

Senate Energy and Natural Resources Committee

Griffin Roberge 271-2878

HB 507, establishing a committee to study the responsibility of a person who through their pollution makes drinking water non-potable.

Hearing Date: March 28, 2017.

Time Opened: 9:30 a.m.

Time Closed: 9:44 a.m.

Members of the Committee Present: Senators Avar, Innis and Feltes.

Members of the Committee Absent: Senators Bradley and Fuller Clark.

Bill Analysis: This bill establishes a committee to study the responsibility of a person who through their pollution makes drinking water non-potable.

Sponsors:

Rep. Byron
Rep. Backus

Rep. Azarian
Sen. Soucy

Rep. Hynes

Who supports the bill: Senator Donna Soucy (District 18), Representative John Mullen (Strafford - District 1), Michael Wimsatt (NH DES), Representative Frank Byron (Hillsborough - District 20), Representative Gary Azarian (Rockingham - District 8).

Who opposes the bill: Kevin Flynn (Business & Industry Association).

Who is neutral on the bill: NONE.

Summary of testimony presented in support:

Rep. Frank Byron

Hillsborough – District 20

- Bill was submitted due to an incident in his town – an industrial facility located in another town released an air emission that contaminated the groundwater in Litchfield.
- There was a significant contamination to the town which led to 300 homes without clean drinking water.
- This groundwater contamination affected their wells. NH DES did a test that found that there were high levels of perfluorochemicals (PFCs) in the drinking water.
- The company that created the contamination was willing to work with the town and provide potable water.
- The incident has been a hassle for residents. The local selectboard is working to having a waterline extension to service those homes.
- In this situation, it was found that NH DES has no clear authority to regulate or require how homeowners would be compensated.
- The only means is through private action in the court system.

- Representative Byron wanted to introduce a bill that would make companies liable for contaminating groundwater. Looking through legislative research, many other states do not have any level of regulation.
- HB 507 would create a study committee that looks at regulations concerning groundwater contamination.
- Senator Innis asked if the purpose of the bill is to establish a study commission to determine how to assign responsibility for a polluter.
 - Representative Byron said that is his intention, but believes NH DES may have a wider intention with the commission and would let them speak to that question.
- Senator Innis asked if three Senators seems like too many.
 - Representative Byron said the committee is willing to amend that.

Michael Wimsatt

Director of Environmental Services, Waste Management Division, NH DES

- Provided written testimony.
- The NH DES has been working very hard for the past year in addressing groundwater contamination in southern NH.
 - The source of groundwater contamination has been linked to air emissions from one existing manufacturing plant and one former plant.
 - Contaminants from the air are deposited into the ground in downwind areas, migrate through the soil, and contaminate groundwater and drinking water at concentrations that pose a health concern.
 - The owners of these facilities have been working closely with the NH DES to address this contamination.
- The Legislature has provided the NH DES well-crafted statutory authorities to regulate the management of wastes and the discharge of pollutants.
 - In general, those statutes clearly delineate the responsibilities of the regulated parties.
 - While the NH DES believes it has the authority to regulate and address all releases that impact drinking water, the recent scenario involving impacts to drinking water as a result of air emissions is not explicitly addressed in current law.
- HB 507 would help the NH DES study the underlying air, water and waste management statutes to ensure that the State's authorities are explicit, clear and unambiguous.
- Senator Feltes asked if the gap in the law is on air emissions contaminating water.
 - Mr. Wimsatt said the NH DES believes the current statutory framework does give them the authority to regulate air emissions in relation to groundwater contamination. However, it is not explicit. It is open to different opinions that can be a problem in a contamination scenario that affects many communities.
- Senator Feltes asked if the Attorney General's office or the counsel at NH DES could address the department's concerns with language.
 - Mr. Wimsatt said the department and the AG's office should play a meaningful role in the study commission.
 - Representative Byron said his bill, HB 463, would regulate groundwater pollution caused by polluting emissions in the air. It passed the House and would be on the way to the Senate Energy Committee.
- Senator Innis asked what the parts per trillion was for the wells.
 - It can be as high as 500 to 600 parts per trillion. Most are not that high, but range around 100 parts per trillion or lower.

Representative John Mullen

Strafford – District 1

- Serves as the House Vice Chair for the House Resources, Recreation, and Development Committee.
- He wanted to reiterate the previous testimony. The House Committee voted unanimously to pass the bill and it cleared the House on consent.

Summary of testimony presented in opposition: NONE.

Neutral Information Presented: NONE.

Future Action: Pending.

GJR, edited by Aiden O'Brien.

Date Hearing Report completed: March 28, 2017.