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CS FOR HOUSE BILL NO. 138()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE KOPP

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to outstanding national resource water; establishing the Alaska**
2 **Outstanding Resource Water Advisory Commission; and providing for an effective**
3 **date."**

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

5 *** Section 1.** AS 46.03 is amended by adding new sections to read:

6 **Sec. 46.03.085. Outstanding national resource water.** (a) Water of the state
7 may be designated as outstanding national resource water, as described in federal
8 regulation, only in statute.

9 (b) The department may not manage water of the state as outstanding national
10 resource water unless the water has been designated as outstanding national resource
11 water under (a) of this section.

12 **Sec. 46.03.087. Alaska Outstanding Resource Water Advisory**
13 **Commission.** (a) The Alaska Outstanding Resource Water Advisory Commission is
14 established in the department for the purpose of accepting and reviewing nominations

1 for an outstanding national resource water.

2 (b) The commission consists of seven members as follows:

3 (1) the commissioner of environmental conservation or the
4 commissioner's designee;

5 (2) the commissioner of natural resources or the commissioner's
6 designee;

7 (3) the commissioner of fish and game or the commissioner's designee;
8 and

9 (4) the following members appointed by the governor:

10 (A) one member who represents a tribal entity or Native
11 corporation in the state;

12 (B) one member who represents an environmental or
13 conservation nongovernmental organization;

14 (C) one member who represents a resource development
15 nongovernmental organization; and

16 (D) one member who represents a statewide organization of
17 local governments.

18 (c) Commission members appointed under (b)(4) of this section are appointed
19 to staggered three-year terms and may be reappointed. A member who has served all
20 or part of two consecutive terms may not be reappointed to the commission unless
21 three years have elapsed since the person has last served on the commission.

22 (d) Commission members serve without compensation but are entitled to per
23 diem and travel allowances authorized for boards and commissions under
24 AS 39.20.180.

25 (e) The commission shall

26 (1) establish a process for a resident of the state to nominate water for
27 designation as outstanding national resource water; the process must at a minimum
28 require that the nomination be submitted to the commission in writing and include

29 (A) the name, description, and location of the water;

30 (B) the boundaries upstream and downstream of the water;

31 (C) an explanation of what makes the water an outstanding

1 national resource water, including a description of the recreational or
2 ecological value that makes the water exceptional;

3 (D) a description of the existing water quality and any technical
4 data on which the description is based;

5 (E) a discussion of any nonpoint source activity to be
6 conducted in the foreseeable future that may affect water quality;

7 (F) an analysis of the economic cost and benefit of designating
8 the water as outstanding national resource water, including the economic cost
9 and benefit to communities and current or foreseeable projects; and

10 (G) other information required by the commission;

11 (2) determine, by an affirmative vote of a majority of the members of
12 the commission, whether a nomination meets the requirements established under (1) of
13 this subsection; if the commission determines that a nomination meets the
14 requirements, the commission shall provide public notice and an opportunity to
15 comment on the nomination and, not later than one year after the determination, shall
16 decide whether to recommend that the nominated water be designated as outstanding
17 national resource water;

18 (3) annually prepare a report for the legislature on the commission's
19 proceedings for the previous calendar year; the report must include

20 (A) a list of each water nominated in the previous calendar
21 year;

22 (B) a summary of each nomination the commission has
23 determined meets the requirements established under (1) of this subsection;

24 (C) each recommendation of the commission under (2) of this
25 subsection that a nominated water be designated as outstanding national
26 resource water;

27 (D) a summary of each dissenting opinion provided to the
28 commission under (f) of this section; and

29 (E) and any other relevant information; and

30 (4) on the first day of each regular session of the legislature, deliver the
31 report prepared under (3) of this subsection to the governor, senate secretary, and the

1 chief clerk of the house of representatives and notify the legislature that the report is
2 available.

3 (f) A recommendation of the commission that a nominated water be
4 designated as outstanding national resource water under (e)(2) of this section requires
5 an affirmative vote of a majority of the members of the commission. A member who
6 votes against a recommendation approved by the commission may provide a written
7 summary of the member's dissenting opinion to the commission.

8 (g) A recommendation or action of the commission under (e) or (f) of this
9 section does not constitute a final agency decision or action, and the recommendation
10 or action is not subject to appeal, including appeal or review under AS 44.62
11 (Administrative Procedure Act).

12 (h) If the commission recommends that a nominated water be designated as
13 outstanding national resource water, the governor shall prepare and submit a bill
14 consistent with the recommendation of the commission.

15 (i) The state may not use state funds to reimburse or pay a person for the cost
16 of preparing and submitting a nomination to the commission under (e) of this section,
17 including the cost of collecting and analyzing data.

18 (j) In this section,

19 (1) "commission" means the Alaska Outstanding Resource Water
20 Advisory Commission;

21 (2) "nonpoint source activity" means an activity that does not produce
22 a discharge from a point source, as that term is defined in regulations adopted under
23 this chapter.

24 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).