

# Bill as Introduced

SB 56 - AS AMENDED BY THE SENATE

01/13/10 0033s

2009 SESSION

09-0968  
06/01

SENATE BILL **56**

AN ACT expanding the duties of the commission to study issues relative to groundwater withdrawals.

SPONSORS: Sen. Cilley, Dist 6

COMMITTEE: Energy, Environment and Economic Development

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AMENDED ANALYSIS

This bill expands the duties of the commission to study the financial responsibility to be demonstrated by a person seeking approval for a large groundwater withdrawal.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 56 - AS AMENDED BY THE SENATE

01/13/10 0033s  
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09-0968  
06/01

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nine*

AN ACT expanding the duties of the commission to study issues relative to groundwater withdrawals.

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

1 1 Commission to Study Issues Relative to Groundwater Withdrawals; Duties Expanded. Amend  
2 2003, 305:3 as amended by 2008, 176:1 to read as follows:

3 305:3 Duties.

4 *I. The commission shall:*

5 (a) Study ways to bring a balanced approach to water use among residential, public  
6 water supply, industrial, commercial, agricultural, energy, recreational, and other water users, and  
7 to improve the current process by which new water users may reasonably and efficiently use state  
8 water resources, including consideration of potential regional impacts and local water management  
9 issues, in order to best protect and preserve an adequate supply of water for the state with particular  
10 attention to groundwater. This study shall include consideration of issues such as potential impacts  
11 on New Hampshire's environment, property rights as they relate to groundwater, possible fees on  
12 water withdrawals, and the protection of New Hampshire's aquifers. [~~The commission shall also~~]

13 (b) Study criteria, including public benefit, for the granting of large water withdrawals  
14 other than those of RSA 485-C and RSA 485-A. Consideration of this issue shall include appropriate  
15 roles for municipalities in the permitting and regulation of large groundwater withdrawals and  
16 include input from municipalities and other appropriate entities. [~~The committee shall~~]

17 (c) *Study the amount of financial responsibility the person seeking approval for*  
18 *a large commercial groundwater withdrawal would be required to demonstrate, including*  
19 *bonding and insurance. In determining such amount, the commission shall consider*  
20 *potential damage to the environment and nearby wells, including but not limited to,*  
21 *unreasonable reductions in well capacity or contaminant migration from off-site*  
22 *contamination sources which impact water quality.*

23 (d) Design an appropriate statewide monitoring plan to ensure long term sustainability  
24 of groundwater resources and participation in the development and distribution of public educational  
25 materials on the municipal role in large groundwater permitting, including local and state  
26 regulations.

27 *II. The commission may address other issues related to water.*

28 2 Effective Date. This act shall take effect upon its passage..

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SB 56

**BILL TITLE:** (New Title) expanding the duties of the commission to study issues relative to groundwater withdrawals.

**DATE:** April 6, 2010

**LOB ROOM:** 305      **Time Public Hearing Called to Order:** 10:00 a.m.

**Time Adjourned:** 10:20 a.m.

(please circle if present)

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

**Bill Sponsors:** Sen. Cilley, Dist 6

TESTIMONY

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

Introduced by Rep. Renzullo in absence of prime sponsor, Sen. Cilley

**Senator Jacalyn Cilley** - Prime sponsor of the bill. SB56 started out as, some of you may have heard of USA Springs, now has filed for bankruptcy, reminded me of an issue we dealt with 6 years ago...what happens if the science is wrong and the obligation to remediate falls on the permittee. Didn't consider that a company into a project could go bankrupt. Let's say they are at the point where they are withdrawing...how do they remediate if the money's gone? Became very complicated and it was going to take too long to see what to do that is fiscally sound, so decided to make it a study instead of an immediate bill. Relatively easy thing to have a Groundwater Commission subcommittee pursue it to see if it is worthwhile. Issue is not without problems.

Rep. Kappler: Any thought of merging with another bill and study?

Rep. Spang: Groundwater commission members all support the bill. Believe the bankruptcy issue is important.

**Sen. Cilley:** Need for this is probably going to be sparse but if you are the homeowner affected, it is a large problem.

Rep. Spaulding: Doesn't bonding cover bankruptcy? ANS: It is really complicated. Can take out a bond to withdraw a certain amount of water but in extreme cases where science is incorrect, it would be very costly to remediate. Technical question? If company goes bankrupt, can the court take the bond and use it to satisfy obligations. Bit tangled.

Rep. Christensen: Report date of Commission? ANS: November, 2010

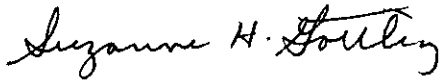
Rep. Kappler: Was there any discussion of things such as a large pig farm where a large development was allowed and subsequent contamination occurred being included? ANS: No. It is another area to be looked at. Perhaps need to bond developers there also.

