



THE STATE  
*of* **ALASKA**  
STATE LEGISLATURE

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**Sponsor Statement**

**House Bill 138: National Resource Water Nomination/Designation**

(Revised February 4, 2020)

House Bill 138 establishes an advisory commission charged with reviewing nominations for Outstanding National Resource Waters (ONRW) and making recommendations to the legislature. It further clarifies that the final decision for ONRW designations belongs to the legislature.

ONRWs 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.

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. Once a waterbody is designated an ONRW, the water quality must be "maintained and protected," meaning no new or additional discharges into the water may be authorized. In- and near-water activities – like wastewater treatment plants, seafood processing, and motorized vessels – as well as upland activities, including residential and commercial septic systems, road construction, mining, and timber harvesting, could be impacted or prohibited by a ONRW designation.

HB 138 establishes a process whereby the Alaska Outstanding Resource Water Advisory Commission—consisting of seven subject-matter experts—reviews ONRW nominations and provides the legislature with an annual report outlining their recommendation. Membership of the commission would include the commissioners of the departments of Environmental Conservation, Natural Resources, and Fish and Game, and four appointed members representing: (1) a tribal entity or Native corporation, (2) an environmental or conservation nongovernmental organization, (3) a resource development nongovernmental organization, and (4) a statewide organization of local governments.

However, consistent with the Alaska Constitution and with the way the state has handled all other similarly restrictive reservations of state lands and waters – including the 118 legislatively designated refuges, sanctuaries, critical habitat areas, forests, parks, public-use areas, and recreational rivers – HB 138 ensures that the final decision for ONRW designation resides with the legislature.

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