the state and to foster cooperation and consultation between the
9 state and federal governments and citizens engaging in activities
10 affecting the coastal resources of the state;

11 (3) to establish as expeditiously as possible a coastal
12 management program which sets out guidelines and standards for uses of
13 land and water in coastal areas, and to determine areas where conflicts
14 in these uses presently exist;

15 (4) to ensure maximum public participation in the planning
16 and enforcement of the coastal management program; and

17 (5) to better utilize existing governmental structures and
18 statutory authorities to achieve the policies set out in this chapter.

19 Sec. 46.27.030. DUTIES OF GOVERNOR UNDER PROGRAM. (a) The
20 governor shall

21 (1) develop a coastal resources management program consistent
22 with this chapter to provide for the long-term guidance and coordination
23 of regional coastal boards, and to provide for the services of state
24 agencies active in coastal regions of the state to accomplish this
25 purpose;

26 (2) within 10 days after the convening of the First Session
27 of the Tenth Legislature, submit to the legislature a comprehensive
28 report regarding the progress of the program, including the elements
29 specified in sec. 50(a) - (d) of this chapter;

1 (3) within 12 months from the effective date of this Act,
2 submit the statewide coastal resources management program to the United
3 States Secretary of Commerce for approval.

4 (b) The governor shall fully utilize existing statutory and regu-
5 latory authority whenever possible, seeking to the maximum extent to
6 avoid the creation of new laws, administrative structures and regulatory
7 procedures.

8 (c) The governor shall review existing permit procedures required
9 of persons developing or utilizing coastal resources, for the purpose of
10 developing guidelines and recommendations for the centralization of
11 these procedures.

12 (d) The governor shall ensure that the coastal resources manage-
13 ment program is developed

14 (1) with an opportunity for full participation by federal and
15 state agencies, local governments, regional coastal boards, and inter-
16 ested individuals;

17 (2) in coordination with local, areawide, and other state and
18 federal plans and programs; and

19 (3) with the advice and full participation of the Coastal
20 Area Board.

21 ARTICLE 2. COORDINATION IN COASTAL RESOURCES

22 PLANNING.

23 Sec. 46.27.040. COASTAL AREA BOARD. (a) In order to establish an
24 effective mechanism for continuing consultation and coordination between
25 the state government and regional coastal boards and to provide the
26 opportunity for full participation by regional coastal boards and the
27 people of the state in the process of establishing the coastal manage-
28 ment program, the governor shall establish and consult with the Coastal
29 Area Board.

1 (b) The Coastal Area Board consists of the following 18 members,
2 who reflect the variety of local and regional interests affected by the
3 coastal resources management program:

4 (1) one member appointed by each regional coastal board from
5 among its members under sec. 70(b) of this chapter;

6 (2) nine members appointed from the public at large, three of
7 whom shall be appointed by the governor, three of whom shall be ap-
8 pointed by the president of the senate, and three of whom shall be
9 appointed by the speaker of the house.

10 (c) The term of office for those appointed from the public at
11 large shall be three years, and no member shall serve for more than
12 three full terms. Initial appointments shall be three persons for one-
13 year terms, three for two-year terms, and three for three-year terms.

14 (d) The Coastal Area Board shall be provided technical and staff
15 assistance from among the appropriate state departments with existing
16 responsibilities in the management of coastal resources.

17 (e) Members of the Coastal Area Board serve at the pleasure of the
18 appointing authority and are entitled to per diem and travel expenses
19 authorized by law for other boards and commissions.

20 Sec. 46.27.050. DUTIES OF THE COASTAL AREA BOARD. In conformity
21 with the Coastal Zone Management Act of 1972 (P.L. 92-583; 16 U.S.C.
22 1451-1464) the Coastal Area Board shall

23 (1) establish within six months from the effective date of
24 this Act preliminary guidelines and criteria for application to specific
25 local conditions by the regional coastal boards under sec. 110 of this
26 chapter to include

27 (A) an inventory of natural and man-made resources, and
28 the existing uses of these resources within the coastal planning
29 areas;

1 (B) a priority of acceptable uses within the coastal
2 planning areas based on indices of their environmental and economic
3 impact;

4 (C) specific coastal area problems needing expeditious
5 determination;

6 (D) the landward extent of the coastal zone, specifying
7 federal land excluded from state jurisdiction;

8 (E) site areas for facilities required in the national
9 interest;

10 (F) designations of estuarine sanctuaries;

