Bill as Introduced

HB 648-FN – AS AMENDED BY THE HOUSE

5jan00.....2178h
10feb00.....3174h

1999 SESSION

99-0693
08/02

HOUSE BILL ***648-FN***

AN ACT relative to a sludge testing program.

SPONSORS: Rep. B. Hall, Hills 20

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

This bill allows sampling and testing of sludge and biosolid materials to be conducted by independent third parties as well as the state. The sampling methodology designed by the department shall be with the consultation of university of New Hampshire statisticians and sludge and biosolids experts. The department shall make available to the public and general court a report by November 1 each year which analyzes the compiled test results.

This bill provides that as part of the annual report required by November 1, 2000, the department shall evaluate whether the overall financial resources dedicated to sludge testing in the state are being optimally allocated between regulatory and statistical testing.

This bill also appropriates certain funds to the sampling and analysis of sludge or biosolids samples fund.

. . . .

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

5jan00.....2178h

99-0693
08/02

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT relative to a sludge testing program.

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

1 Waste Disposal; Duties of Department; Sludge Testing Program. RSA 485-A:4, XVI-c is repealed and reenacted to read as follows:

XVI-c.(a) To design and implement a program for state or independent third party sampling and testing of sludge or biosolid materials that are intended for land application. The department shall design the sampling methodology, in consultation with university of New Hampshire statisticians and sludge and biosolid experts, to provide a statistical evaluation of the contaminant levels contained in sludge or biosolids. The department shall concentrate its testing on those contaminants that pose greater risks to public health and the environment due to their toxicity, potential availability, concentration levels, or concentration uncertainty. The department shall maintain a database of testing results and prepare, in consultation with university of New Hampshire statisticians and sludge and biosolid experts, and make available to the public and the general court, an annual report by November 1 of each year which analyses the compiled test results, including data from prior years, as appropriate. The analysis shall detail contaminant concentrations on both a statewide and generator level and shall indicate the statistical degree of certainty in the results of the analysis. The department shall attempt to present the report in terms that are understandable to the layperson including practical examples such as the probability that any given load of untested sludge exceeds a contaminant standard.

(b) The department shall establish a fee of $500, to be paid by sludge quality certificate holders by January 1 of each year. The fee shall be deposited in a special, nonlapsing sampling and analysis of sludge or biosolids samples fund, for exclusive use by the department to implement the program established in subparagraph (a).

2 New Paragraph; Duties of Department; On-Site Inspections. Amend RSA 485-A:4 by inserting after paragraph XVI-c the following new paragraph:

XVI-d. To conduct on-site inspections of sludge or biosolid application sites to monitor adherence to all state and federal requirements for such activity.

3 Testing Method Evaluation. In preparation for and as part of the annual report required by November 1, 2000 under RSA 485-A:4, XVI-c(a), the department, in consultation with university of New Hampshire statisticians and sludge and biosolid experts, sludge quality certificate holders, and other interested parties, shall evaluate whether the overall financial resources dedicated to sludge testing in the state are being optimally allocated between regulatory testing and statistical testing. As part of the evaluation, the department shall consider what short and long-term financial,

environmental, or assurance benefits there may be to the department, the public, and sludge or biosolid generators in having sampling conducted by a party other than the generator.

4 Transfer of Appropriation. Up to $85,000 each fiscal year that was appropriated for state aid grants by 1999, 159:1, PAU 03-04-02-01-02 shall be transferred to the non-lapsing sampling and analysis of sludge or biosolids samples fund established by RSA 485-A:4, XVI-c, provided all approved state aid grant payments have been made to eligible municipalities in each fiscal year.

5 Effective Date. This act shall take effect June 30, 2000.

LBAO
99-0693
Amended 1/20/00

HB 648 FISCAL NOTE

AN ACT relative to a sludge testing program.

