

## CONFIDENTIAL LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: H. 595 Name of Bill: Potable Water Supply and Wastewater Permit issuance requirement

Agency of Natural Resources / Dept: ANR/DEC Author of Bill Review: Ernest Christianson

Date of Bill Review: 2/1/2016 Related Bills and Key Players: Rep Krebs of South Hero

Status of Bill (check one):  Upon Introduction  As passed by 1<sup>st</sup> body  As passed by both

Recommended Position: Oppose

### Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*  
Bill proposes to allow an individual residential dwelling to use surface water as a potable water supply.

2. **Is there a need for this bill?** *Please explain why or why not.*

The Department opposes the bill as proposed to allow a single family residential dwelling to use surface water as a potable water supply.

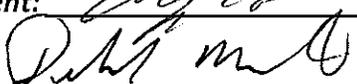
Although VT's Water Supply Rule allows public water systems to use surface water for their water source, the Rule contains design/construction standards and monitoring requirements in order to address concerns over the microbiological, inorganic chemical, organic chemical, and disinfection byproduct contaminants that can be found in surface water.

While the Wastewater System and Potable Water Supply Rules (WW Rules) do not expressly prohibit the use of surface water as a potable water supply source, they only contain design/construction standards for systems that use groundwater as a their water source. Absent standards/requirements in the WW Rules that would ensure surface water will be safely used as a potable water source, it is inferred that only groundwater can be permitted as a potable water source under these Rules.

The Technical Advisory Committee (TAC) has had many discussions on the viability of surface water being allowed as a potable water source and has consistently decided to allow its use only under the variance section of the Rules (i.e. in order to eliminate an existing contaminated potable water source when there are no other options). In coming to this recommendation, the TAC brought up a number of issues that would need to be considered/resolved before allowing surface water to be a potable water source such as: size, depth & water quality of the waterbody; concerns over adjacent land development or farming that may affect the water quality of the water in the vicinity of the water intake; appropriate minimum depth of the water intake; appropriate minimum horizontal distance from the water intake to land; the possible presence of blue-green algae and/or their toxins and other possible organic, inorganic and bacterial contaminants; treatment requirements and design standards; potential need for required testing and reporting; and whether or not a licensed water system operator/contract operator should be required to ensure the treatment system is being properly operated and maintained at all times. Other concerns include the relative ease that a homeowner might bypass certain portions of a treatment system in order to save operating expenses or bypassing the treatment when operational difficulties are encountered rather than having the appropriate repairs done.

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**  
 Programmatically, it would be difficult for the Department to monitor surface water sources used by single family residences to ensure the water system is providing potable water.
  
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?** Residences subject to the Rental Housing Code. The DEC cannot control whether a residence is owner-occupied or is rented out and the Rental Housing Code may prohibit the use of surface water as a water source in rental properties.
  
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)**  
 Municipalities delegated to run the WW program would be required to meet these same requirements which may be difficult for them to do with their current staffing.
  
6. **Other Stakeholders:**
  - 6.1 **Who else is likely to support the proposal and why?** Some licensed designers would support this as they would like to design a surface water supply rather than a groundwater source. Some landowners would also support it if there are known issues with either the quality or quantity of their property's groundwater.
  
  - 6.2 **Who else is likely to oppose the proposal and why?** Delegated municipalities (see item #5 above)
  
7. **Rationale for recommendation:** *Justify recommendation stated above.* Due to contaminant concerns, public water systems that have surface water as their source water are required to meet design and operating standards that are contained in the Water Supply Rule. Potable water systems should have to meet similar design and operating standards if their water source is surface water but the current Wastewater System and Potable Water Supply Rules(WW Rules) do not contain such standards. The TAC has considered putting these into the WW Rules in the past and advised against it. Providing such treatment on a potable system will probably be expensive to design, operate and maintain. Requiring a water treatment operator to ensure proper operations would be costly to the landowner. If on-going operational requirements are part of a WW permit, there are also concerns that WW staffing is inadequate to properly oversee the operation and maintenance of such treatment systems.
  
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.*  
 It is suggested that this issue be referred back to the Technical Advisory Committee for thorough evaluation with a report being submitted to the legislature on their recommendations including the pros, the cons, and suggestions for a) specific technical criteria for the siting and design of potable water systems with surface water as its source and b) and operational requirements for such systems.
  
9. **Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?** NA

Commissioner has reviewed this document:  Date: 2/12/16

Secretary has reviewed this document:  Date: 2/12/16