11 (G) procedures assuring public participation in the
12 development of regional coastal plans, including public hearings;

13 (H) recommendations to the governor of mechanisms for
14 using state and federal technical and financial assistance;

15 (2) prepare a comprehensive coastal management plan concur-
16 rent and coordinated with the development of the various regional
17 coastal plans under sec. 110 of this chapter, and prepare environmental
18 impact assessments of these plans as they are assembled;

19 (3) provide guidance and support to the regional coastal
20 boards necessary to the development of coordinated regional plans in-
21 cluding

22 (A) the land and water resource management tools avail-
23 able to state, local governments and regional coastal boards for
24 managing coastal planning areas and the uses of coastal resources;

25 (B) mechanisms for ensuring coordination and consistency
26 of federal land and water management programs with the efforts of
27 the state and regional coastal boards in the coastal planning areas
28 of the state;

29 (C) procedural guidelines for the granting of permits

1 by each regional coastal board for development activities in their
2 respective coastal planning areas, including appeal procedures for
3 permit review under sec. 140 of this chapter, and for the central-
4 ization of existing state and federal permit systems;

5 (D) means by which the state can best assist regional
6 coastal boards to implement their coastal management plans;

7 (E) an interdisciplinary information base for use in
8 coastal resource management decision making by the Coastal Area
9 Board and the regional coastal boards, and for coordination with
10 federal programs;

11 (4) submit proposals for legislation affecting coastal re-
12 sources management which may be necessary for the development and imple-
13 mentation of the regional coastal plans and the comprehensive plan;

14 (5) perform the following on-going functions ensuring state
15 participation in the coastal management program:

16 (A) establish continuing coordination among state agen-
17 cies to facilitate the implementation of regional plans;

18 (B) ensure continued provision of data and information
19 to regional coastal boards necessary to carry out their planning
20 and regulatory functions;

21 (C) review amendments of regional coastal plans for
22 conformity with the comprehensive plan;

23 (D) ensure continued centralization of permit procedures
24 for coastal development;

25 (E) mediate conflicts between two or more regional
26 coastal boards;

27 (F) hear appeals on behalf of parties aggrieved by the
28 decisions of regional coastal boards, based on provisions of the
29 comprehensive plan;

1 (G) assure coordination and consistency of federal land
2 and water management programs with regional coastal plans;

3 (H) provide access to the governor in conformity with
4 the needs of the regional coastal boards.

5 ARTICLE 3. REGIONAL COASTAL PLANNING.

6 Sec. 46.27.060. REGIONAL COASTAL PLANNING AREA. For purposes of
7 establishing geographic segments of the coastal area of the state useful
8 for planning purposes, establishing the land area from which appointed
9 members of the regional coastal boards must be resident, and for other
10 necessary and appropriate purposes the following regional coastal plan-
11 ning areas, which include the land and water area extending seaward
12 three miles from the mean high tide line, are established for the state:

13 (1) the Southeast planning area, consisting of the mainland
14 and islands of the state from Dixon Entrance north and west to Icy Bay,
15 inland to the seaward edge of permanent glacial ice;

16 (2) the Gulf of Alaska planning area, consisting of the main-
17 land and islands of the state westward of Icy Bay to Cape Elizabeth on
18 the Kenai Peninsula, inland to the seaward edge of permanent glacial ice
19 or the highest elevation of the coastal mountain range, whichever is
20 closer to the coast, and 100 miles inland from the mouth of the Copper
21 River along the river;

22 (3) the Cook Inlet planning area, consisting of the mainland
23 and islands of the state bordering or in Cook Inlet north of Cape
24 Elizabeth on the Kenai Peninsula and Cape Douglas on the Alaska Penin-
25 sula, inland to a topographic elevation of 1,000 feet;

26 (4) the Kodiak-Shelikof planning area, consisting of the
27 mainland of the Alaska Peninsula westward of Cape Douglas to 160° W
28 longitude, inland from its southern coast to the highest elevation to
29 the coastal mountain range, and Kodiak Island, Afognak Island, The

1 Barren Islands, and other offshore islands;

2 (5) the Aleutian planning area, consisting of the mainland
3 and islands west of 160° W longitude and south of 56° N longitude, and
4 including the Aleutian, Shumagin and Pribilof Islands;

5 (6) the Bristol Bay planning area, consisting of the mainland
6 and islands north of 56° N latitude surrounding or in Bristol Bay to
7 Cape Newenham, inland to a topographic elevation of 500 feet, including
8 major river systems with lakes at their headwaters, and 100 miles inland
9 from the mouth of the Nushagak River;

