

Senate Energy and Natural Resources Committee

Griffin Roberge 271-2878

HB 431, establishing a commission to study long term goals and requirements for drinking water in the seacoast area.

Hearing Date: April 4, 2017.

Time Opened: 10:00 a.m.

Time Closed: 11:07 a.m.

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

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

Bill Analysis: This bill establishes a commission to study long term goals and requirements for drinking water in the seacoast area.

Sponsors:

Rep. Messmer

Rep. Bean

Rep. Malloy

Rep. T. Le

Rep. R. Tilton

Rep. H. Marsh

Rep. Cushing

Rep. Berrien

Rep. P. Gordon

Sen. Fuller Clark

Sen. Bradley

Sen. Feltes

Sen. Innis

Who supports the bill: Paul Sanderson (Selectman - Greenland, NH), Senator Fuller Clark (District 21), Senator Dan Feltes (District 15), Lindsey Carmichael (NH Safe Water Alliance), Deborah White (NH Safe Water Alliance), Jillian Lane (NH Safe Water Alliance), Matt Leahy (NH Forest Society), Representative Jim McConnell (Cheshire - District 12), Representative Mindi Messmer (Rockingham - District 24), Sarah Pillsbury (NH DES), Representative Robert Renny Cushing (Rockingham - District 21), Representative Dennis Malloy (Rockingham - District 23), David Borden (New Castle), Representative Suzanne Gottling (Sullivan - District 2).

Who opposes the bill: Bill Boyd (Town Councilor - Merrimack).

Who is neutral on the bill: Stephanie Lamb (NH BIA).

Summary of testimony presented in support:

Representative Mindi Messmer

Rockingham – District 24

- Provided written testimony.
- HB 431 would establish a study commission to examine water quality issues in NH's seacoast region.
- There have been recent developments that have impacted the drinking water supply in the region.

- The commission outlined in HB 431 includes members of the Senate and the House, members of the various communities throughout the seacoast region, members from the regional planning commission, private water suppliers, and hydro geologists.
- The duties of the commission include planning ahead from seasonal or drought supply issues, preparing for mutual aid between the towns, and monitoring possible new emerging contamination threats to groundwater and drinking water quality.
- HB 431 is a bill aimed solely at the Seacoast region. It faces many environmental challenges:
 - Pease Air Force Base has led to the closure of the Haven Well, which caused a stress on the Portsmouth water supply. It offered 13% of the city's water supply. The Haven Well was shut down due to PFC contamination.
 - PFCs also threaten private wells in Greenland near the Coakley Landfill Superfund site, which is an unlined dump that was operational between the late 1960s and 1985 that threatens the water supply in Rye, Greenland, and North Hampton.
- Senator Innis voiced some concern as to the size of the commission and its ability to get something done with so many people engaged. He understands that all want a voice in the process, but asked if this was the best way to approach it.
 - Representative Messmer said she understood Senator Innis's concerns. The additions to the committee were done in the House. However, there were reasons for adding more town representation. A commission was a good idea as it has an established date that has end points, a sunset date, and pushes for a report to be completed by November of 2017.
- Senator Innis said that emerging contaminants is becoming a state wide issue. Senator Innis asked if it makes sense to broaden the commission to focus on a statewide solution.
 - Representative Messmer said the House looked at that issue. In order to deal with some of the more serious issues on the Seacoast, it makes sense to focus the commission on the seacoast.
- Senator Feltes followed up on Senator Innis's comments. In order to address some of the pressing problems for the Seacoast, the bill could have stronger language for mutual aid agreements. Instead of preparing for mutual aid agreements, maybe the commission can make mutual aid agreements. Since all parties are involved, mutual aid agreements could be completed.
 - Representative Messmer said she would be open to that idea.

Representative Robert Renny Cushing
Rockingham – District 21

- In response to Senator Innis's concern about the size of the commission, HB 431 is well-structured and efficient. It includes voices from all the affected parties.
- There is no interconnectivity in the water system in the seacoast.
- Supports the idea of mutual aid agreements.

Representative Dennis Malloy
Rockingham – District 23

- The issue of water quality is ground zero for his district. The commission is timely and important.
- There is a serious water quality issue for those in Greenland right now.
- In this matter, there is also a question of property value. Poor water quality can affect the seacoast and the entire state. That factor should be considered.

