

Bill as Introduced

HB 1298 - AS INTRODUCED

2010 SESSION

10-2085
08/05

HOUSE BILL **1298**

AN ACT establishing a statewide septic system commission.

SPONSORS: Rep. Beaulieu, Hills 17; Rep. Long, Hills 10; Rep. Spaulding, Hills 18;
Rep. Wheeler, Merr 6

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill establishes a statewide septic system commission.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT establishing a statewide septic system commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Commission Established. There is established a commission to study existing septic systems
2 and potential new septic technologies.

3 2 Membership and Compensation.

4 I. The members of the commission shall be as follows:

5 (a) Three members of the house of representatives, appointed by the speaker of the
6 house of representatives.

7 (b) Three members of the senate, appointed by the president of the senate.

8 (c) The commissioner of the department of environmental services, or designee.

9 (d) One member from the local government center, appointed by the local government
10 center.

11 II. Legislative members of the commission shall receive mileage at the legislative rate when
12 attending to the duties of the commission.

13 3 Duties. The commission shall investigate existing septic systems and make recommendations
14 on new septic systems and technologies to be used and approved by the department of environmental
15 services in the lakes region.

16 4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among
17 the members. The first meeting of the commission shall be called by the first-named house member.
18 The first meeting of the commission shall be held within 45 days of the effective date of this section.
19 Four members of the commission shall constitute a quorum.

20 5 Report. The commission shall report its findings and any recommendations for proposed
21 legislation to the speaker of the house of representatives, the president of the senate, the house
22 clerk, the senate clerk, the governor, and the state library on or before November 1, 2010.

23 6 Effective Date. This act shall take effect upon its passage.

Amendments

Amendment to HB 1298

"Not Adopted"

1 Amend the bill by replacing sections 2-5 with the following:

2
3 2 Membership and Compensation.

4 I. The members of the commission shall be as follows:

5 (a) Two members of the house of representatives, appointed by the speaker of the house
6 of representatives.

7 (b) One members of the senate, appointed by the president of the senate.

8 II. Members of the commission shall receive mileage at the legislative rate when attending
9 to the duties of the commission.

10 3 Duties. The commission shall:

11 I. Review current maintenance practices of existing approved septic designs in New
12 Hampshire and make recommendations for improvement.

13 II. Review current septic standards and make recommendations to encourage new and
14 upgraded systems.

15 III. Review surrounding New England states applicable septic laws.

16 IV. Review current septage handling policy and procedure and make recommendations to
17 improve the process.

18 V. Review new technology, focusing on small developed residential lots and make
19 recommendations to adopt new design standards.

20 VI. Review emerging issues and make recommendations to addressing new contaminants in
21 waste water.

22 VII. Solicit input from the commissioner of the department of environmental services, the
23 Municipal Association, the University of New Hampshire, a licensed septic designer, a licensed
24 septic installer, a licensed septage hauler, the Realtors Association, the Homebuilders and
25 Remodelers Association, and the New Hampshire Lakes Association.

26 4 Chairperson. The members of the commission shall elect a chairperson from among the
27 members. The first meeting of the commission shall be called by the first-named house member.
28 The first meeting of the commission shall be held within 45 days of the effective date of this section.

29 5 Report. The commission shall make an interim report its findings and any recommendations
30 for proposed legislation to the speaker of the house of representatives, the president of the senate,
31 the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2010.
32 The commission shall make a final report of its findings and any recommendations for proposed

Amendment to HB 1298

- Page 2 -



1 legislation to the senate president, the speaker of the house of representative, the governor, the
2 commissioner of the department of environmental services, the senate clerk, the house clerk, and the
3 state library on or before November 30, 2011.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 1298

BILL TITLE: establishing a statewide septic system commission.

DATE: February 9, 2010

LOB ROOM: 305 **Time Public Hearing Called to Order:** 1:30 p.m.

Time Adjourned: 2:04 p.m.

(please circle if present)

Committee Members: Reps. Spang, Tupper, Parkhurst, Moody, Aguiar, Gottling, Hubbard, Kepner, Thomas, C. Williams, McClammer, D. Russell, Renzullo, C. Christensen, Ahlgren, Kappler, Spaulding, Bolster, T. Howard and St. Cyr.

Bill Sponsors: Rep. Beaulieu, Hills 17; Rep. Long, Hills 10; Rep. Spaulding, Hills 18; Rep. Wheeler, Merr 6

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Jane Beaulieu - Prime sponsor of the bill. Introduced bill and an amendment. Referred questions to Jared Teutsch from NH Lakes Assoc.

