

Commonwealth of the Northern Mariana Islands

Office of the Governor

Saipan, Mariana Islands 96950

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REPLY TO:

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FEB 11 1983

GOV. COMM. NO. 77
(House of Rep.)

The Honorable Benigno R. Fitial
Speaker, House of Representatives
Third Northern Marianas Commonwealth
Legislature
Saipan, CM 96950

and

The Honorable Olympio T. Borja
President of the Senate
Third Northern Marianas Commonwealth
Legislature
Saipan, CM 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 151, H.D.1, S.D.1, which was passed by the Third Northern Marianas Legislature.

This bill, entitled, "To establish a Coastal Resources Management Office, Coastal Advisory Council and an Appeals Board to provide for penalties, and for other purposes," becomes Public Law No. 3-47. Copies bearing my signature are forwarded for your ready reference.

Sincerely,

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PEDRO D. TENORIO
Governor

CC: Special Assistant for Programs and Legislative Review

2/14/83 10:45 am
BY:

THIRD TERRITORY OF THE MARIANAS COMMONWEALTH LEGISLATURE

THIRD REGULAR SESSION, 1983

ALL ACT

To establish a Coastal Resources Management Office, Coastal Advisory Council and an Appeals Board to provide for penalties, and for other purposes.

Offered by Representatives Jose R. Lifoifoi, Vicente C. DL. Guerrero,
Juan B. Tudela, Francisco T. Cabrera, Miguel M. Sablan,
Jesus A. Sonoda, and Luis M. Cepeda

Date: May 21, 1982

House Action

Referred to: Committee on Resources and Development

Standing Committee Report No. 3-70

First Reading: August 31, 1982

Second Reading: September 2, 1982

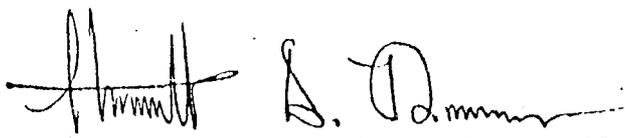
Final Reading: February 1, 1983

Senate Action

Referred to: Committee on Resources, Economic & Development and, Programs

Standing Committee Report No. 3-190

First and Final Reading: January 26, 1983



House of Representatives

FIRST SPECIAL SESSION, 1982

AN ACT

To establish a Coastal Resources Management Office, Coastal Advisory Council and an Appeals Board to provide for penalties, and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as the
2 "Coastal Resources Management Act of 1983.

3 Section 2. Coastal Resources Management Office. There is
4 hereby established the Coastal Resource; Management Office within
5 the Office of the Governor. The Coastal Resources Management
6 Office shall be administered by the Coastal Resources Management
7 Program Administrator, who shall be appointed by the Governur.

8 Section 3. Policy. (a) It is the coastal resources management
9 policy of the Commonwealth of the Northern Mariana Islands to:

10 (1) Encourage land-use master planning, floodplain
11 management, and the development of zoning and building code
12 legislation;

13 (2) Promote, through a program of public education and
14 public participation, concepts of resource management, conservation
15 and wise developnient of coastal resources;

16 (3) Promote more efficient resources management through:

17 (A) Coordination and development of resources management
18 laws and regulations into a readily identifiable program,

19 (U) Revision of existing unclear laws and regulations,

20 (C) Improvement of Coordination among Commonwealth of
21 the Northern Mariana Islands' agencies,

- 1 (D) Improvement of coordination between Commonwealth
2 and federal agencies,
- 3 (E) Establishment of educational and training programs
4 for Commonwealth government personnel and refinement of
5 supporting technical data;
- 6 (4) Plan for and manage any use or activity with the
7 potential for causing a direct and significant impact on coastal
8 resources. Significant adverse impacts shall be mitigated to
9 the extent practicable;
- 10 (5) Give priority for water-dependent development and
11 consider the need for water-related and water-oriented locations
12 in its siting decisions;
- 13 (6) Provide for adequate consideration of the national
14 interest, including that involved in planning for, and in the
15 siting of, facilities (including energy facilities in, or which
16 significantly affect, the Commonwealth's coastal zone) which are
17 necessary to meet requirements which are other than local in
18 nature;
- 19 (7) Not permit to the extent practicable, development of
20 identified hazardous lands including floodplains, erosion-prone
21 areas, storm wave inundation areas, air installation crash and
22 sound zones and major fault lines, unless it can be demonstrated
23 that such development does not pose unreasonable risks to the
24 health, safety or welfare of the people of the Commonwealth, and
25 complies with applicable laws;
- 26 (8) Mitigate to the extent practicable adverse environmental

