

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2013

Bill Number: H.143 **Name of Bill:** an act relating to municipal land by laws and residential care or group homes.

Agency/ Dept: Natural Resoucrues/Env. Cons. **Author of Bill Review:** Representative Johnson

Date of Bill Review: 2/5/13 **Status of Bill: (check one):**

☒ X Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies ☐ Fiscal

Recommended Position:

☐ Support ☐ Oppose ☐ Remain Neutral ☒ X 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.*

The bill states that a municipality may require a proposed residential care or group home to provide evidence of adequate water supply & wastewater treatment and that a Wastewater System and Potable Water Supply Permit would constitute such evidence.

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

Section 1-303 of the Wastewater System and Potable Water Supply (WW) Rules lists the circumstances when a particular project requires a WW permit. Such circumstances include: when there is a change of use of a building in a manner that either increases the design flow or modifies other operational requirements of a potable water supply or wastewater system or for new buildings or structures (as defined by the WW Rules). Because residential and group homes are already required to either obtain a WW permit or are exempt from the requirement for a permit because the existing system is adequate (ie: there is no increase in design flow or change in operational requirements), this bill doesn't add any significant additional degree of protection to human health and the environment over what currently exists.

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

This bill reinforces the WW Rule requirement that a WW permit must be obtained when there is a proposed change in a building's use that will result in an increase in the building's water or wastewater flows.

The only programmatic implication would be that, in some instances, a change in use from a single family residence to a residential care home may not require a WW permit because the change won't cause an increase in the water or wastewater flows. In such a situation, a WW permit would not be issued and the property owner would not be able to provide a WW Permit that provides evidence that the water supply and wastewater system are adequate for the proposed change in use. This could create an impossible "do loop" at the local level.

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?

No readily apparent implications for other state departments. The WW program has worked closely with the Agency of Human Services in the past to be certain that the conversion of any structure to a group or residential care home either had the proper Wastewater System and Potable Water Supply Permit or did not need a permit prior to licensing by AHS. It is anticipated this bill will not change that. Absent a change in the language as drafted, however, the creation of some group homes may be prevented due to the absence of a WW permit.

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)

Absent a change in language, people wanting to establish group homes but not possessing a WW permit would potentially oppose the bill because, as currently worded, they may be prevented from doing their proposed conversion.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? Unknown

6.2 Who else is likely to oppose the proposal and why? Some owners who may want to convert their single family homes to a group or residential care facility if it is determined that the existing water supply or wastewater system is not adequate to meet the needs of the change in use. This would require improvement to the inadequate water supply or wastewater system. In addition, absent a language change, some owners who wish to convert when the conversion does not require a permit may oppose the proposal because as written the bill could prevent them from doing this conversion.

7. Rationale for recommendation: *Justify recommendation stated above.*

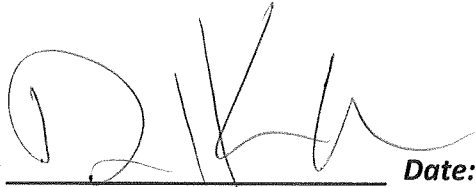
The bill supports the need, in many circumstances, for obtaining a Wastewater System and Potable Water Supply Permit for conversion of a single family residence to a group or residential care home. Universal jurisdiction gave the Drinking Water and Groundwater Protection Division the authority to determine that existing water supplies or wastewater disposal systems can meet the needs of a structure prior to the structure being used for a different purpose. We should support such action by the Legislature that may result in fewer violations and better compliance with the Wastewater System and Potable Water Supply Rules with the particular goal to protect human health. Because there are instances when the change in use of an existing structure does not require a permit, however, the proposed language must be revised to prevent unanticipated consequences.

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.*

Section (ii)(II) of the bill states “provide evidence of adequate water supply and wastewater treatment capacity. The provision of a permit issued under 10 V.S.A. chapter 64 (potable water and wastewater system permit) shall constitute such evidence if the permit approves systems for the home that have the capacity to serve the expected number of persons.” The recommended change is to add the following sentence to the proposed language so that it would read as follows:

“provide evidence of adequate water supply and wastewater treatment capacity. The provision of a permit issued under 10 V.S.A. chapter 64 (potable water and wastewater system permit) shall constitute such evidence if the permit approves systems for the home that have the capacity to serve the expected number of persons. **If no permit is required under 10 V.S.A. chapter 64, the home shall prepare and submit an affidavit describing why the project does not require a permit and such affidavit shall serve as evidence in lieu of a permit.**”

Commissioner has reviewed this document:

 Date: 2/13/13

Secretary has reviewed this document:

 Date: 2-18-13