

1 IN THE SENATE

BY JOSEPHSON

2

SENATE BILL NO. 334

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to ocean resources planning and

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management; and providing for an effective date."

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

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* Section 1. FINDINGS. The Legislature finds that

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(1) the Pacific Ocean, Bering Sea, and Arctic Ocean and its many

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resources are of environmental, economic, aesthetic, recreational, social,

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and historic importance to the people of this state;

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(2) exploration, development, and production of ocean resources

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likely to result from both federal agency programs in federal waters of the

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outer continental shelf and initiatives of private companies within state

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waters will increase the chance of conflicting demands on ocean resources

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for food, energy, minerals, and waste disposal and assimilation, and may

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jeopardise ocean resources and values of importance to this state;

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(3) there are many state agencies with particular regulatory or

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program interests in the ocean, its resources, and its uses, but no compre-

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hensive management plan or process to protect state interests and promote

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those interests both within the territorial sea and beyond;

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(4) the fluid, dynamic nature of the ocean and the migration of

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many of its living resources beyond state boundaries extend the ocean

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management interests of this state beyond the three-geographic-mile terri-

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torial sea currently managed by the state under the federal Submerged Lands

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Act;

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(5) existing federal laws, the Coastal Zone Management Act of

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1972, the Magnuson Fisheries Management and Conservation Act of 1976, and

1 the Outer Continental Shelf Lands Act of 1978, recognize the interests of
2 coastal states in management of ocean resources in federal waters and
3 provide for state participation in ocean resources management decisions;

4 (6) the 1983 Proclamation of the 200-mile United States Exclu-
5 sive Economic Zone has created an opportunity for all coastal states to
6 more fully exercise and assert their responsibilities pertaining to the
7 protection, conservation, and development of ocean resources under United
8 States jurisdiction;

9 (7) it is important that the state develop and maintain a pro-
10 gram of ocean resources management to promote coordinated management of
11 living and nonliving marine resources within state jurisdiction and with
12 states of the Pacific Northwest and the governments of British Columbia and
13 the Yukon Territory to participate effectively in federal agency planning
14 and management of ocean resources and uses that may affect this state, and
15 to coordinate state agency management of ocean resources with local govern-
16 ment management of coastal shorelands and resources;

17 (8) while much is known about the ocean, its composition, char-
18 acteristics, and resources, additional study and research is required to
19 gain information and understanding necessary for sound ocean planning and
20 management; and

21 (9) the state should encourage development and use of new and
22 innovative technologies for future development of ocean resources in an en-
23 vironmentally responsible manner.

24 * Sec. 2. STATEMENT OF POLICY. It is the policy of the state to

25 (1) conserve the long-term values, benefits, and natural re-
26 sources of the ocean both within the state and beyond by giving clear
27 priority to the proper management and protection of renewable resources
28 over nonrenewable resources;

29 (2) encourage ocean resources development that is

1 environmentally sound and economically beneficial;

2 (3) provide for efficient and coordinated ocean resources man-
3 agement through improvement of the state's coastal management program;

4 (4) assert the interests of this state as a partner with federal
5 agencies in the sound management of the ocean resources within the United
6 States Exclusive Economic Zone and on the continental shelf;

7 (5) promote research, study, and understanding of ocean pro-
8 cesses, marine life, and other ocean resources to acquire the scientific
9 inventory information necessary to understand the impacts and relationship
10 of ocean development activities to ocean and coastal resources; and

11 (6) encourage research and development of innovative marine
12 technologies for exploration and use of ocean resources.

13 * Sec. 3. AS 44.19 is amended by adding new sections to read:

14 ARTICLE 14B. OCEAN RESOURCES MANAGEMENT.

15 Sec. 44.19.270. ALASKA OCEAN RESOURCES MANAGEMENT COUNCIL. (a)

16 The Alaska Ocean Resources Management Council is established. The
17 council is composed of

18 (1) the governor or the governor's designee as chair;

19 (2) the commissioner or the commissioner's designee of the
20 following agencies:

21 (A) Department of Environmental Conservation;

22 (B) Department of Fish and Game;

23 (C) Department of Natural Resources;

24 (D) Department of Community and Regional Affairs;

25 (3) 10 members, appointed as follows:

26 (A) a borough mayor of a borough bordering the terri-
27 torial sea, to be appointed by the governor;

28 (B) a city mayor of a city bordering the territorial
29 sea, to be appointed by the governor;

1 (C) a representative of each of the following ocean
2 interests, to be appointed by the governor:

3 (i) commercial ocean fisheries;

4 (ii) charter, sport, or recreational ocean fisher-
5 ies;

6 (iii) marine navigation and transportation;

7 (iv) nonenergy mineral development;

8 (v) oil and gas development;

9 (D) three representatives of the public, to be ap-
10 pointed by the governor.