1 fragile areas such as designated and potential historic and
2 archaeological sites, critical wildlife habitats, beaches,
3 designated and potential pristine marine and terrestrial
4 communities, limestone and volcanic forests, designated and
5 potential mangrove stands and other wetlands;

6 (15) Manage ecologically significant resource areas
7 for their contribution to marine productivity and value as
8 wildlife habitats, and preserve the functions and integrity
9 of reefs, marine meadows, salt ponds, mangroves and other
10 significant natural areas;

11 (16) Manage the development of the local subsistence,
12 sport and commercial fisheries, consistent with other
13 policies;

14 (17) Protect all coastal resources, particularly sand,
15 corals and fish from taking beyond sustainable levels and
16 in the case of marine mammals and any species on the
17 Commonwealth and Federal Endangered Species List, from any
18 taking whatsoever;

19 (18) Encourage preservation and enhancement of and
20 respect for, the Commonwealth's scenic resources through
21 the development of, increased enforcement of, and
22 compliance with, sign, litter, zoning, building codes, and
23 related land-use laws;

24 (19) Discourage, to the maximum extent practicable,
25 visually objectionable uses so as not to significantly
26 degrade scenic views;

1 (20) Encourage the development of recreation facilities
2 which are compatible with the surrounding environment and
3 land-uses;

4 (21) Encourage the preservation of traditional rights
5 of public access to and along the shorelines consistent with
6 the right: of private property owners;

7 (22) Pursue agreements for the acquisition and/or use
8 of any lands necessary to guarantee traditional public access
9 to and along the shorelines; and

10 (23) Encourage agricultural development and the
11 preservation and maintenance of critical agricultural lands
12 for agricultural uses.

13 (b) All departments, agencies, offices, and instrumentalities
14 of the Commonwealth government shall take action to incorporate
15 the above-listed policies into their programs and to conduct
16 their activities in a manner consistent with these policies.

17 Section 4. Coastal Resources Management Office: Powers,
18 Functions and Duties. The Coastal Resources Management Office shall
19 have the following powers, functions and duties:

20 (a) to coordinate the planning and implementation of
21 the coastal resources management policies by the Commonwealth
22 government;

23 (b) to review and monitor Commonwealth government
24 activities for their consistency with the coastal resources
25 management policies;

1 (c) to provide for coordination and decisions on whether
2 federal activities affecting the coastal resources of the
3 Commonwealth are consistent with the coastal resources policies
4 and regulations;

5 (d) to administer all programs and receive all funding
6 provided by the federal government regarding coastal resources
7 management related programs;

8 (e) to review and act on the subgranting of federal funds
9 to carry out coastal resources management objectives;

10 (f) to regularly publish the status of permit activities
11 and the means by which any person may request a public hearing;

12 (g) to establish and operate a broad and effective public
13 education and information program;

14 (h) to provide staff support for the Coastal Advisory
15 Council and Appeals Board;

16 (i) to ensure the consistency of permit decisions with
17 the coastal resources management policies (Section 3 of this
18 Act) and regulations (Section 8 of this Act);

19 (j) to coordinate the permit process;

20 (k) to promote the economic development of coastal
21 resources consistent with coastal resources management
22 policies;

23 (l) to ensure that any proposed modifications to the
24 coastal resources management regulations (Section 8 of this
25 Act) are consistent with the coastal resources management
26 policies (Section 3 of this Act); and

1 (m) to initiate the intergovernmental conflict
2 resolution procedures deserved in Section 9(d) of this
3 Act. when the Coastal Resources Management Offices
4 interpretation of the Commonwealth's obligations under
5 **this** Act conflicts with the interpretation of any
6 other Commonwealth department agency, office, or
7 instrumentality.

8 Section 5. Coastal Advisory Council.

9 (a) A Coastal Advisory Council is hereby established.
10 It shall be comprised of the Mayors of Rota, Tinian, Saipan,
11 and the Northern Islands; the Special Assistant for Carolinian
12 Affairs; Chairman of the Marianas Public Land Corporation;
13 Executive Director of the Marianas Visitor, Bureau; Executive
14 Director of the Ports Authority; President of the Chamber of
15 Commerce; and the Historic Preservation Officer. In addition,
16 one member of the public representing fisheries, one member
17 of the public representing the construction industry, one
18 member of public representing a subsistence lifestyle shall
19 be appointed by the Governor for a one year term. One staff
20 member each from the Commonwealth Legislature House and
21 Senate Committees for Resources and Development, shall be
22 appointed by the Committee Chairmen.

