

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2014**

Bill Number: S.211

Name of Bill: Conservation and development; wastewater; holding tanks

Who introduced this bill? Hartwell, Robert M.

Author of Bill Review: Ernest Christinason, Program Manager

Agency/Dept. Reviewing Bill: ANR/DEC

Date of Bill Review: 12/23/2013

Status (check one): ☒ Upon Introduction ☐ As passed by 1<sup>st</sup> body ☐ As passed by both bodies ☐ Fiscal

**Recommended Position:**

☐ Support ☒ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

**Analysis of Bill**

**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

10 V.S.A. §1979 currently allows the use of sewage holding tanks for "publicly owned" buildings in certain circumstances. This bill would expand the use of holding tanks to all "public buildings" under the same circumstances and it defines "public buildings" as buildings owned or occupied by charitable, religious, or nonprofit organizations as well as by buildings owned or occupied by the State of VT, a county, a municipality, a village, or any public entity including a school or fire district.

**2. Is there a need for this bill?** *Please explain why or why not.* No. The State should not be encouraging or allowing the expanded use of sewage holding tanks. The pumping and proper disposal of raw sewage from holding tanks must be done frequently enough to prevent the tank from overflowing and the costs associated with the pumping and disposal can be significant. The existing statute expressly limits the use of holding tanks for new or existing "publicly owned" buildings because the State or a municipality has the ability to raise revenue to pay for these on-going costs. In addition, existing statute further limits the use of holding tanks based on the size and economic feasibility. Holding tanks for other types of buildings are limited to situations where there are existing failed wastewater systems or existing systems that are expected to fail and there is no other cost-feasible alternative. In addition, allowing holding tanks at buildings that the listed entities simply occupy but do not own will create permit compliance issues as the entity occupying a building is not the permittee for the holding tank and in all likelihood would have no control over the holding tank at all.

**3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

Increased staff time will be needed for:

- determining whether or not the building in question is owned or occupied by one of the specified entities;
- tracking compliance with permit conditions and enforcing when there is a failure to submit the required annual report;
- reviewing the required annual reports;
- responding to reports of overflowing holding tanks when the permittee fails to have the tank pumped as needed;

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- responding to increase pressure to approve a non-complying soil based wastewater system when the non-profit organization or the building owner find they cannot afford to haul the wastewater over the long term; and
- enforcement actions when the tanks are not pumped, not inspected, ownership of the building changes, or occupancy of the building changes.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** Other departments are already allowed to use holding tanks under certain circumstances so there would be no effect.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example: public, municipalities, organizations, business, regulated entities, etc.)*  
 Some municipalities may remain neutral or support the bill as a means to increase local tax base. Other municipalities may oppose the bill due to the desire to avoid the health hazard posed by an overflowing or improperly maintained holding tank. Some building owners will support the bill as it may enable them to rent/sell buildings whose use is currently limited due to a lack of permittable sanitary facilities. Realtors may support it as it will increase the marketability of some buildings. Some consultants and septage haulers may support due to a potential increase in businesses.

#### 6. Other Stakeholders:

6.1 **Who else is likely to support the proposal and why?** Landowners with existing buildings that do not have a wastewater system or water supply can apply for a permit as a non-profit, charitable, or religious organizations. Septic tank haulers will increase business and revenue.

6.2 **Who else is likely to oppose the proposal and why?** Environmental groups and others concerned about public health are likely to oppose it because of the increase risk of exposure to raw sewage due to tank overflows and improper disposal of the tank contents.

7. **Rationale for recommendation:** *Justify recommendation stated above.* (1) Pumping of holding tanks can be expensive over the life of a building. Range of cost to pump and haul 1,000 gallons of wastewater may be \$250 - \$350 or more. A building generating the maximum allowed 600 gallons of wastewater per day may pay pumping costs between \$1,050 to \$1,470 per week or between \$54,600 to \$76,440 per year. (2) The bill states the charitable, religious, or non-profit organization is allowed to use a holding tank if the building is regularly used by 15 or more people measured by a weekly average of people over the "most recent 12-week period." Therefore, constant monitoring of occupancy will be required to assure that the occupancy levels are maintained. If the occupancy falls below the 12 week period, the tank will no longer be authorized and all occupancy will need to cease. (3) There is no mechanism to control or restrict future ownership or occupancy of the building to only non-profit, charitable, or religious organizations so an organization meeting the definition of a public building could obtain a permit then convey the building to a for-profit organization in which case the holding tank can no longer be used. (4) If the bill covers new construction and not just existing buildings, some non-profit organizations own or occupy single family or multi-family residences that will be eligible for holding tanks. (5) If the bill covers new construction, there will be an increase in development on sites that do not meet the Rules for wastewater disposal. (6) The existing WW Rules already establish a safe and cost effective means to dispose of wastewater by connection to a soil based wastewater system. Allowing an increase in the number of holding tanks increases the potential public exposure to untreated sewage. (7) It is anticipated there will be an increase

in violations for non-reporting and surfacing of wastewater. The State needs to investigate how to manage holding tanks on a larger scale prior to allowing the expanded use of holding tanks.

**8. Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

Because the State should not be seeking to allow the expanded use of sewage holding tanks beyond what is already allowed due to public health and environmental risks, the bill should not be supported.

Commissioner has reviewed this document:



Date: 1/20/14

Secretary has reviewed this document:



Date: 1-21-14