

## 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: 4/6/2016 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: Neutral

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### Analysis of Bill

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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.* There are sections of Vermont where bedrock wells either produce poor quality of water or little to no quantity of water. The bill is to address these situations. The bill was rewritten to require the Secretary to create Rules by July 1, 2017 that will define the type of surface water suitable for use and standards for the water treatment systems. The bill restricts the use of the residence to be occupied by the owner of record or owner of record with a home occupation where the only employees are family members and is not visited by the public in a manner or duration that would presume the need for use of a potable water supply. The legislature and Department must understand surface water requires substantial treatment to reduce or eliminate many contaminants that a groundwater source may not be exposed to such as cyanobacteria, giardia, cryptosporidium, and synthetic organics. The Secretary, when creating Rules, will be specific in determining which surface waters are suitable to serve a single family residence while prohibiting the vast majority of surface waters including rivers and streams due to existing or potential impairment. The legislature's review of this bill must consider the potential exposure of occupants of a single family residence and guests to a surface water treatment system that is poorly maintained and may not properly treat the water to potable standards. Presently the variance section of the Wastewater System and Potable Water Supply Rules (Rules) allows for landowners with a potable water supply to use surface water as a water source when the existing water supply is failed and/or there is no other option to construct a potable water that complies with the Rules. This bill allows an owner/occupied single family residence to have a surface water source without using the variance section of the Rules.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**  
Programmatically, it will be difficult for the Department to monitor surface water sources used by single family residences to ensure the water system is providing potable water. Treatment systems for surface water sources will be expensive and require constant monitoring and maintenance that will be the responsibility of the homeowner. There may be instances when the water system, even when properly functioning, will not provide water that meets potable standards.
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. Agency of Human Services,

daycares, may be affected although the bill prohibits surface water for residences where the public has use of the potable water supply. Some home catering facilities may not be subject to licensing by the Department of Health so food prepared using surface water sources may be provided to the public.

**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)**

Colchester and Charlotte, the two 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. It is anticipated both municipalities will request the Department's assistance to initially review water treatment designs to be certain the design complies with the State Rules.

**6. Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?** Some designers will support the bill as they would like to design a surface water supply rather than a groundwater source in areas of known groundwater quality issues. Some landowners will support if there are known issues with either the quality or quantity of their property's groundwater. Some Plumbers with the license level of Special will support the bill (Special allows the person to design water treatment systems).

**6.2 Who else is likely to oppose the proposal and why?** Delegated municipalities (see item #5 above).

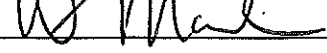
**7. Rationale for recommendation:** *Justify recommendation stated above.* The Department must provide the legislature with the issues and risks surrounding the use of surface water as mention in items #2 and #3 above. The legislature must consider the risk to human health and decide if this is a landowner's right to choose understanding the risks.

**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.*

Recommend in Sec. 2, 10 V.S.A. § 1981, striking out subdivision (6) in its entirety and inserting in lieu thereof the following: (6) The applicant or permit holder shall comply with other criteria and requirements adopted by the Secretary by rule for potable water supplies using a surface water as a source.

**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: 4/7/2016

Secretary has reviewed this document:  Date: 4/7/16