10 (7) the Yukon-Kuskokwim planning area, consisting of the
11 mainland north of Cape Newenham to the south shore of Norton Sound at
12 162° W longitude, inland to a topographic elevation of 200 feet, and
13 including Nunivak and St. Matthew Islands;

14 (8) the Bering Sea planning area, consisting of the mainland
15 from 162° W longitude on the south shore of Norton Sound northward to
16 Cape Lisburne, inland to a topographic elevation of 200 feet, and
17 including the St. Lawrence and Little Diomed Islands;

18 (9) the Arctic Coast planning area, consisting of the main-
19 land and islands north and east of Cape Lisburne to the United States-
20 Canadian border, inland to a topographic elevation of 1000 feet.

21 Sec. 46.27.070. REGIONAL COASTAL BOARDS. (a) In order to estab-
22 lish an effective mechanism by which a coastal management program may be
23 established which is responsive to a wide variety of conditions, uses
24 and needs found in the coastal area of the state, the governor shall
25 establish a regional coastal board for each of the coastal planning
26 areas defined in sec. 60 of this chapter.

27 (b) Each regional coastal board shall consist of the following
28 membership, made up of residents of the coastal planning area each board
29 serves:

1 (1) three representatives of the public at large appointed by
2 the governor;

3 (2) four representatives who are residents of unincorporated
4 or second class municipalities, appointed by the board of directors of
5 the Alaska Native regional corporation active in the coastal planning
6 area each board serves, provided that in the Bering Sea Region, two
7 members are appointed by the Bering Straits Native Corporation and two
8 members by the NANA Corporation, and further provided that no appointee
9 has been a member of that corporation's board of directors for 24 months
10 preceding appointment;

11 (3) four members appointed by the following:

12 (A) for the Southeast Regional Board, one member ap-
13 pointed by each of the assemblies of the Ketchikan, Sitka and
14 Juneau Boroughs and one member appointed by the city council of
15 Yakutat;

16 (B) for the Gulf of Alaska Regional Board, one member
17 appointed by each of the city councils of Valdez, Cordova, and
18 Seward, and one member appointed by the assembly of the Kenai
19 Peninsula Borough;

20 (C) for the Cook Inlet Regional Board, one member
21 appointed by each of the assemblies of the Kenai and the Matanuska-
22 Susitna Boroughs and two members appointed by the assembly of the
23 Unified Municipality of Anchorage;

24 (D) for the Kodiak-Shelikof Regional Board, two members
25 appointed by the assembly of the Kodiak Island Borough, and two
26 members appointed by the city council of Kodiak;

27 (E) for the Aleutian Regional Board, two members ap-
28 pointed by each of the city councils of King Cove and Unalaska;

29 (F) for the Bristol Bay Regional Board, two members

1 appointed by the assembly of the Bristol Bay Borough, and two
2 members appointed by the city council of Dillingham;

3 (G) for the Yukon-Kuskokwim Regional Board, four members
4 appointed by the board of directors of the Association of Village
5 Council Presidents;

6 (H) for the Bering Sea Regional Board, two members
7 appointed by each of the city councils of Nome and Kotzebue; and

8 (I) for the Arctic Coast Regional Board, two members
9 appointed by the assembly of the North Slope Borough, and two mem-
10 bers appointed by the city council of Barrow.

11 Sec. 46.27.080. TERMS OF OFFICE. (a) Members shall be appointed
12 to regional coastal boards within two months from the effective date of
13 this Act.

14 (b) Each person appointed to a regional coastal board shall serve
15 until the regional coastal plan has been approved by the Coastal Area
16 Board or for 36 months, whichever comes sooner, at which time membership
17 of the regional coastal boards shall be reviewed by the appointing
18 authorities.

19 (c) At the discretion of the appointing authority, a member of a
20 regional coastal board may be reappointed upon approval of the regional
21 plan or at the end of 36 months, whichever comes sooner; however, no
22 individual may serve for more than three full terms.

23 (d) Following the acceptance of the regional coastal plan by the
24 Coastal Area Board, the membership of the regional coastal boards shall
25 be assigned staggered three-year terms determined by the drawing of
26 lots.

27 (e) Vacancies which occur on the regional coastal boards shall be
28 filled by appointment in the original manner as specified in sec. 70 of
29 this chapter.