Representative Jim McConnell
Cheshire – District 12

- Served as the subcommittee chair that heard HB 431 in the House. It was passed out of the committee unanimously and was placed on the consent calendar.
- The committee changed the report date to 2017 and expanded the commission.
- Additional participation on the commission would allow expert testimony.
- Mentioned there was no opposition to HB 431 in the House. He would be willing to work with

Mr. Boyd to introduce legislation next year, but believes this study commission is fine as presented.

Sarah Pillsbury

Administrator, Drinking and Groundwater Bureau, NH Department of Environmental Services

- Provided written testimony.
- The NHDES, seacoast water systems, and seacoast towns have formally and informally coordinated on water issues over the last thirty years.
- NHDES supports the formation of a commission to coordinate water supply issues. Planning initiatives have been more successful when local entities are included.
- NHDES does have some recommendations on the legislation:
 - Membership should include a state geologist, a professional engineer, a professional hydro geologist, and an expert on the impacts that extreme weather events can have on water resources.
 - NHDES's inclusion can provide information to identify water systems in the seacoast region that rely on private wells.
 - There are existing legal mechanisms for the state, municipalities, and water systems to coordinate on water issues in the seacoast region. NHDES recommends the commission consider these existing statutes pertaining to seacoast water supply planning when determining whether to establish additional similar initiatives via HB 431.
 - HB 431 would be placed in RSA 485-F and may be better placed elsewhere in law.

Lindsay Carmichael

NH Safe Water Alliance

- Provided written testimony.
- She is a citizen of Portsmouth who is concerned about drinking water.
- Between the years 2002 to 2007, her son attended day care at Pease Tradeport and drank contaminated water with PFCs. She is worried about what the future holds for her son's health.
- HB 431 is a vital public health measure.

Deborah White

NH Safe Water Alliance

- Provided written testimony.
- There is an urgent need for planning between seacoast communities in terms of infrastructure, supply, and water quality.
- A home in New Castle burned down due to a lack of water pressure.
- Portsmouth's water supply has been impacted by the drought and the shutdown of the Haven Well.
- HB 431 is critical to drinking water quality and supply on the seacoast, especially with the Coakley Landfill and Haven Well in Portsmouth.
- Water quality is also important to the business community.
- Senator Innis said Berry's Brook, which is adjacent to the Coakley landfill, has high levels of PFCs in it. PFCs are a lot like mercury. Both work their way to the top of the food chain and have a significant impact. There are environmental effects with contaminated surface water, which are long-term problems.
 - Ms. White said that there are people who drink contaminated water who have high levels of PFCs in their blood. It affects their health.
 - Ms. White said the seacoast is unique. The human concern is their focus, but PFCs in water has a strong environmental effect on the seacoast.
- Senator Innis asked if the Coakley landfill needs more work. There was a cap in the mid-1990s, but there was no lining underneath.
 - As a private citizen, she is not sure. That question is beyond her knowledge.
 - The Coakley landfill is contaminating public water and private wells.
 - Personally, Ms. White's water supply has gone from 12 to 15 ppt.
- Senator Avard asked if there are any studies on PFCs impacting shellfish.

- Ms. White said the focus has been on impact to human population.
 - New Jersey has a cap of 14 ppt. Michigan has a cap at 20 ppt.
 - New Hampshire has been relying on EPA standards of 70 ppt.
- Representative Messmer returned to comment that other states have caps on PFCs in water.
 - PFCs are getting absorbed by the fish that swim in the contaminated water and people are eating those fish.
 - Believes the original cap is not sufficient to help the people who live around the landfill.
- Senator Innis said the problem seems to all stem back to Coakley Landfill. His concern is that people do not know if or when it will stop.

Jillian Lane

Greenland Safe Water Action

- Provided written testimony.
- Bought property a mile from the Coakley landfill - many homes around her, including her own, have higher levels of PFCs in their water.
- NH has a cap of 70 ppt in drinking water, reduced from 600 ppt just 11 months ago. Other states have lower caps.
- It is a right to have access to safe drinking water.
- HB 431 would go far in helping citizens facing issues regarding water contamination.