Jared Teutsch, President, NH Lakes Association - Supports bill and amendment. Issue has been bubbling up for years. Challenge to water quality protection is phosphorous. HB 1298 deals with Septic Committee to look at septic problems on small lots. Old and failed systems are a problem. These substandard systems leak and leach into public water supplies. Get folks together to look at new techniques available. Broaden our horizons to improve water quality.

Rep. Tupper: Under HB 2 there is a study group trying to winnow down huge number of commissions and advisory committees, etc. Can you think of any other way to accomplish goal without creating new group? ANS: OLS drafted bill to reflect composition of just legislators. Only other way would be for Governor to appoint a task force.

Rep. Moody: Is there any rule or regulation that covers the small lot systems? ANS: Defer to gentleman from DES.

Rep. Russell: Sounds like a very technical set of duties. Is it appropriate for group of legislators? ANS: The list you see under solicit information from comprises the original members of the commission.

Rep. Isn't there some group now that deals with septic issues? ANS: DES requires testing for installers. There is a water council but that is an appeal body. Don't want us to get behind. Trying to be proactive.

Rep. Bolster: Are the septic engineers and designers up to speed on new options? ANS: DES has become more proactive. Not enough action on small lot developments and old systems.

Rep. Howard: What are you looking for? If something fails, there must be some sort of system in place to address this? Where are you going with this? Are you going to make people near a lake change a perfectly good system? ANS: No: Did some dye tests and found all kinds of problems. There is a big difference between substandard and failing. Want this group to look at what other places are doing.

Rep. Howard: Are we looking at any way to help homeowners fix these? ANS: You might be a great person to serve on this committee.

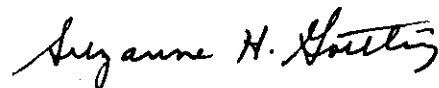
Rep. Gottling: Mentioned other states using excess federal money to subsidize small owners who cannot finance replacement or upgrades. ANS: You might be another person to serve on this committee.

Rep. Renzullo: Does this operate under new rule about forming committees and commissions and task forces? ANS: OLS drafted bill with new rule in mind.

Rene Pelletier, NH Department of Environmental Services (DES) - Opposed to bill.
Amendment addressed some of the issues. Felt original bill didn't have enough technical expertise. Focus is on inland waterways. Phosphorous is a legitimate concern for water quality. Septic systems are designed to do some sort of nutrient removal but primary function is bacteria removal. Believe technologies out there today achieve the goal of taking care of virus and bacteria. We do not presently have a requirement for some level of nutrient removal. There could be hydraulic failure (Can't handle amount of water) and biologic failure (not enough of an organic mat to leach out nutrients) Don't go out and dye test all systems near water body. Ten or twelve years ago we required repair if there was a hydraulic failure. Do catch a fair amount of bad systems. There is no mandatory requirement. Concept of researching technologies related to nutrient removal is good. Nitrates and phosphates are hard to remove from waste-water. Support the concept. Amendment goes a long way to clean up the original bill.

Rep. Howard: ANS: Today if you have the right soil types, you can repair in kind. Otherwise come as close as you can.

Respectfully submitted,



Rep. Suzanne H. Gottling
Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 1298

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TESTIMONY

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Public Hearing on HB 1298

Establishing a statewide septic system commission

2/9/10 LOB 305 1:30 p.m.

Introduced by Rep. Beaulieu: Introduced bill and an amendment. Referred questions to Jared Teutsch from NH Lakes Assoc.

Jared Teutsch: Pre. NH Lakes Assoc. Support bill and amendment. Issue has been bubbling up for years. Challenge to water quality protection is phosphorous. HB 1298 deals with Septic Committee to look at septic problems on small lots. Old and failed systems are a problem. These substandard systems leak and leach into public water supplies. Get folks together to look at new techniques available. Broaden our horizons to improve water quality.

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Ans. OLS drafted bill to reflect composition of just legislators. Only other way would be for Governor to appoint a task force.

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Ans. DES has become more proactive. Not enough action on small lot developments and old systems.

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Ans. No: Did some dye tests and found all kinds of problems. There is a big difference between substandard and failing. Want this group to look at what other places are doing.

Howard: Are we looking at any way to help homeowners fix these?

Ans. You might be a great person to serve on this committee.

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Ans. You might be another person to serve on this committee.

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Ans. OLS drafted bill with new rule in mind.

