HB 138 OUTSTANDING RESOURCE WATER DESIGNATION

REP. CHUCK KOPP | HOUSE RESOURCES COMMITTEE | FEBRUARY 10, 2020

Constitution of Alaska

Article 8, Section 2: "The Legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of the people."

Article 8, Section 7: "The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people."
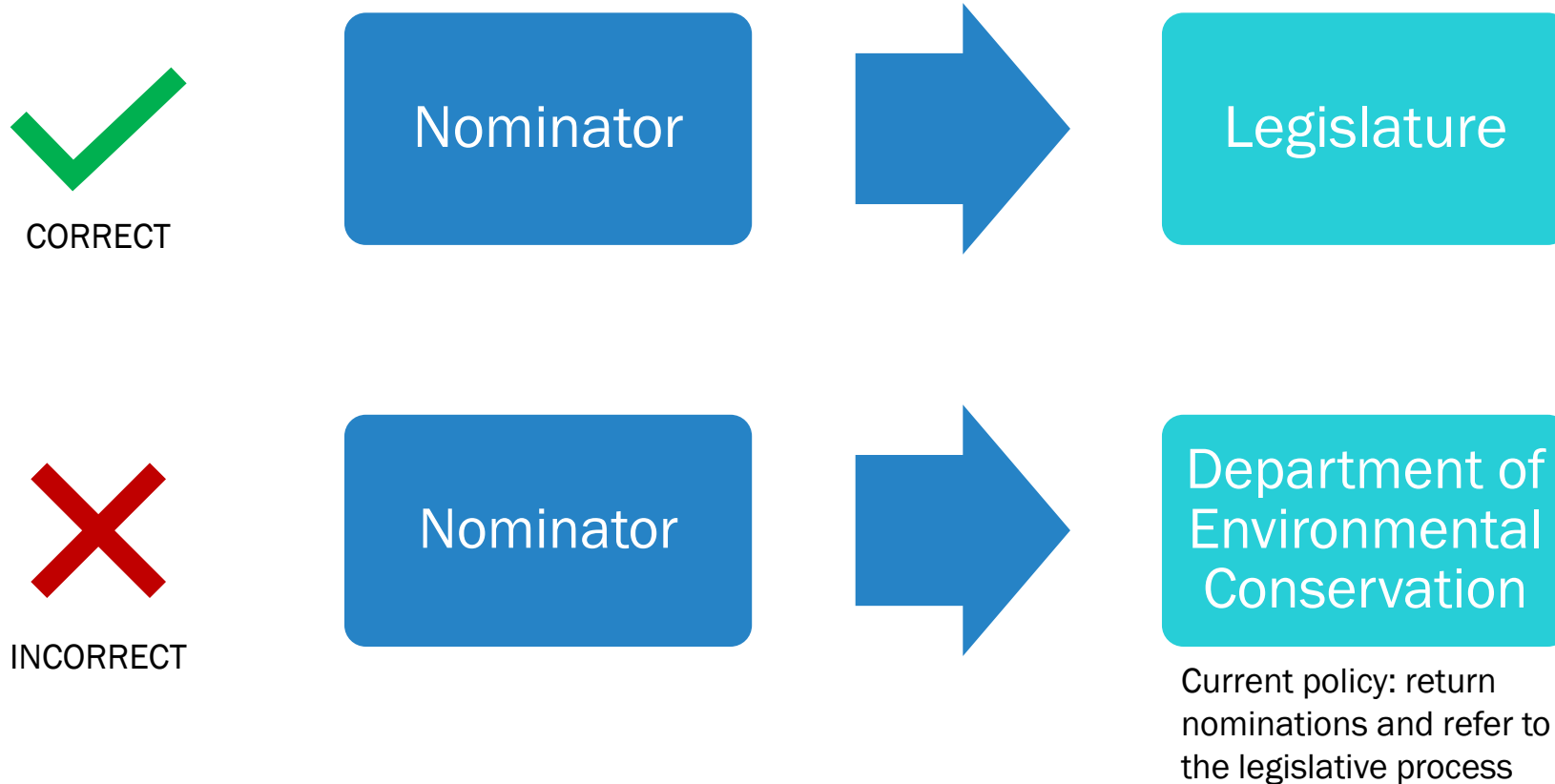
TIER 3 WATERS

- Defined by EPA as waters of "exceptional recreational or ecological significance" which shall be "maintained and protected" from degradation in perpetuity

- Since 1983, the Clean Water Act has required each state to establish a Tier 3 designation process – Alaska has yet to formalize a process

- Any water of the state (AS 46.03.900) can be designated a Tier 3 water, regardless of ownership of surrounding lands

- Five Tier 3 nominations (oldest dating to 2012) have been submitted to DEC – all five have been returned and the nominators have been referred to the legislative process, as per DEC policy

HB 138 DESIGNATION PROCESS (AS INTRODUCED)
SAME AS CURRENT D.E.C. PROCESS

✓ CORRECT

| Nominator | → | Legislature |

✗ INCORRECT

| Nominator | → | Department of Environmental Conservation |

Current policy: return nominations and refer to the legislative process

HB 138 DESIGNATION PROCESS (COMMITTEE SUBSTITUTE)
ADDS ADVISORY COMMISSION

Nominator → ORW Advisory Commission → Governor → Legislature

ORW Advisory Commission
- Accepts/reviews nominations
- Makes recommendations

Governor
- Introduces bill

OUTSTANDING RESOURCE WATER ADVISORY COMMISSION

Membership
- Diverse
- Subject matter experts
- Stakeholders
- Staggered three-year terms
- Term limits

Purpose
- Accept and review Tier 3 nominations
- Make recommendations to Legislature
- Annual report

COMMISSIONERS

Natural Resources

Environmental Conservation

Fish and Game

DESIGNATED SEATS

Tribal Entity or Native Corporation

Environmental or Conservation NGO

Resource Development NGO

Local Governments

NOMINATION CRITERIA

- Description of the water

- Upstream/downstream boundaries

- Explanation of what makes it exceptional

- Description of existing water quality

- Cost-benefit analysis

PUBLIC COMMENT

- Public notice and comment requirement

A BALANCED PROCESS

ADMINSTRATIVE PROCESS

POLICITAL PROCESS