

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2587

To establish the Joint Federal and State Navigable Waters Commission  
for Alaska.

---

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2002

Mr. MURKOWSKI (for himself and Mr. STEVENS) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Nat-  
ural Resources

---

## A BILL

To establish the Joint Federal and State Navigable Waters  
Commission for Alaska.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. FINDINGS AND PURPOSES.**

4       (a) FINDINGS.—Congress finds the following:

5               (1) The efficient and orderly development of the  
6       State of Alaska will be better achieved if the Federal  
7       Government joins the State of Alaska in a carefully  
8       coordinated approach to identify ownership and ju-  
9       risdictional interests in land and waters.

1           (2) Alaska has abundant water resources that  
2           are invaluable to State residents and all citizens of  
3           the United States.

4           (3) Because of the massive number of navigable  
5           waterways and other bodies of water in the State of  
6           Alaska, the task of resolving submerged land owner-  
7           ship and navigable water determinations has been  
8           very slow, counter-productive from an orderly re-  
9           source management standpoint, and costly as the  
10          State, private landowners, and the Federal Govern-  
11          ment attempt to initiate long-range planning proc-  
12          esses.

13          (b) PURPOSES.—The purposes of this Act are:

14           (1) To expedite the process of quieting legiti-  
15           mate title to the submerged lands in the State of  
16           Alaska;

17           (2) To facilitate determinations for purposes of  
18           the Submerged Lands Act (43 U.S.C. 1301 et seq.),  
19           to the extent possible, which bodies of water in Alas-  
20           ka are navigable waters and which such bodies of  
21           water are not navigable waters; and

22           (3) To recommend to the State of Alaska and  
23           the Federal Government—

24           (A) ways to improve the process of making  
25           water use and navigability decisions; and

1 (B) ways to fairly and expeditiously quiet  
2 title to the State’s submerged lands.

3 **SEC. 2. SHORT TITLE.**

4 This Act may be cited as the “Joint Federal and  
5 State Navigable Waters Commission for Alaska Act”.

6 **SEC. 3. ESTABLISHMENT.**

7 There is established a commission to be known as the  
8 “Joint Federal and State Navigable Waters Commission  
9 for Alaska” (referred to in this Act as the “Commission”).

10 **SEC. 4. DUTIES OF THE COMMISSION.**

11 The Commission shall—

12 (1) make recommendations to the Secretary of  
13 the Interior and the State of Alaska regarding deter-  
14 minations of bodies of water in the State that are  
15 navigable waters for purposes of the Submerged  
16 Lands Act (43 U.S.C. 1301 et seq.);

17 (2) establish a process for employing estab-  
18 lished standards to facilitate making such rec-  
19 ommendations and determinations;

20 (3) develop procedures for involving private  
21 landowners, including Alaska Native corporations  
22 and the general public, in that process;

23 (4) for purposes of making such recommenda-  
24 tions, undertake a process to identify navigable wa-

1       ters in Alaska pursuant to established standards and  
2       criteria; and

3           (5) make recommendations to improve coordi-  
4       nation and consultation between the government of  
5       the State of Alaska and the Federal Government re-  
6       garding navigability determinations and decisions  
7       concerning title to submerged lands.

8   **SEC. 5. MEMBERSHIP.**

9       (a) NUMBER AND APPOINTMENT.—

10           (1) IN GENERAL.—The Commission shall be  
11       composed of 14 members, of which 7 shall be Fed-  
12       eral members appointed under subsection (b) and 7  
13       shall be State members appointed under subsection  
14       (c).

15           (2) APPOINTMENT DEADLINE.—Initial appoint-  
16       ments under this section shall be made not later  
17       than 60 days after the date of enactment of this  
18       Act.

19       (b) FEDERAL MEMBERS.—The 7 Federal members  
20       shall consist of—

21           (1) 2 members appointed by the President of  
22       the United States, one of which shall be designated  
23       as the President’s appointee for the position of Fed-  
24       eral co-chair under subsection (e);

1           (2) 1 member appointed by each of the three  
2 members of the Congress who represent the State of  
3 Alaska;

4           (3) 1 member appointed by the Secretary of the  
5 Interior; and

6           (4) 1 member appointed by the Secretary of  
7 Agriculture.