Rep. Pelletier: Opposed to bill. Amendment addressed some of the issues. Felt original bill didn't have enough technical expertise. Focus is on inland waterways. Phosphorous is a legitimate concern for water quality. Septic systems are designed to do some sort of nutrient removal but primary function is bacteria removal. Believe technologies out there today achieve the goal of taking care of virus and bacteria. We do not presently have a requirement for some level of nutrient removal. There could be hydraulic failure (Can't handle amount of water) and biologic failure (not enough of an organic mat to leach out nutrients) Don't go out and dye test all systems near water body. Ten or twelve years ago we required repair if there was a hydraulic failure. Do catch a fair amount of bad systems. There is no mandatory requirement. Concept of researching technologies related to nutrient removal is good. Nitrates and phosphates are hard to remove from waste-water. Support the concept. Amendment goes a long way to clean up the original bill.

Rep. Howard:

Ans. Today if you have the right soil types, you can repair in kind. Otherwise come as close as you can.

Adjourned 2:04

Testimony



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
February 9, 2010

Honorable Judith T. Spang, Chair
Resources, Recreation and Development Committee
Legislative Office Building Room #305
Concord, NH 03301

RE: House Bill 1298, establishing a statewide septic system commission

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 1298, which would establish a statewide septic system commission. The DES does not support the bill as proposed for the reasons described below. However, we appreciate and support the goal of the sponsors to improve water quality in New Hampshire's lakes for future generations.

HB 1298 proposes to create a statewide septic system commission that focuses on the evaluation of existing septic systems as well as new septic system technologies for potential use in the Lakes Region. By inference, the focus of the commission would be on phosphorus impacts to lakes and potential phosphorus removal treatment technologies, since the primary impacts of septic systems on lakes, except under gross failure conditions, are related to the propagation of algae and cyanobacteria caused by elevated phosphorus concentrations (which are in part derived from septic system discharges to surface water through groundwater). We believe that this focus is too narrow. If a statewide septic system commission is to be formed, we recommend that the duties be broadened because, while phosphorus is the primary nutrient of concern for lakes, nitrogen is the concern for estuarine environments. The water quality in New Hampshire's Great Bay Estuary is currently impaired in part due to nitrogen discharges from many sources, including septic systems. For the proposed commission to fully consider statewide septic system nutrient issues, the scope of the proposed investigation would need to be expanded to include consideration of surface water impacts and treatment technologies for both fresh waters (phosphorus) and estuaries (nitrogen).

DES is concerned that the proposed commission makeup in HB 1298 does not include the right combination of scientific and technical expertise to successfully undertake the proposed investigation. We are also concerned that the creation of this commission would place a burden on DES to provide substantial technical and administrative support at a time when DES staff resources are already strained. Typically, state commissions bring together broad groups of stakeholders with diverse perspectives and technical knowledge to assess an issue and develop consensus recommendations, often for future legislation. To properly evaluate new septic system treatment technologies, we believe that the membership of the proposed commission should include, at a minimum, environmental engineers, septic system designers and installers, and academicians with expertise in wastewater treatment. And, if the intent is

Honorable Judith Spang, Chairman
Resources, Recreation and Development Committee
House Bill 1298, establishing a statewide septic system commission
February 9, 2010
Page 2 of 2

to evaluate the environmental impacts of nutrient discharges to surface waters as well as treatment technologies (the bill is ambiguous in this regard and should be clarified), the commission membership would need to be further broadened to include scientists with expertise in nutrient impacts on surface water quality.

Finally, please note that DES has a very successful program to regulate the design and installation of septic systems that includes some special provisions for lakefront properties. For example, under RSA 485-A:39, I, and Env-Wq 1025, Waterfront Property Site Assessment Study, prior to the execution of a purchase and sale agreement for any developed waterfront property, a site assessment study is required to determine whether the individual sewage disposal system on the site is in compliance with DES standards and, if the system is in failure, a new system must be constructed that meets current design standards. DES also evaluates and approves new and innovative wastewater treatment and subsurface disposal technologies for individual sewage disposal systems under Env-Wq 1024, Innovative/Alternative Technology. Approval is based on system performance relative to conventional stone and pipe systems. Many of the technologies that DES has approved include smaller leaching field sizes, innovative septic tank designs or additional treatment for use near surface waters. However, there are no existing criteria for approval of technologies that provide "exceptional" phosphorus or nitrogen removal or criteria for when these technologies might be required for lots where, for example, the discharge is to a nutrient-impaired watershed. These are topics on which a commission such as proposed by HB 1298, but with expanded membership and more clearly defined duties, could provide useful recommendations to the Legislature and DES.