11 (b) Each member of the council appointed by the governor under
12 (a)(3) of this section serves a term of two years and until a succes-
13 sor is appointed and qualified. A member appointed under (a)(3) of
14 this section may be reappointed.

15 Sec. 44.19.272. COUNCIL ORGANIZATION AND OPERATION. (a) Eight
16 members of the council constitute a quorum, but one or more of the
17 members designated by the council may hold hearings. All decisions of
18 the council shall be by a majority vote of the members present and
19 voting.

20 (b) Members of the council are entitled to per diem and travel
21 expenses authorized by law for members of boards and commissions.

22 (c) If an incumbent member appointed under AS 44.19.270(a)(3)
23 ceases to meet the qualifications prescribed for nomination to the
24 council or if a vacancy exists among the members appointed under
25 AS 44.19.270(a)(3) for any other reason except for a vacancy due to
26 the expiration of the term of a member, the governor shall, within 30
27 days of the establishment of the vacancy by lack of qualification or
28 other reason, make an appointment, to be immediately effective, for
29 the unexpired portion of the term.

1 Sec. 44.19.274. DUTIES OF THE COUNCIL. The council shall

2 (1) establish a coordinated program of ocean resource
3 planning and management, to be known as the Ocean Resources Management
4 Plan, to conserve and develop ocean resources affecting the state
5 consistent with the purposes of AS 44.19.270 - 44.19.289; the plan
6 consists of applicable elements of the Alaska Coastal Management
7 Program approved by the United States Secretary of Commerce on July 6,
8 1979, and as subsequently amended under the Coastal Zone Management
9 Act of 1972, including statutes, programs, and policies of state
10 agencies that apply to coastal and ocean resources, those elements of
11 acknowledged local comprehensive plans of jurisdictions within the
12 state's coastal zone as defined in the Alaska Coastal Management
13 Program that may be affected by activities or use of resources within
14 the ocean, and those statewide planning goals that relate to the
15 conservation and development of ocean and coastal resources and the
16 planning and management of land use activities that may result from or
17 be affected by activities or use of resources within the ocean;

18 (2) involve citizens, interested groups and organizations,
19 and ocean resource users in development of the plan by providing them

20 (A) the council's planning schedule; and

21 (B) opportunities for comment on issues and topics
22 that should be addressed;

23 (3) conduct public workshops in coastal locations to so-
24 licit ideas, opinions, and facts to be considered in developing the
25 proposed plan;

26 (4) distribute the proposed plan to all public libraries
27 and, upon request, to interested individuals and groups, and all
28 coastal municipalities;

29 (5) conduct at least one public hearing on the draft

1 interim plan and at least one public hearing on the draft final plan;
2 and

3 (6) consult with appropriate agencies and programs in
4 Washington, Oregon, British Columbia, and the Yukon Territory, and
5 with appropriate interstate organizations.

6 Sec. 44.19.276. POWERS OF THE COUNCIL. The council may

7 (1) invite federal agencies with responsibility for the
8 study and management of ocean resources or regulation of ocean activ-
9 ities to designate a liaison to the council to attend council meet-
10 ings, respond to requests for technical and policy information, and
11 review draft plan materials prepared by the council;

12 (2) establish a scientific and technical advisory committee
13 to the council to provide advice on scientific and technical research
14 related to programs of the council; the advisory committee may include

15 (A) persons with expertise in marine science, law, or
16 technology;

17 (B) state agency technical staff employed by the
18 agencies represented on the council; and

19 (C) planning directors of municipalities bordering the
20 territorial sea;

21 (3) apply for and accept grants, contributions, and appro-
22 priations, including application for and acceptance of federal funds
23 that may become available for ocean resource planning and management;

24 (4) contract for necessary services;

25 (5) consult and cooperate with

26 (A) persons, organizations, and groups, public or
27 private, interested in, affected by, or concerned with ocean
28 resource planning and management;

29 (B) agents and officials of federal and state agencies

1 and municipalities concerned with or having jurisdiction over
2 ocean resource planning and management; and

3 (6) take any reasonable action necessary to carry out the
4 provisions of AS 44.19.270 - 44.19.289.