23 (b) The members of the Council shall receive no
24 compensation but shall be reimbursed for reasonable and
25 necessary expenses at established Commonwealth government
26 rates for meetings actually attended.

1 (c) Meetings of the Council shall be open to the public
2 and the opportunity for public participation shall be provided.

3 Section 6. Coastal Advisory Council ; Functions. The Coastal
4 Advisory Council shall have the following functions:

5 (a) To adopt internal procedures which shall govern
6 its meetings; Provided that the Council shall have no
7 regulatory authority of its own;

8 (b) To advise the coastal resources management Office
9 on any proposed change to the coastal resources management
10 program or upon any regulations promulgated to implement
11 the coastal resources management program; and

12 (c) To advise the Coastal Resources Management Office
13 on the application and interpretation of the coastal
14 resources management policies and regulations.

15 Section 7, Jurisdiction, The areas subject to the
16 jurisdiction of the coastal resources management program shall
17 extend seaward to the extent of the territorial waters of the
18 Commonwealth and shall further extend to all land areas of the
19 Commonwealth, except for any federally-owned lands as defined by
20 the United States Coastal Zone Management Act of 1972, as amended.

21 Section 8. Regulatory Powers.

22 (a) The Departments of Natural Resources, Commerce and
23 Labor, Public Works, Public Health and Environmental Services
24 (Division of Environmental Quality), Community and Cultural
25 Affairs Division of Historic Preservation are designated as

1 the coastal resources management regulatory agencies.

2 (b) The current coastal resources management
3 regulations published in Volume 2, page 848 of the
4 Commonwealth Register (August 26, 1980) shall remain in
5 effect, unless modified by the coastal resources management
6 regulatory agencies. Any modification of regulations shall
7 be consistent with the coastal resources management policies
8 (Section 2 of this Act).

9 (c) The coastal resources management regulatory agencies
10 shall have the authority to jointly establish and operate by
11 regulation a coastal resources management program which provides
12 for, at a minimum, a permit system, exemptions, variances,
13 designation of future areas of particular concern, permitting
14 of major projects outside the areas of particular concern, joint
15 permit procedures, standards and priorities of land and water
16 uses, and public participation.

17 (d) The coastal resources management regulatory agencies
18 shall regularly review adopted regulations and adopt new
19 regulations as necessary in accordance with the procedures
20 contained in Title 17 of the Trust Territory Code.

21 (e) Proposed regulations shall be published in the
22 Commonwealth Register. Not less than 30 days, but not
23 more than 45 days after publication, the Coastal Resources
24 Management Office, shall, after consideration of any comments
2s received from the public, transmit the regulations in final

1 form to the Legislature for approval, accompanied by such
2 comments. The Legislature shall be deemed to have approved
3 the regulations, unless both Houses of the Legislature,
4 within 20 calendar days after the date of receipt of such
5 transmittal, pass a joint resolution disapproving of part
6 or all of the regulations.

7 Section 9. Permit Process.

8 (a) The coastal resources management regulatory agencies
9 shall review all applications for coastal permits and prepare
10 a joint written decision to grant, deny or condition coastal
11 permit application in a manner which is timely, non-arbitrary,
12 non-capricious and fully in accordance with the policies of
13 this Act and any other applicable decision regulations within
14 60 days from the receipt of any request for review.

15 (b) Permit decision shall comply with the land and water
16 use plans adopted by the Legislature.

17 (c) Further procedures for the permit process may be
18 provided by regulation.

19 (d) If any coastal resources management regulatory
20 agencies or the Coastal Resources Management Office is
21 unable to agree on a permit or variance decision, on
22 questions of departmental jurisdiction, or interpretations
23 of the Commonwealth's obligations under this Act, the
24 agencies and the Coastal Resources Management Office
25 shall summarize their recommendations in writing, along with

1 any supporting documentation which shall be submitted to
2 the Governor for a determination of the disagreement.

3 Section 10. Appeals Board.

4 (a) The Appeals Board is hereby established which
5 shall consist of persons having interest and knowledge
6 related to coastal resources management, appointed by the
7 Governor with the advice and consent of the Senate. The
8 term of office shall be for 3 years; Provided that of the
9 members first appointed, one member shall be appointed
10 for one year, one member shall be appointed for 2 years,
11 and one member shall be appointed for 3 years.