Thank you again for the opportunity to comment. If you have any questions or need additional information, please do not hesitate to call Rene Pelletier at 271-2951 or me at 271-2958.

Sincerely,



Thomas S. Burack
Commissioner

cc: Representative Beaulieu
Representative Long
Representative Spaulding
Representative Wheeler



LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program

New Hampshire Department of Environmental Services
29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095



February 9, 2010

The Honorable Judith Spang, Chairman
House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 1298: An act establishing a statewide septic system commission

Dear Chairman Spang and Members of the Committee:

The Lakes Management Advisory Committee (LMAC) is writing to express its support for House 1298, which would establish a statewide septic system commission.

Existing older septic systems particularly those installed on smaller parcels that surround our surface waters have been identified as one of the sources of nutrient inputs to our lakes and ponds. Technology has evolved rapidly in recent times making possible the effective remediation of failed systems which should be upgraded immediately and, if not in failure, upgraded as soon as possible. Establishing a commission to identify and bring to public awareness those subsurface sewage disposal systems that utilize the most current technologies and excel at phosphorus and nitrogen removal treatment, needs urgently to be undertaken.

With the passage of RSA 483-A in 1990, the General Court established the New Hampshire Lakes Management and Protection Program (LMPP) to be administered within the Department of Environmental Services. The LMAC is charged to advise DES in carrying out the purposes of RSA 483-A. "It is the policy of the state to insure the continued vitality of New Hampshire lakes as key environmental, social, and economic assets for the benefit of present and future generations." The LMAC is made up of representatives from academia, business, conservation organizations, lake associations, tourism, fish and game commission, marine trades, realtors, municipal government and state agencies who work together to ensure that state actions affecting our lakes are well thought-out and appropriate for the resource and its users.

In conclusion, the LMAC supports HB 1298. If you have further questions, please feel free to contact Jacquie Colburn at 271-2959 or jcolburn@des.nh.gov or me at (603) 568-2014 or phildoris@tds.net.

Sincerely,

Philip J. O'Brien, Ph.D., Chairman
Lakes Management Advisory Committee

cc: Rep. Beaulieu
Rep. Tupper
Rep. Smith
Thomas S. Burack, DES Commissioner (*via electronic mail*)
Harry Stewart, DES Water Division Director (*via electronic mail*)
Paul Currier, DES WMB Administrator (*via electronic mail*)
LMAC Members (*via electronic mail*)

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 1298

BILL TITLE: establishing a statewide septic system commission.

DATE: February 11, 2010

LOB ROOM: 305

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Kappler

Seconded by Rep. Parkhurst

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 17-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Suzanne H. Gottling, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 1298

BILL TITLE: establishing a statewide septic system commission.

DATE: 2/11/10

LOB ROOM: 305

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, (ITL) Interim Study (Please circle one.)

Moved by Rep. *Kappler*

Seconded by Rep. *Parkhurst*

Vote: *A-0* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Suzanne H. Gottling, Clerk

Committee Report

CONSENT CALENDAR

February 11, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on RESOURCES, RECREATION AND DEVELOPMENT to which was referred HB1298,

AN ACT establishing a statewide septic system commission. Having considered the same, report the same with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Judith T Spang

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	RESOURCES, RECREATION AND DEVELOPMENT
Bill Number:	HB1298
Title:	establishing a statewide septic system commission.
Date:	February 11, 2010
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The committee heard convincing testimony that failing septic systems are a significant source of pollution of our water bodies. New technology and potential new regulatory approaches for addressing this problem need to be explored. However, house rule 36-g mandates that in this second year of the session, the committee would only have until November 2010 to complete its work. The bill should be reintroduced next year.

Vote 17-0.

Rep. Judith T Spang
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

RESOURCES, RECREATION AND DEVELOPMENT

HB1298, establishing a statewide septic system commission. **INEXPEDIENT TO LEGISLATE.**
Rep. Judith T Spang for RESOURCES, RECREATION AND DEVELOPMENT. The committee heard convincing testimony that failing septic systems are a significant source of pollution of our water bodies. New technology and potential new regulatory approaches for addressing this problem need to be explored. However, house rule 36-g mandates that in this second year of the session, the committee would only have until November 2010 to complete its work. The bill should be reintroduced next year. **Vote 17-0.**

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HB 1298

ITL

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Judith Spang

A handwritten signature in black ink, appearing to be 'JS' or similar initials, located on the right side of the page.

HB 1298

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omit (-)

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JS

HB 1298

ITL
17-0
CONSULT

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36-9

HB 1298

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