8       (c) STATE MEMBERS.—The 7 State members shall  
9 consist of—

10           (1) the Governor of the State of Alaska or the  
11 Governor’s designee;

12           (2) 2 members appointed by the Governor of  
13 the State of Alaska, of whom 1 shall be an Alaska  
14 Native (as that term is defined in the Alaska Native  
15 Claims Settlement Act (43 U.S.C. 1601 et seq.));

16           (3) 2 members appointed by the President of  
17 the Alaska Senate; and

18           (4) 2 members appointed by the Speaker of the  
19 Alaska House of Representatives.

20 Each of the State members shall serve at the pleasure of  
21 the appointing authority for that member.

22       (d) INELIGIBILITY FOR APPOINTMENT.—Members of  
23 Congress shall not be eligible for appointment to the Com-  
24 mission.

1 (e) CO-CHAIRS.—One of the members appointed by  
2 the President of the United States and the Governor or  
3 Governor's designee shall serve as co-chairs of the Com-  
4 mission.

5 (f) INITIAL MEETING.—The initial meeting of the  
6 Commission shall be called by the co-chairs.

7 (g) TERM OF APPOINTMENT.—

8 (1) IN GENERAL.—Subject to paragraph (2),  
9 members of the Commission shall be appointed for  
10 the life of the Commission.

11 (2) EARLY TERMINATION OF APPOINTMENT.—

12 (A) Membership of a member of the Com-  
13 mission shall terminate if the member is an in-  
14 dividual who is an officer or employee of a gov-  
15 ernment body and who ceases to serve as such  
16 an officer or employee, or if the member is an  
17 individual who is not an officer or employee of  
18 a government and who becomes an officer or  
19 employee of a government.

20 (B) Termination of an individual's mem-  
21 bership pursuant to paragraph (A) shall take  
22 effect on the expiration of the 90-day period be-  
23 ginning on the date such member ceases to be  
24 such an officer or employee of such government,

1           or becomes an officer or employee of a govern-  
2           ment, respectively.

3           (h) QUORUM.—4 Federal members and 4 State mem-  
4           bers of the Commission shall constitute a quorum, but a  
5           lesser number may conduct meetings. All decisions of the  
6           Commission shall require concurrence by at least 4 State  
7           members and 4 Federal members of the Commission.

8           (i) VACANCY.—A vacancy in the membership of the  
9           Commission—

10           (1) shall not affect the powers of the Commis-  
11           sion to meet or conduct business, subject to sub-  
12           section (h); and

13           (2) shall be filled in the same manner in which  
14           the original appointment was made, by the same ap-  
15           pointing authority.

16 **SEC. 6. COMPENSATION OF THE COMMISSION.**

17           (a) PAY FOR FEDERAL MEMBERS OF THE COMMIS-  
18           SION.—

19           (1) NON-GOVERNMENT EMPLOYEES.—Each  
20           Federal member of the Commission who is not oth-  
21           erwise an officer or employee of the Federal Govern-  
22           ment shall be entitled to receive the daily equivalent  
23           of the annual rate of basic pay payable for Level IV  
24           of the Executive Schedule under section 5315 of title  
25           5, United States Code, as in effect from time to

1 time, for each day (including travel time) during  
2 which such member is engaged in the actual per-  
3 formance of duties of the Commission.

4 (2) GOVERNMENT EMPLOYEES.—A member of  
5 the Commission who is an officer or employee of ei-  
6 ther the government of the State of Alaska or the  
7 Federal Government shall serve without additional  
8 pay or benefits for service as a member of the Com-  
9 mission.

10 (b) TRAVEL EXPENSES.—Federal members of the  
11 Commission shall receive travel expenses, including per  
12 diem in lieu of subsistence, in accordance with subchapter  
13 I of chapter 57 of title 5, United States Code. State mem-  
14 bers of the Commission are entitled to per diem and travel  
15 expenses as authorized under pertinent laws of the State  
16 of Alaska.

17 **SEC. 7. POWERS OF THE COMMISSION.**

18 (a) HEARINGS AND MEETINGS.—The Commission or,  
19 on the authorization of the Commission, any subcommittee  
20 or member of the Commission may, for the purposes of  
21 carrying out its duties, hold hearings, take testimony, re-  
22 ceive evidence, print or otherwise reproduce and distribute  
23 all or part of commission proceedings and reports, and sit  
24 and act at those times and places as the Commission, sub-  
25 committee, or members consider desirable.