1 Sec. 46.27.090. MEETINGS. The regional coastal boards established
2 under sec. 70 of this chapter shall meet at least once a month and all
3 meetings shall be open to the public. Members of these boards are
4 entitled to per diem and travel expenses authorized by law for boards
5 and commissions.

6 Sec. 46.27.100. LOCAL ASSISTANCE. The governor shall, to the
7 maximum extent practicable, ensure that regional coastal boards are pro-
8 vided with state and federal technical and financial assistance so as to
9 more effectively exercise their coastal management authority.

10 Sec. 46.27.110. DUTIES OF THE REGIONAL COASTAL BOARDS. (a)
11 Within 30 months from the effective date of this Act, each regional
12 coastal board shall prepare a coastal management plan for its planning
13 area and submit it to the Coastal Area Board for evaluation of consis-
14 tency with the comprehensive coastal plan and approval.

15 (b) If a regional coastal board determines that it cannot foresee-
16 ably meet the time limitations imposed by this section for submission of
17 its plan, the regional coastal board may request special assistance in
18 completing the plan. This assistance shall be provided upon request by
19 the Department of Community and Regional Affairs.

20 (c) If a regional coastal board has not completed an approved plan
21 within 30 months from the effective date of this Act and has not re-
22 quested special assistance, the Department of Community and Regional
23 Affairs, in cooperation with the regional coastal board, shall develop
24 an acceptable plan.

25 (d) The Department of Community and Regional Affairs shall provide
26 staff assistance reasonably within its capabilities upon request of a
27 regional coastal board.

28 (e) Other state departments shall cooperate with regional coastal
29 boards to the fullest extent possible.

1 (f) A regional coastal board shall employ the following general
2 procedure in preparing its regional coastal plan:

3 (1) The guidelines and criteria established by the Coastal
4 Area Board under sec. 50 of this chapter shall constitute a framework
5 for development of specific and enforceable regulations of the use of
6 coastal resources in the planning area under the jurisdiction of each
7 regional coastal board.

8 (2) Existing development plans, zoning regulations and other
9 institutional characteristics for each coastal planning area shall be
10 reviewed and if necessary modified for consistency with the working
11 framework of the regional coastal plan.

12 (3) An inventory shall be developed of the natural and man-
13 made resources of its planning area and existing uses of these resources.

14 (4) Indices of the environmental and economic impact of
15 current and future uses of coastal resources shall be developed, in-
16 cluding but not limited to

- 17 (A) existing uses;
18 (B) production of food and fiber;
19 (C) energy production and transmission;
20 (D) mineral resource extraction;
21 (E) waste disposal;
22 (F) transportation, communication, utilities;
23 (G) service industries;
24 (H) manufacturing industries;
25 (I) wholesale and retail trade;
26 (J) recreational developments;
27 (K) residential developments;
28 (L) conservation.

29 (5) Using the information developed in (f)(1) - (4) of this

1 section each regional coastal board shall, for the coastal planning area
2 under its jurisdiction,

3 (A) determine an inland boundary of the coastal planning
4 area, considering all relevant natural, institutional and legal
5 characteristics;

6 (B) designate geographical areas of particular concern
7 including but not limited to

8 (i) areas where development interests are in
9 conflict and where immediate need for planning and regulation
10 exist;

11 (ii) areas of significant ecological, historic,
12 cultural and aesthetic value;

13 (iii) areas of hazard to life and property;

14 (iv) areas of intense development;

15 (v) areas suitable for intense development;

16 (vi) areas suitable for the designation of estuarine
17 sanctuaries;

18 (C) determine a priority of acceptable uses of the
19 coastal resources occurring within the boundary of the coastal
20 planning area as determined in (f)(5)(A) of this section, based on
21 indices of environment and economic impact as determined in (f)(4)
22 of this section and specifically including uses of lowest priority,
23 provisions to protect public access and provisions for future needs
24 for energy production and transmission.

25 (g) In developing regulations for approval under sec. 120(a) of
26 this chapter, the regional coastal boards shall use the guidelines
27 developed in (f) of this section.

28 (h) Public hearings shall be conducted on the content of the
29 management regulations developed under (g) of this section, and the

1 regional coastal boards shall demonstrate to the Coastal Area Board and
2 to the governor that these hearings provide a fair assessment of public
3 views and that these views have been influential in determining the
4 final content of these regulations.

5 (i) Nothing in this chapter prevents a municipality or borough
6 from adopting ordinances or other municipal enactments more stringent in
7 application or effect than those adopted by regional coastal boards, as
8 long as they are in conformity with the coastal management program and
9 the regional coastal plan for the regional coastal planning area in
10 which the municipality or borough is located.