**\* Brandon Kerner, NH Department of Environmental Services (DES) - Hydrology and**  
Current law requires you now to get a permit for large groundwater withdrawals. Law changed several times since 1998. Believe we are proactive in controlling or preventing impacts. Previous attempts at financial assurance have been thrown out because of technicalities. Study could help eliminate those and focus on concept.

Rep. Renzullo: Is there a process in place? ANS: There is a proactive method to detect "risks". Financial assurance would be helpful.

Rep. Renzullo: If bonding were to be allowed in legislation, would it be something that should be mandatory or just in your arsenal of things you can or cannot use? ANS: Might be a good idea to think about.

Respectfully submitted,



Rep. Suzanne H. Gottling  
Clerk



HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SB 56

**BILL TITLE:** (New Title) expanding the duties of the commission to study issues relative to groundwater withdrawals.

**DATE:** April 6, 2010

**LOB ROOM:** 305      **Time Public Hearing Called to Order:** 10:00 a.m.

**Time Adjourned:**

(please circle if present)

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

**Bill Sponsors:** Sen. Cilley, Dist 6

TESTIMONY

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

Hearing on SB 56 Expanding the duties of the commission to study issues relative to groundwater withdrawals

April 6, 2010, LOB 305

Called to order: 10:04 a.m.

Introduced by Rep. Renzullo in absence of prime sponsor, Sen. Cilley

Testimony: Senator Cilley: SB56 started out as, some of you may have heard of USA Springs, now has filed for bankruptcy, reminded me of an issue we dealt with 6 years ago...what happens if the science is wrong and the obligation to remediate falls on the permittee. Didn't consider that a company into a project could go bankrupt. Let's say they are at the point where they are withdrawing...how do they remediate if the money's gone? Became very complicated and it was going to take too long to see what to do that is fiscally sound, so decided to make it a study instead of an immediate bill. Relatively easy thing to have a Groundwater Commission subcommittee pursue it to see if it is worthwhile. Issue is not without problems.

Kappler: Any thought of merging with another bill and study?

Spang: Groundwater commission members all support the bill. Believe the bankruptcy issue is important.

Cilley: Need for this is probably going to be sparse but if you are the homeowner affected, it is a large problem.

Spaulding: Doesn't bonding cover bankruptcy?

Ans. It is really complicated. Can take out a bond to withdraw a certain amount of water but in extreme cases where science is incorrect, it would be very costly to remediate. Technical question? If company goes bankrupt, can the court take the bond and use it to satisfy obligations. Bit tangled.

Rep. Christensen: Report date of Commission?

Ans. November, 2010

Kappler: Was there any discussion of things such as a large pig farm where a large development was allowed and subsequent contamination occurred being included?

Ans. No. It is another area to be looked at. Perhaps need to bond developers there also.

Brandon Kerner: DES Hydrology and Current law requires you now to get a permit for large groundwater withdrawals. Law changed several times since 1998. Believe we are proactive in controlling or preventing impacts. Previous attempts at financial assurance have been thrown out because of technicalities. Study could help eliminate those and focus on concept.

Adjourned at 10:20 a.m.

Renzullo: Is there a process in place?

Ans. There is a proactive method to detect "risks". Financial assurance would be helpful.

Ren. If bonding were to be allowed in legislation, would it be something that should be mandatory or just in your arsenal of things you can or cannot use.

Ans. Might be a good idea to think about.

Testimony:

# Testimony



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

April 6, 2010

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

**RE: SB 56, relative to financial responsibility for large groundwater withdrawals**

Dear Representative Spang:

Thank you for the opportunity to comment on Senate Bill 56, which would expand the scope of work of the Commission to Study Issues Relative to Groundwater Withdrawals established by Senate Bill 155 of 2003 to include an assessment of financial responsibility requirements that an applicant for a large groundwater withdrawal permit would have to demonstrate.

Since 1998, New Hampshire has had a regulatory process in place to address concerns about the impact of new large groundwater withdrawals on surrounding water resources and users. The purpose of the permitting process is to ensure that new large groundwater withdrawals do not adversely impact existing water resources and users, including wells, wetlands and surface waters. These requirements apply to both withdrawals for public water supply and withdrawals for commercial purposes such as golf courses, bottled water production and industrial water use. This regulatory process has been strengthened several times since 1998 and has been effective in proactively preventing and addressing adverse impacts associated with new large groundwater withdrawals. It clearly provides the Department authority to reduce or halt a withdrawal should an unanticipated impact occur so that any surrounding water use or water resource may recover and be protected.

The Department believes that the current permitting process ensures the mitigation of adverse groundwater impact. However, the Department, of course, defers to the legislature on the need to study if financial assurance to ensure that funding for interim mitigation is readily available.

Again, thank you for this opportunity to comment on this bill. Please feel free to call Sarah Pillsbury at 271-1168 or me at 271-2958, if you have any questions or need additional information.