5 Sec. 44.19.278. PREPARATION OF INTERIM PLAN. The council shall
6 prepare an interim plan by July 1, 1991. The interim plan shall
7 include

8 (1) a summary of council actions to involve citizens of the
9 state and coordinate with municipalities, adjacent jurisdictions, and
10 federal agencies in development of the plan;

11 (2) an inventory of the existing state laws and agency
12 regulations, authorities, and programs that pertain to ocean re-
13 sources;

14 (3) an inventory of federal laws, regulations, and agency
15 programs that pertain to ocean resources management within or directly
16 affecting the state's territorial sea;

17 (4) a preliminary analysis of state laws, regulations,
18 authorities, or programs that conflict with one another, that need to
19 be modified or eliminated, and regulations or programs that may need
20 to be enacted in order to provide for coordinated, comprehensive
21 management of ocean resources;

22 (5) a preliminary survey of existing and potential uses and
23 activities in the ocean off the coast of the state, an analysis of
24 potential effects on ocean and coastal resources and coastal commu-
25 nities from these activities, and an evaluation of state agency abil-
26 ity to manage those uses;

27 (6) maps of existing ocean conditions, uses, and resources
28 of the coastline, territorial sea, continental shelf, and exclusive
29 economic zone compiled from the best available information;

1 (7) specific recommendations to develop or improve state
2 agency programs to manage ocean resources and activities consistent
3 with AS 44.19.270 - 44.19.289; these recommendations shall address at
4 least the following:

5 (A) areas within the territorial sea and the exclusive
6 economic zone that should be included or excluded from oil, gas,
7 or mineral development, or for which special precautions must be
8 taken;

9 (B) water and air quality related to mineral, oil, or
10 gas development;

11 (C) a program of environmental and other scientific
12 research required to make management decisions about ocean re-
13 sources, with emphasis on the information requirements of the
14 statewide planning goals for ocean and coastal resources in
15 relation to the oil, gas, and mineral development activities of
16 the federal government in the exclusive economic zone; and

17 (D) regulations or statutes for mineral exploration,
18 development, or recovery;

19 (8) a summary of state-federal issues of ocean resource
20 management and jurisdiction, including recommendations to the Alaska
21 Congressional delegation for changes in federal law or federal agency
22 programs, and to adjacent states for coordinated program development
23 and action;

24 (9) identification of issues that affect local government
25 planning programs and an analysis of additional work that may be
26 needed to fully address those issues in the local plans; and

27 (10) a status report on federal agency programs affecting
28 ocean uses or resources off Alaska and recommendations to the commit-
29 tee to address unforeseen concerns or issues revealed during the

1 interim planning period.

2 Sec. 44.19.280. PREPARATION OF FINAL PLAN. (a) The council
3 shall, by July 1, 1994, prepare a final plan. The plan must include

4 (1) an inventory of the existing state laws and agency
5 regulations, authorities, and programs that pertain to ocean re-
6 sources;

7 (2) an inventory of federal laws, regulations, and agency
8 programs that pertain to ocean resources management within or directly
9 affecting the state's territorial sea;

10 (3) an analysis of state laws, regulations, authorities, or
11 programs that conflict with one another, that need to be modified or
12 eliminated, as well as laws, regulations, or programs that may need to
13 be enacted in order to provide for coordinated, comprehensive manage-
14 ment of ocean resources;

15 (4) an inventory of existing and potential uses and activ-
16 ities in the ocean off the coast of the state, an analysis of poten-
17 tial effects on ocean and coastal resources and coastal municipalities
18 from these activities and an evaluation of state agency ability to
19 manage those uses;

20 (5) maps of existing ocean conditions, uses, and resources
21 of the coastline, territorial sea, continental shelf, and exclusive
22 economic zone compiled from the best available information; the maps
23 must be organized to enable both broad and detailed views of coastal
24 and ocean areas;

25 (6) specific recommendations to develop or improve state
26 agency programs to manage ocean resources and activities containing

27 (A) a brief statement of the issues or need requiring
28 the recommended action;

29 (B) a description how the recommendation will address

1 the issues or meet the identified need;

2 (C) policies and objectives;

3 (D) a brief work program describing the actions neces-
4 sary to carry out the recommendation;

5 (E) a list of state agencies or programs to be affect-
6 ed by the recommendation;

7 (F) an estimate of the time and costs required to
8 carry out the recommendation; and

9 (G) any change in state law that may be needed.

