

107TH CONGRESS  
2D SESSION

# H. R. 4587

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2002

Mr. YOUNG of Alaska introduced the following bill; which was referred to the  
Committee on Resources

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## 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. SHORT TITLE.**

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

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—The Congress finds the following:

8               (1) The efficient and orderly development of the  
9       State of Alaska will be better achieved if the Federal  
10       Government joins the State of Alaska in a carefully

1 coordinated approach to identify ownership and ju-  
2 risdictional interests in land and waters.

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

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

15 (b) PURPOSES.—The purposes of this Act are the fol-  
16 lowing:

17 (1) Expedite the process of quieting legitimate  
18 title to the submerged lands in the State of Alaska.

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

24 (3) Recommend to the State of Alaska and the  
25 Federal Government—

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

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

5 **SEC. 3. ESTABLISHMENT.**

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

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

10 The Commission shall—

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

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

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

22 (4) for purposes of making such recommenda-  
23 tions, undertake a process to identify navigable wa-  
24 ters in Alaska pursuant to established standards and  
25 criteria; and

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

6 **SEC. 5. MEMBERSHIP.**

7 (a) NUMBER AND APPOINTMENT.—

8           (1) IN GENERAL.—The Commission shall be  
9 composed of 10 members, of which 5 shall be Fed-  
10 eral members appointed under subsection (b) and 5  
11 shall be State members appointed under subsection  
12 (c).

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

17 (b) FEDERAL MEMBERS.—The 5 Federal members  
18 shall consist of—

19           (1) 1 member appointed by the President of the  
20 United States;

21           (2) 1 member appointed by each of the three  
22 members of the Congress who represent the State of  
23 Alaska; and

24           (3) 1 member appointed by the Secretary of the  
25 Interior.

1 (c) STATE MEMBERS.—The 5 State members shall  
2 consist of—

3 (1) the Governor of the State of Alaska or the  
4 Governor’s designee;

5 (2) 2 members appointed by the Governor of  
6 the State of Alaska, of whom 1 shall be an Alaska  
7 Native (as that term is defined in the Alaska Native  
8 Claims Settlement Act (43 U.S.C. 1601 et seq.));

9 (3) 1 member appointed by the President of the  
10 Alaska Senate; and

11 (4) 1 member appointed by the Speaker of the  
12 Alaska House of Representatives.

13 Each of State members shall serve at the pleasure of the  
14 appointing authority for that member.

15 (d) INELIGIBILITY FOR APPOINTMENT.—Members of  
16 Congress shall be ineligible for appointment to the Com-  
17 mission.

18 (e) CO-CHAIRS.—The member appointed by the  
19 President of the United States and the Governor or Gov-  
20 ernor’s designee shall serve as co-chairs of the Commis-  
21 sion.

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

24 (g) TERM OF APPOINTMENT.—

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

4           (2) EARLY TERMINATION OF APPOINTMENT.—  
5 (A) Membership of a member of the Commission  
6 shall terminate if the member is—

7                   (i) an individual who is an officer or em-  
8 ployee of a government body and who ceases to  
9 serve as such an officer or employee; or

10                   (ii) an individual who is not an officer or  
11 employee of a government and who becomes an  
12 officer or employee of a government.

13           (B) Termination of an individual’s membership  
14 pursuant to subparagraph (A)(i) or (ii) shall take ef-  
15 fect on the expiration of the 90-day period beginning  
16 on the date such member ceases to be such an offi-  
17 cer or employee of such government, or becomes an  
18 officer or employee of a government, respectively.

19           (h) QUORUM.—3 Federal members and 3 State mem-  
20 bers of the Commission shall constitute a quorum, but a  
21 lesser number may conduct meetings. All decisions of the  
22 Commission shall require concurrence by at least 3 State  
23 members and 3 Federal members of the Commission.

24           (i) VACANCY.—A vacancy in the membership of the  
25 commission—

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

4           (2) shall be filled in the same manner in which  
5           the original appointment was made, by the same ap-  
6           pointing authority.

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

8           (a) PAY FOR FEDERAL MEMBERS OF THE COMMIS-  
9           SION.—

10           (1) NONGOVERNMENT EMPLOYEES.—Each  
11           Federal member of the Commission who is not oth-  
12           erwise an officer or employee of the Federal Govern-  
13           ment shall be entitled to receive the daily equivalent  
14           of the annual rate of basic pay payable for level IV  
15           of the Executive Schedule under section 5315 of title  
16           5, United States Code, as in effect from time to  
17           time, for each day (including travel time) during  
18           which such member is engaged in the actual per-  
19           formance of duties of the Commission.

20           (2) GOVERNMENT EMPLOYEES.—A member of  
21           the Commission who is an officer or employee of ei-  
22           ther the government of the State of Alaska or the  
23           Federal Government shall serve without additional  
24           pay or benefits for service as a member of the Com-  
25           mission.

1           (b) TRAVEL EXPENSES.—Federal members of the  
2 Commission shall receive travel expenses, including per  
3 diem in lieu of subsistence, in accordance with subchapter  
4 I of chapter 57 of title 5, United States Code. State mem-  
5 bers of the Commission are entitled to per diem and travel  
6 expenses as authorized under pertinent laws of the State  
7 of Alaska.

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

9           (a) HEARINGS AND MEETINGS.—The Commission or,  
10 on the authorization of the Commission, any subcommittee  
11 or member of the Commission may, for the purposes of  
12 carrying out its duties, hold hearings, take testimony, re-  
13 ceive evidence, print or otherwise reproduce and distribute  
14 all or part of commission proceedings and reports, and sit  
15 and act at those times and places as the Commission, sub-  
16 committee, or members consider desirable.

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

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

5           (d) VOLUNTEER SERVICES.—The Commission may  
6 accept volunteer services for the purpose of aiding or fa-  
7 cilitating the work of the Commission.

8           (e) MAILS.—The Commission may use the United  
9 States mails in the same manner and under the same con-  
10 ditions as other departments and agencies of the United  
11 States.

12          (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the  
13 request of the Commission, the Administrator of General  
14 Services shall provide to the Commission, on a reimburs-  
15 able basis, the administrative support services necessary  
16 for the Commission to carry out its responsibilities under  
17 this Act.

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

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

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

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

16 (c) EXPERTS AND CONSULTANTS.—Subject to rules  
17 prescribed by the Commission, the co-chairs may procure  
18 temporary and intermittent services under section 3109(b)  
19 of title 5, United States Code, but at rates for individuals  
20 not to exceed the daily equivalent of the maximum annual  
21 rate of basic pay for GS–15 of the General Schedule.

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

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

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

4 **SEC. 10. REPORTS.**

5       (a) ANNUAL REPORT.—Not later than January 31  
6 of each year, the Commission shall submit to the President  
7 of the United States, the Congress, the Governor of the  
8 State of Alaska, and the legislature of the State of Alaska  
9 a written report describing its activities during the pre-  
10 ceding year.

11       (b) FINAL REPORT.—The Commission shall submit  
12 a final comprehensive report to the officials and entities  
13 referred to in subsection (a) at least 10 days before the  
14 date the Commission terminates.

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

16       The Commission is terminated 2 years after the date  
17 of completion of appointment of all members of the Com-  
18 mission.

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