12 (b) Any person aggrieved shall have 30 calendar
13 days to appeal the joint decision of the coastal resources
14 management regulatory agencies to the Appeals Board. The
15 Appeals Board shall hear and rule on appeals brought by any
16 persons aggrieved by coastal permit decisions, as prescribed
17 by regulations; Provided that the Appeals Board shall
18 make a decision within 30 calendar days of the date the notice
19 of the appeal was received by the Coastal Resources Management
20 Office. If the Board determines that the joint decision of
21 the coastal resources management regulatory agencies:

22 (1) is clearly erroneous in light of the coastal
23 resources management policies; or

24 (2) is in violation of applicable constitutional
25 or statutory provisions; or
26

- 1 (3) is arbitrary or capricious; or
2 (4) was riot adopted in accordance with required
3 procedures ;

4 The Uoard shall enter a decision with a statement of
5 the reasons in support of the determination/. Within 20
6 days after the final decision of the Board, a person
7 aggrieved inay appeal such decision to the Commonwealth
8 Trial Court, and the standard for judicial review shall
9 be whether such decision is supported by substantial
10 evidence on the record made before the Board,
11 taken as a whole, and the facts in question shall riot
12 be subject to trial de novo.

13 (c) The members of the Board shall receive no
14 compensation but shall be reimbursed for reasonable
15 and necessary expenses at established Commonwealth
16 government rates for meetings actually attended.

17 Section 11. Private Actions. Any interested person may
18 initiate an action in the Commonwealth Trial Court to compel the
19 performance of the duties specifically imposed upon the Coastal
20 Resources Management Office or any coastal resources management
21 regulatory agency by this Act; ~~Provided,~~ that no such action shall
22 be brought prior to thirty days after written notice has been
23 given to the Coastal Resources Management Office and any affected
24 coastal resources management regulatory agencies by the complainant
25 of the duties which the complainant alleges have not been performed.

1 Section 12. Penalties. (a) Any person who materially violates
2 any provision of this Act or any regulations or any order issued
3 hereunder, shall be subject to a civil fine not to exceed 10,000
4 dollars per day for each day the violation occurs.

5 (b) In addition to the other penalties provided for
6 in this Act, a person is guilty of an offense if he
7 knowingly and willfully commits any act prohibited by this
8 Act. Any violation of this Act shall be punishable
9 by a fine of not more than 2 thousand dollars or by
10 imprisonment ~~if~~ not more than 5 years or by both such fine
11 and imprisonment.

12 (c) In addition to the foregoing and in order to
13 deter further violations of the provisions of this Act or
14 regulations issued hereunder, the Attorney General may
15 maintain an action for exemplary damages, the amount of
16 which is left to the discretion of the Court, against any
17 person who intentionally and knowingly violates any
18 provision of these regulations.

19 (d) Any person who knowingly and willfully makes
20 a false statement, representation, or certification in
21 any application for a coastal permit, or in any record,
22 plan, or other document filed or required to be maintained
23 under this Act or regulations issued hereunder, or in any
24 permit or order issued pursuant to this Act or regulations
25

1 issued hereunder; or who falsifies, tampers with or knowingly
2 renders inaccurate any monitoring device or method required
3 to be maintained pursuant to this Act or regulations issued
4 hereunder or any pennit or order issued pursuant to this
5 Act or regulations issued hereunder shall be subject to
6 permit revocation or suspension and subject to a
7 civil fine of not more than 10,000 dollars for
8 each violation.

9 (e) All fines and fees collected under the
10 provisions of Act shall be deposited into the
11 Treasury of the Commonwealth.

12 Section 73. Annual Report. The Coastal Kesourcus Management
13 Office shall submit to tte Governor and Legislature an annual
14 report on tte activities of the Coastal Resources Management
15 programi within 60 days after the end of the fiscal year. The
16 report shall be made available to the public.

17 Section 14. Executive Order Vacated. Executive Order 15 is
18 hereby vacated in its entirety.

19 Section 15. Severability. Should any section or regulation
20 of this law be declared invalid, such judicial determination shall
21 not affect the validity of the law or regulations as a whole or
22 any part thereof other than the particular part declared invalid.

23 Section 16. Effective Date. This Act shall take effect
24 upon its approval by the Governor, or upon its becoming law
25 without such approval.