Very truly yours,

Thomas S. Burack  
Commissioner

cc: Senator Cilley

# Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on SB 56

**BILL TITLE:** (New Title) expanding the duties of the commission to study issues relative to groundwater withdrawals.

**DATE:** April 13, 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. Hubbard

Seconded by Rep. Rogers

Vote: 19-0 (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: 19-0**

(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 SB 56

BILL TITLE: (New Title) expanding the duties of the commission to study issues relative to groundwater withdrawals.

DATE: 4/18/10

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. *Hubbard*

Seconded by Rep. *Rogers*

Vote: 19-0 (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



RESOURCES, RECREATION AND DEVELOPMENT

Bill #: SB 56 Title: \_\_\_\_\_

PH Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Exec Session Date: 4 / 13 / 10

Motion: OTF Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Spang, Judith T, Chairman	✓	
Tupper, Frank A, V Chairman	✓	
Parkhurst, Henry A. L.	✓	
Moody, Marcia G	✓	
Aguiar, James D	✓	
Gottling, Suzanne H, Clerk	✓	
Hubbard, Pamela J	✓	
Kepner, Susan R <i>Rogers</i>	✓	
Thomas, Yvonne D	✓	
Williams, Carol A	✓	
McClammer, Jim U	✓	
Russell, David H	✓	
Renzullo, Andrew	✓	
Christensen, Chris	—	
Ahlgren, Christopher J	✓	
Kappler, L. Mike	✓	
Spaulding, Jayne E	✓	
Bolster, Peter S	✓	
Howard, Thomas J	✓	
St. Cyr, Jeffrey L	✓	
TOTAL VOTE:	19	0

# Committee Report

**CONSENT CALENDAR**

**April 15, 2010**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on RESOURCES, RECREATION AND DEVELOPMENT to which was referred SB56,**

**AN ACT (New Title) expanding the duties of the commission to study issues relative to groundwater withdrawals. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.**

**Rep. Pamela J Hubbard**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>RESOURCES, RECREATION AND DEVELOPMENT</b>
Bill Number:	<b>SB56</b>
Title:	<b>(New Title) expanding the duties of the commission to study issues relative to groundwater withdrawals.</b>
Date:	<b>April 15, 2010</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

SB 56 expands the duties of the SB 155 groundwater commission to consider potential requirements for an applicant for a large groundwater permit to also demonstrate it has bonding, insurance or other means of compensating for or mitigating adverse impacts to nearby wells or groundwater quality.

Vote 19-0.

Rep. Pamela J Hubbard  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## **CONSENT CALENDAR**

### **RESOURCES, RECREATION AND DEVELOPMENT**

**SB56**, (New Title) expanding the duties of the commission to study issues relative to groundwater withdrawals. **OUGHT TO PASS.**

Rep. Pamela J Hubbard for RESOURCES, RECREATION AND DEVELOPMENT. SB 56 expands the duties of the SB 155 groundwater commission to consider potential requirements for an applicant for a large groundwater permit to also demonstrate it has bonding, insurance or other means of compensating for or mitigating adverse impacts to nearby wells or groundwater quality.

**Vote 19-0.**

Original: House Clerk  
Cc: Committee Bill File

SB 56

OTP

SB 56 expands the duties of the SB 155 groundwater commission to consider potential requirements for an applicant for a large groundwater permit to also demonstrate it has bonding, insurance or other means of compensating for or mitigating adverse impacts to nearby wells or groundwater quality.

Pam Hubbard

A handwritten signature in black ink, appearing to be the initials 'PH' or a similar stylized mark.

SB 56

OTP

SB 56 expands the duties of the SB 155 <sup>groundwater</sup> commission ~~on groundwater~~ to ~~include~~ <sup>consider</sup> potential requirements for an applicant for a large groundwater permit to also demonstrate it has bonding, insurance or other means of compensating for or mitigating adverse impacts to nearby wells or groundwater quality.

Pam Hubbard

Blurb SB 56 Pamela J. Hubbard

bonding

SB 56 expands the duties of the commission to study groundwater withdrawals to include ~~the~~ study of the issue of <sup>the</sup> financial assurance, such as and responsibility of the entity seeking ~~the~~ permit approval. The commission has accepted this expansion and ~~oversees~~ <sup>has</sup> ~~with form~~ a subcommittee to investigate and report on this issue.

VOTE 19-0

SB 56 expands the duties of the SB 155 commission ~~study~~ on groundwater to include potential requirements for an applicant for a large groundwater permit to also ~~be~~ demonstrate ~~that~~ <sup>it has</sup> bonding, ~~or~~ insurance or other means of compensating ~~or~~ for or mitigating adverse impacts to nearby wells or ~~or~~ groundwater quality.  
19-0 consent