10 (b) The recommendations of (a)(6) of this section shall address
11 the following:

12 (1) coastal oil spill response, cleanup, damage assessment,
13 and compensation;

14 (2) siting of pipelines or onshore facilities resulting
15 from mineral mining or offshore oil and gas operations, including
16 coordination with local government comprehensive plans;

17 (3) marine water quality, including ocean outfalls from
18 municipal and industrial wastes, toxic and hazardous chemicals, water
19 quality standards and monitoring, and water quality-related research
20 programs;

21 (4) air quality related to offshore industrial activities
22 and impacts on onshore communities and resources;

23 (5) areas within the territorial sea and the exclusive
24 economic zone that should be excluded from oil and gas or mineral
25 development, or for which special precautions must be taken;

26 (6) environmental or other scientific research required to
27 make management decisions about ocean resources, with emphasis on the
28 information requirements of the statewide planning goals for ocean and
29 coastal resources in relation to the oil, gas, and mineral development

1 activities of the federal government in the exclusive economic zone;

2 (7) programs to encourage and facilitate research and
3 development into technologies for the exploration and development of
4 ocean resources;

5 (8) strategies to promote private investment in the state
6 into responsible research, exploration, and development of ocean re-
7 sources;

8 (9) recommendations for alternative dispute resolution
9 techniques to resolve conflicts among competing interests;

10 (10) recommendations for a permanent ocean resources plan-
11 ning and management process, including:

12 (A) options for an advisory coordinating body to
13 succeed the council;

14 (B) advisory committees;

15 (C) the role of the governor, state agencies, federal
16 agencies, municipalities, citizens, interest groups, and oceans
17 users; and

18 (D) a process for plan revision and amendment;

19 (11) a summary of state-federal issues of ocean resource
20 management and jurisdiction, including recommendations to the Alaska
21 Congressional delegation for changes in federal law or agency pro-
22 grams, and to adjacent states for coordinated program development and
23 action; and

24 (12) identification of issues that affect local government
25 planning programs and an analysis of additional work that may be
26 needed to fully address those issues in the local plans.

27 Sec. 44.19.282. COUNCIL STAFF. The council shall use the staff
28 of the Department of Natural Resources in discharging its powers and
29 duties. The commissioner of natural resources may contract with or

1 employ personnel or consultants the council chair considers necessary
2 to carry out the powers and duties of the council.

3 Sec. 44.19.289. DEFINITIONS. In AS 44.19.270 - 44.19.289

4 (1) "council" means the Alaska Ocean Resources Management
5 Council;

6 (2) "exclusive economic zone" has the meaning set out in
7 Proclamation 5030 whereby the United States proclaimed jurisdiction
8 over the resources of the ocean within 200 miles of the coastline;

9 (3) "plan" means the Ocean Resources Management Plan;

10 (4) "territorial sea" means the waters and seabed extending
11 three geographical miles seaward from the coastline in conformance
12 with federal law.

13 * Sec. 4. AS 39.50.200(b) is amended by adding a new paragraph to read:

14 (49) Alaska Ocean Resources Management Council (AS 44.19.-
15 270 - 44.19.289).

16 * Sec. 5. AS 44.19.270, 44.19.272, 44.19.274, 44.19.276, 44.19.278,
17 44.19.280, 44.19.282, and 44.19.289 are repealed September 30, 1994.

18 * Sec. 6. Notwithstanding AS 44.19.270(b), added by sec. 3 of this Act,
19 the term of the first members appointed under AS 44.19.270(a)(3)(A),
20 (a)(3)(C)(i), (a)(3)(C)(iii), and (a)(3)(C)(v) is one year. Notwithstand-
21 ing AS 44.19.270(b), the term of one of the first three representatives of
22 the public appointed under AS 44.19.270(a)(3)(D) is one year.

23 * Sec. 7. This Act takes effect July 1, 1988.