



ALASKA STATE LEGISLATURE

SENATE RESOURCES COMMITTEE

SEN. CHRIS BIRCH, CHAIR
 State Capitol, Room 125
 Juneau, AK 99801-1182
 (907) 465-4931

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Sponsor Statement

SB 51: National Resource Water Nomination/Designation

Senate Bill 51 codifies in state law a process for classifying waterbodies as Outstanding National Resource Waters (ONRW), which receive the highest level of protection under the federal Clean Water Act.

In 1983, the Environmental Protection Agency (EPA) defined ONRWs as waters of "exceptional recreational or ecological significance" in which water quality shall be "maintained and protected" from degradation in perpetuity. The EPA further mandated that each state establish a process for designating ONRWs.

Currently, the State of Alaska has no formal process for designating ONRWs. This puts the state at risk of violating the Clean Water Act, opens the possibility of the EPA imposing their own designation process, and leaves stakeholders—developers and conservationists alike—with uncertainty about the ONRW designation process.

SB 51 codifies a designation process for ONRWs consistent with how lands and waters of the state have always been designated for conservation: by legislative approval rather than executive or agency fiat. To date, the Legislature has designated approximately 12 million acres of state lands and waters as refuges, sanctuaries, critical habitat areas, forests, parks, public-use areas, and recreational rivers—118 such legislatively designated areas in total. No such designations have been made exclusively by an agency.

By law, the Department of Environmental Conservation (DEC) is the state agency responsible for meeting Clean Water Act requirements for Alaska and for establishing an ONRW process. By requiring DEC to consult with the Departments of Natural Resources and Fish & Game before making recommendations on ONRW nominations to the Legislature, SB 51 also ensures that ONRW nominations benefit from technical review by executive branch subject matter experts.

ONRW designation could be an important tool for the protection of Alaska's human and environmental health. However, such a designation is a significant policy decision that could restrict a range of activities not only on state waterbodies but also on adjacent lands. This effectively makes ONRW designation a land-use decision, which—as demonstrated by the 118 existing legislatively designated areas in the state—should properly reside in the hands of the Legislature.