1           (b) INFORMATION FOR THE COMMISSION.—The  
2 Commission may obtain directly from any executive agen-  
3 cy (as defined in section 105 of title 5 of the United States  
4 Code) or court, information necessary to enable it to carry  
5 out its duties under this Act. On this request of either  
6 co-chair of the Commission, and consistent with applicable  
7 law, the head of an executive agency or of a Federal court  
8 shall provide such information to the Commission.

9           (c) POWERS OF MEMBERS AND AGENTS.—Any mem-  
10 ber or agent of the Commission may, if authorized by the  
11 Commission, take any action which the Commission is au-  
12 thorized to take by this section.

13           (d) VOLUNTEER SERVICES.—The Commission may  
14 accept volunteer services for the purpose of aiding or fa-  
15 cilitating the work of the Commission.

16           (e) MAILS.—The Commission may use the United  
17 States mails in the same manner and under the same con-  
18 ditions as other departments and agencies of the United  
19 States.

20           (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the  
21 request of the Commission, the Administrator of General  
22 Services shall provide to the Commission, on a reimburs-  
23 able basis, the administrative support services necessary  
24 for the Commission to carry out its responsibilities under  
25 this Act.

1 (g) CONTRACT AUTHORITY.—To the extent or in the  
 2 amounts provided in advance in appropriation Acts, the  
 3 Commission may contract with and compensate govern-  
 4 ment and private agencies or persons for property or serv-  
 5 ices, without regard to section 3709 of the Revised Stat-  
 6 utes (41 U.S.C. 5).

7 **SEC. 8. STAFF OF COMMISSION; EXPERTS AND CONSULT-**  
 8 **ANTS.**

9 (a) STAFF.—Subject to rules prescribed by the Com-  
 10 mission, the co-chairs may appoint and fix the pay of per-  
 11 sonnel as they consider appropriate.

12 (b) APPLICABILITY OF CERTAIN CIVIL SERVICE  
 13 LAWS.—The staff of the Commission may be appointed  
 14 without regard to the provisions of title 5, United States  
 15 Code, governing appointments in the competitive service,  
 16 and may be paid without regard to the provisions of chap-  
 17 ter 51 and subchapter III of chapter 53 of that title relat-  
 18 ing to classification and General Schedule pay rates, ex-  
 19 cept that an individual so appointed may not receive pay  
 20 in excess of the annual rate of basic pay for GS–15 of  
 21 the General Schedule.

22 (c) EXPERTS AND CONSULTANTS.—Subject to rules  
 23 prescribed by the Commission, the co-chairs may procure  
 24 temporary and intermittent services under section 3109(b)  
 25 of title 5, United States Code, but at rates for individuals

1 not to exceed the daily equivalent of the maximum annual  
2 rate of basic pay for GS-15 of the General Schedule.

3 (d) STAFF OF FEDERAL AGENCIES.—Upon request  
4 of the co-chairs, the head of any Federal department or  
5 agency may detail, on a reimbursable basis, any of the  
6 personnel of that department or agency to the Commission  
7 to assist it in carrying out its duties under this Act.

8 **SEC. 9. RELATIONSHIP TO OTHER LAW.**

9 The Federal Advisory Committee Act (5 App. U.S.C.)  
10 shall not apply to the Commission.

11 **SEC. 10. REPORTS.**

12 (a) ANNUAL REPORT.—Not later than January 31  
13 of each year, the Commission shall submit to the President  
14 of the United States, the Committee on Energy and Nat-  
15 ural Resources of the United States Senate, the Com-  
16 mittee on Resources of the House of Representatives, the  
17 Governor of the State of Alaska, and the legislature of  
18 the State of Alaska a written report describing its activi-  
19 ties during the preceding year.

20 (b) FINAL REPORT.—The Commission shall submit  
21 a final comprehensive report to the officials and entities  
22 referred to in subsection (a) at least 10 days before the  
23 date the Commission terminates.

1 **SEC. 11. TERMINATION OF THE COMMISSION.**

2       The Commission is terminated 2 years after the date  
3 of completion of appointment of all members of the Com-  
4 mission.

○