Matt Leahy

Public Policy Manager, NH Forest Society

- Provided written testimony.
- Droughts, contamination of PFCs and MTBE, and aging infrastructure all threaten the integrity of the state's water resources.
- A successful strategy in addressing this is cleaning up contaminated water and investing in new infrastructure. However, there is a connection between drinking water and the natural landscape.
 - Numerous studies have illustrated how a natural landscape can preserve and protect a drinking water source.
 - Forested landscapes provide this service in a cost effective way.
 - Riparian buffers, culvert upgrades, conservation easements, and sustainable management of forests could save over \$110 million in comparison to building a new filtration plant.
- Suggests amending HB 431 to expand the commission's duties to include an evaluation of the studies and other information which outlines the role that natural infrastructure plays in the protection of drinking water sources.
- Senator Avard asked if he believes the commission should be expanded.
 - Mr. Leahy said he was not focused on the composition of the commission, but on the duties of the commission.
 - He believed there should be a focus on the connection between protecting the land that can lead to a protection of water sources.
 - When land is protected, water is protected. Money can be saved if done in a proactive way.

David Borden

New Castle, NH

- Provided written testimony.
- The fundamental issue is on sustainability – is there a sustainable supply of clean water?
- The comments by Bill Boyd are striking – this is certainly a statewide issue. There needs to be other commissions like this throughout the state. It should not take away the need for this particular commission.
- Another point is on the role of the regional planning commissions. As the commission does its work, the planning commissions will be communicating with each other. There is a structural problem as there is a lack of communication on water between communities.

- Mr. Borden raised Senator Innis's concern about the commission's size. The committee, with its broad mandate, could be divided into subcommittees with its own resources.
- Based on BIA comments, as a private citizen, Mr. Borden believes the NHDES is underfunded right now. They cannot adequately address current statutes. Given their current funding level, asking them to do more is too much.

Summary of testimony presented in opposition:

Bill Boyd

Town Councilor, Merrimack

- Made note to say that he is speaking for himself as a private citizen and not in any capacity for the town of Merrimack.
- From a technical perspective, he is opposed to the legislation. The make-up of the 22 member commission is too large and unwieldy.
- PFCs have had an impact on Merrimack and other surrounding communities. It is clear each region will have its own set of problems.
- There needs to be a long-term perspective with a state-based solution to this problem.
- There are a number of councils, commissions, and task forces that are all indirectly related to water quality in NH.
- Introduced a proposal for HB 431 to simply add to RSA 485-F:4, which details the NH Drinking Water and Groundwater Advisory Commission. It would rewrite HB 431, seeking to address water quality issues around the state and not just in the seacoast.
 - Amend Section I (b) from 2 representatives to 1 as appointed by the Speaker of the House of Representatives.
 - Amend Section I (c) from 2 senators to 1 senator as appointed by the Senate President.
 - Amend Section I (i) from 1 appointed public member by the Governor to 1 representative from each New Hampshire Regional Planning Commission, appointed by the Governor or elected from the membership of each regional planning commission.
 - The total membership of the commission expands from 11 to 17 members, but is less than the proposed 22 members in HB 431.
- Believes that this commission has yet to meet publicly. A reorganization of the commission would be appropriate at this time so that the roll out of the commission can be completed.
- Senator Avard asked if Mr. Boyd believes HB 431 is too narrow, that he wants a broader commission to examine statewide water quality issues.
 - Mr. Boyd wanted a commission that would examine water quality issues throughout the state that includes a regional approach. It is a smaller commission and would be more active and not unwieldy.
- Senator Innis mentioned his conversations with constituents, as well as Representative Messmer's testimony. There are unique characteristics to the communities that are specified in HB 431. If HB 431 reforms a commission to have an aim on a statewide solution, it loses the focus on the particulars of the communities listed in HB 431. Senator Innis does appreciate Mr. Boyd's thoughts, but is not willing to compromise on the aim of HB 431.
 - Mr. Boyd said his idea was just to aim at a regional problem. Many people can be affected by water quality. It should encompass a lot of people.

Neutral Information Presented:

Stephanie Lamb

BIA

- The BIA has not come out on either side of the bill, but has general concerns.
- There are a handful of bills that have been brought forward on PFCs in a number of areas in the state.
- Concerned that HB 431's commission is excessive. She questioned whether it is necessary to begin with.

- Wanted to acknowledge that the NH DES has worked hard to protect citizens in NH. What they are doing is getting overlooked.
- The seacoast has a significant problem – it is a systemic problem throughout the state. NH DES needs to have the opportunity to do their job.
- If the commission is to be established, she supported Mr. Boyd's recommendations.
- Believes there needs to be business representation on the commission, should it pass. Businesses need a voice as water quality can have a substantial financial impact.

Future Action: Ought to Pass with Amendment.

GJR, edited by Aiden O'Brien.

Date Hearing Report completed: April 4, 2017.