

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.53 Name of Bill: Conservation and development; potable water supplies and wastewater systems; isolation distances

Agency/ Dept: ANR/DEC Author of Bill Review: Christine Thompson

Date of Bill Review: 1/27/15 Related Bills and Key Players: _____

Status of Bill: (check one): ☒ Upon Introduction _____ As passed by 1st body _____ As passed by both

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.* Proposes to require an isolation distance for a potable water supply & wastewater system to be: located on the property on which the supply or system is located; allowed to extend onto a property owned by another person if that property owner signs an authorization form; or waived by the permit applicant if certain criteria are satisfied.
2. **Is there a need for this bill?** *Please explain why or why not.* No. The Wastewater System and Potable Water Supply Rules currently address projects' isolation distances including those that are proposed to go onto other properties. The isolation distances in the Rules were set to protect nearby water supplies and surface waters from potential contamination and are based on scientific/hydrogeologic principals. This proposed bill, although appearing to be more stringent than the current Rules by requiring the isolation distances to be totally on the permittee's land, is actually less stringent due to the ability of the applicant to waive this new requirement if it cannot be met. By waiving the isolation distances, the applicant accepts the potential adverse impacts that the reduced isolation distances may have on their own water supply/wastewater system but is silent about the rights of other property owners in regards to protecting their water supplies. Although the permit applicant must notify all adjacent land owners of their intent to waive the isolation distances 10 days prior to filing the waiver, the bill does not provide the nearby owners with any process/recourse to protect their water supply from the higher risk of potential contamination that results from the reduced isolation distances.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**
More staff time will be devoted to responding to the concerns of land owners near property where isolation distances are being waived. There is a high likelihood that there will be an increase in the number of failed potable water supplies as a result of the isolation distance waivers that the bill provides for.
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?** The Department of Health will probably not be supportive of this bill due to the increased risk of contamination of private wells.

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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) If applicants have enough land to maintain the isolation distances on their own property, they may be constrained on the siting of their well/wastewater system and residence.

The ability for the applicant to essentially grant themselves a waiver from the required isolation distances if isolation distances cannot be maintained on their property will put the water supplies of surrounding land owners at greater risk of contamination. Should their water supply become contaminated, the neighboring land owner will incur the cost of providing treatment or relocating their well (if relocation is possible).

Once an applicant waives the isolation distance of their wastewater system to their property line, the adjoining landowners will be more limited as to where they can site their well in order to meet the Rule's isolation distance to a wastewater system so that the risk of contamination will be reduced.

Remediation of a well that becomes contaminated will most likely require a water treatment unit that will require on-going maintenance or develop a new water source. People will likely contact the Department of Health for recommendations for how to treat the water.

Should a neighboring well become contaminated due to reduced isolation distance from nearby wastewater system, there is a possibility that the contamination in the well or outside of the well casing could proceed down into the aquifer that is supplying that well. This could lead to another existing or a new water source that is getting water from the same aquifer to have contaminated water. We believe organizations that are concerned about groundwater protection (i.e. VNRC) will therefore be concerned about this bill

6. Other Stakeholders:

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

6.2 Who else is likely to oppose the proposal and why? Other land owners

7. Rationale for recommendation: *Justify recommendation stated above.* Because an applicant can grant themselves a waiver from the required isolation distances, the bill would increase the risk of contamination for neighboring wells and the bill does not give the neighbors any regulatory recourse.

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.*

No specific modifications can be made to address overarching concerns outlined above.

9. Gubernatorial appointments to board or commission?

Commissioner has reviewed this document:

Date: 1/28/15

Secretary has reviewed this document:

Date: 1-28-15

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