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Nauman
3/15/16

CS FOR SENATE BILL NO. 163()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the nomination and designation of state water as outstanding national resource water; and providing for an effective date."

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

*** Section 1.** AS 46.03 is amended by adding a new section to read:

Sec. 46.03.085. Outstanding national resource water. (a) Water of the state may not be designated as outstanding national resource water as specified in 40 C.F.R. Part 131.12 except by an act of the legislature. The department may not manage water of the state as specified in 40 C.F.R. Part 131.12 unless the water has been designated as outstanding national resource water under this section.

(b) The department shall accept nominations of water for designation as outstanding national resource water if the nominations meet the requirements of this subsection. A nomination must specifically and geographically identify a water body or portion of a water body for designation.

(c) Any resident of the state may provide a nomination.

(d) The department shall

(1) adopt regulations that establish the process for submitting the nomination and additional information;

(2) provide public notice of all nominations;

(3) provide individual notice to each known property owner whose interest is affected by a designation; and

(4) establish a mechanism to allow any resident of the state to provide additional information.

(e) The department may transmit an outstanding national resource water nomination to the legislature under (f) of this section only if the department, in writing attached to the nomination,

(1) determines that the water is important, unique, or ecologically sensitive;

(2) determines that the designation is necessary to protect the water because current state or federal protections are not sufficient;

(3) determines that there is no other available or effective method of protecting the water;

(4) identifies

(A) if the water is a river, whether the river has been designated a wild and scenic river under 16 U.S.C. 1271 - 1287 (Wild and Scenic Rivers Act);

(B) whether the water is an ecosystem for or the habitat of an endangered or threatened species listed under 16 U.S.C. 1531 - 1544 (Endangered Species Act of 1973) or determined under AS 16.20;

(C) whether the water is an ecosystem for, the habitat of, or the location of an outstanding recreational fishery; and

(D) whether the water serves as the sole source of water for the use of people; and

(5) describes the potential effects of the designation on

(A) endangered or threatened species listed under the 16 U.S.C. 1531 - 1544 (Endangered Species Act of 1973) or determined under AS 16.20;

1 (B) recreational fisheries; and

2 (C) water supplies for the use of people.

3 (f) Within 10 days after the convening of each regular legislative session, the
4 commissioner shall transmit to the legislature for consideration a list of nominations
5 meeting the criteria in (e) of this section and related material received by September 1
6 of the preceding year. The department may not transmit a nomination substantially
7 similar to a nomination transmitted within the two years immediately preceding the
8 nomination.

9 (g) Every 10 years, beginning in 2017, the Department of Environmental
10 Conservation and the Department of Natural Resources shall each deliver a report to
11 the senate secretary and the chief clerk of the house of representatives and notify the
12 legislature that the report is available. The reports must describe each body of water
13 designated as outstanding national resource water and provide a recommendation
14 regarding the continuation of the designation.

15 * **Sec. 2.** AS 46.03.900 is amended by adding a new paragraph to read:

16 (38) "outstanding national resource water" means a water body that has
17 been determined by the legislature to be important, unique, or ecologically sensitive.

18 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **TRANSITION: REGULATIONS.** The Department of Environmental Conservation
21 shall adopt regulations necessary to implement this Act. The regulations take effect under
22 AS 44.62 (Administrative Procedure Act), but not before the effective date the law
23 implemented by the regulation.

24 * **Sec. 4.** Section 3 of this Act takes effect immediately under AS 01.10.070(c).