11 ARTICLE 4. COASTAL RESOURCES MANAGEMENT.

12 Sec. 46.27.120. COASTAL MANAGEMENT AUTHORITY. (a) When a re-
13 gional coastal plan is approved by the Coastal Area Board, the regional
14 coastal board has authority to adopt and enforce regulations developed
15 under that plan. The Coastal Area Board shall review all regional
16 coastal board regulations for conformity with the regional coastal plan
17 and the coastal management program.

18 (b) Unless exempted under (e) of this section, all development
19 within the coastal planning areas shall be conducted in conformity with
20 the approved regional coastal plan and the regulations adopted under it,
21 and all persons who wish to engage in development within the coastal
22 planning area shall obtain a permit authorizing the development from the
23 appropriate regional coastal board.

24 (c) No permit for development shall be issued unless the appro-
25 priate regional coastal board finds that the development is consistent
26 with the regional coastal plan and regulations adopted under it.

27 (d) The applicant has the burden of showing compliance in all
28 cases.

29 (e) No permit is required for the following types of development:

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

4 (2) improvements not in excess of \$50,000 to existing single-
5 family residences; however, the regional coastal board may specify by
6 regulation classes of improvements which have a significant environ-
7 mental effect and require a permit for those improvements;

8 (3) developments authorized by existing regulatory bodies by
9 permits issued before the effective date of this Act.

10 (f) The regional coastal board and permit applicants shall follow
11 the procedures adopted by the Coastal Area Board for the obtaining of
12 permits.

13 (g) The regional coastal board shall be provided with technical
14 and staff assistance to the fullest extent possible from the Department
15 of Community and Regional Affairs and the Department of Environmental
16 Conservation in reviewing applications for development permits.

17 Sec. 46.27.130. PENALTIES. A person who engages in an activity or
18 act in violation of a provision of this chapter or a regulation adopted
19 under it is subject to a civil fine not to exceed \$250 per day for each
20 day the violation occurs.

21 Sec. 46.27.140. PERMIT REVIEWS. A person aggrieved by approval or
22 denial of a permit by a regional coastal board may appeal to the Coastal
23 Area Board under procedures consistent with due process of law estab-
24 lished by the Coastal Area Board under sec. 50 of this chapter. To the
25 extent that administrative procedures are not inconsistent with proce-
26 dures established by the Coastal Area Board, the Administrative Proce-
27 dure Act (AS 44.62) applies to permit review under this section. The
28 Coastal Area Board may affirm, reverse, or modify the decision of a
29 regional coastal board. A reversal or modification requires a two-

1 thirds vote of the authorized membership of the Coastal Area Board;
2 however, the Coastal Area Board may not alter the decision of a regional
3 coastal board unless it finds that the regional coastal board failed to
4 adhere to the regional coastal plan and regulations adopted under it or
5 to the applicable provisions of the comprehensive plan.

6 Sec. 46.27.150. JUDICIAL REVIEW. A person aggrieved by an action
7 or decision of the Coastal Area Board has a right of judicial review in
8 the superior court of the judicial district as provided in the Adminis-
9 trative Procedure Act (AS 44.62).

10 Sec. 46.27.160. INTERIM MANAGEMENT AUTHORITY. Upon the request of
11 a regional coastal board and documentation of the need for interim
12 coastal management authority, with the recommendation of the Coastal
13 Area Board, the governor may grant to a regional coastal board interim
14 authority to adopt regulations under sec. 120 of this chapter until the
15 regional coastal management plan is approved.

16 Sec. 46.27.170. DEFINITIONS. In this chapter

17 (1) "Alaska coastal resources management program" or "coastal
18 resources management program" means the combined statewide coastal plan
19 and the nine regional coastal plans;

20 (2) "comprehensive coastal plan" means the statewide coastal
21 management plan providing guidelines, criteria and coordination for the
22 development of regional plans as specified in sec. 50 of this chapter;

23 (3) "development" includes, on land or in or under water to
24 at least the extent of state jurisdiction,

25 (A) the affixing or erection of any solid material or
26 structure;

27 (B) the grading, removing, mining or extraction of any
28 materials;

29 (C) dredging or filling operations;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

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

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

(F) the removal or logging of major vegetation;

(4) "regional coastal plan" means the coastal management plan developed by a regional coastal board.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

#