

CONFIDENTIAL LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: H.674 **Name of Bill:** An act relating to public notice of wastewater discharges

Agency of Natural Resources / Dept: DEC **Author of Bill Review:** Mary Borg, Deputy Director, Watershed Management Division, DEC

Date of Bill Review: 2/2/2016 **Related Bills and Key Players:** DEC, Dept. of Health

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

Recommended Position: Support

Analysis of Bill

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

The bill establishes reporting and public notification requirements as follows: 1) all releases of less than fully treated sewage to waters of the State must be reported by the operator of a wastewater treatment facility in two manners – a public alert must be issued within one hour of discovery of an untreated discharge (or within four hours if the operator does not have phone or internet access at the location of the untreated discharge), and the operator must then provide notice on DEC's on-line event reporting system within twelve hours; 2) the Secretary must provide public notice within four hours of all other unpermitted discharges to state surface waters that may pose a threat to human health or the environment that are identified by the Secretary; and 3) within one hour of a determination that the presence of cyanobacteria in a recreation area is a public health hazard, the Commissioner of Health shall conduct public outreach describing the area affected and the nature of the public health hazard.

2. Is there a need for this bill? *Please explain why or why not.* This bill is needed in order to clarify and codify public notice and reporting requirements, and to provide notice to the public of potential health hazards due to sewage discharges and cyanobacteria outbreaks. With the recent creation by the Department of an on-line public notice reporting system by which wastewater treatment facilities can directly and quickly notify the public of releases of untreated sewage, including combined sewer overflow (CSO) events, statutory change is needed to clearly put this noticing responsibility on wastewater treatment facilities. The bill provides tight timeframes for public noticing in order to protect the public health from these releases. This will eliminate unintended delays in issuing public notice.

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

Section (c) of 10 V.S.A. § 1285 requires the Secretary of ANR to post notices of sewage spills that are not self-reported by a municipal or industrial owner, within four hours of detection (unless detected between the hours of 9:00 p.m. and 5:00 a.m., which then must be posted no later than 10:00 a.m. of the following morning). In order to meet this requirement between approximately 4:30 p.m. on a Friday and 8:00 a.m. the following Monday, the Department will need to establish a system that will allow incidents identified by the Secretary that may pose a threat to human health or the environment to be posted during those non-working hours. This may entail the need to assign program staff to an "on call" status for weekend availability in order to assure that incidents can be duly reported. Under the VSEA contract, such an assignment may require additional compensation to staff. A real benefit to the Department is the fact municipalities will now directly have responsibility under the bill to, within short prescribed time periods, report the release of untreated or partially treated sewage on the Department's public notice webpage. This will allow the public to be quickly notified of these releases and will eliminate the

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Department as the "middleman" who must take a call from a municipality, and then must post it. During non-business hours, or when staff are tied up with projects, this "middleman" function on program staff can result in delays in public noticing of these potential health hazards.

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 Dept. of Health may have workload concerns relating to its new requirements under the bill. The Dept. of Health has informed the Department that it will be preparing its own blue sheet for this bill.

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: DEC anticipates that municipalities and industrial dischargers will not oppose the intent of this bill. There may be some opposition to the tight "public alert" timeframe (i.e. within one hour) for posting by the municipality of less than fully treated sewage. There is likely to be less impact in this regard on larger municipalities than on small system operators. A number of small communities employ contract operators for their wastewater treatment facilities and the requirements of this bill may result in the need for some to renegotiate the pertinent contracts to address the bill's requirements.

6. **Other Stakeholders:**

6.1 **Who else is likely to support the proposal and why?** The general public will likely support this bill as it enhances notices to the public about potential health hazards that may be derived from contact recreation in impacted waters. The public and environmental groups have been very concerned about timely noticing of CSO events and posting delays that have occurred over weekends and in the evening hours.

6.2 **Who else is likely to oppose the proposal and why?** DEC does not expect major opposition to this bill, other than potential pushback from smaller municipalities on the tight noticing timeframes as well as requirements for estimating the total volume released, since it can be hard to quantify.

7. **Rationale for recommendation:** *Justify recommendation stated above.* DEC supports enhanced public notification of health hazards related to sewage discharges, other unpermitted discharges that may pose a threat to human health or the environment, and cyanobacteria outbreaks.

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.*

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?** No.

Commissioner has reviewed this document: _____

Date: 4/25/16

Secretary has reviewed this document: _____

Date: 4-26-16