FISCAL IMPACT:

The Department of Environmental Services has determined that this bill, as amended by the House, may increase state general fund expenditures by $85,000 in FY 2001 and each year thereafter. There will be no fiscal impact on county and local expenditures or state, county and local revenues.

METHODOLOGY:

To undertake an expanded random testing program the Department's estimate assumed there are 30 municipal wastewater treatment facilities (WWTFs) which routinely land apply sludge and hold Sludge Quality Certifications (SQC) for land application of sludge. On average, 3 sludge samples per year, per WWTF will be required to accomplish the analysis required by this bill. It is assumed the type of analysis required will be the same as those required of sludge samples for SQC, with the exception of dioxin testing already required in SQC testing, and will cost approximately $1,000. All costs to the Department will be contract costs to a laboratory to perform the testing and report the results of the analysis. The existing fee of $500 per SQC holder will be continued under this bill and will cover a portion of the new testing costs. Therefor, in each year of FY 2000 and FY 2001, 3 samples will be collected and analyzed at $1,000, less the $500 fee for the 30 WWTFs, will result in increased expenditures and revenue of $75,000 annually. An additional $10,000 would be provided to UNH and sludge and biosolids experts for assistance with sampling design and statistical analysis.

30 WWTFs @ 3 sludge samples @ $1,000	$90,000
Less: SQC fee 30 WWTFs @ $500	- 15,000
Plus: UNH payment for sample design and analysis	10,000
Total	$85,000

This bill authorizes a transfer of up to $85,000 of surplus state aid grant funding in FY 2000 and FY 2001 to the sampling and analysis of sludge or biosolids samples fund.

Committee Minutes

Date: April 4,2000
Time: 10:30am
Room: LOB104

The Senate Committee on Environment held a hearing on the following:

HB648-FN relative to a sludge testing program.

Members of Committee present: Senator Russman
Senator Krueger
Senator Pignatelli
Senator Wheeler

The Chair, Senator Richard Russman, opened the hearing.

Senator Richard L. Russman, D. 19: We'll open the hearing on House Bill 648 and lets see... and we recognize Representative Hall, welcome and I would note for the record that no one has signed up against the bill.

Representative Betty Hall: Thank you Mr. Chairman. I am Representative Betty Hall, Hillsboro District 20, and it isn't very often that I wind up with nobody in opposition to one of my bills so I feel like I am at a really unique spot this morning.

This is an issue that I have worked on for quite a long time, and they about four years ago we passed RSA485A4 relative to the random testing of sludge and that program has been going on for the past, right up to the present and it's currently going on, and I feel very pleased with the fact that it's producing information that I think is going to be very, very useful both in the regulatory system and for making legislative decisions.

We have three reports that some of you may have seen. There's a 1997 report, a 1998 random testing report. I'm sure you have these or I would be glad to supply them to you and the 1999 report which was given to us January 2000. So these random testing results are available and I think we've learned a great deal. Not all of it do we agree on what the results have been but among other results we identified some sludges that appear to be over the hundred parts per million hazardous waste limit by dry weight, and there has been considerable discussion and controversy. I'm sure you've

heard about it before about how to deal with those sludges that exceed the hundred parts per million dry weight.

DES has applied the mixture rule to that and many of those slugs have passed because of the mixture rule. But I think the significant thing now is not whether the mixture rule is right or wrong and should be applied or shouldn't be applied . The more important thing is that there are some slugs that we're concerned about and that we still need to look at more closely, and how many of them, how bad they are, what we should do about them, I think the jury is still out. We really don't know but I think as we collect the data, we can make progress at seeing where we are and what kinds of slugs are being land spread in New Hampshire.

This particular bill, came about because of a seminar we had at the University of New Hampshire where several of the professors talked about the possibility of doing statistically valid random testing studies, and Professor Nephus was the professor who talked to us about doing that and subsequently to that meeting I met with Dean Mock and with Dr. Nephus and talked about how we could set up such a program, and we talked with DES. DES felt that to some extent they were already doing a lot of that but it was my perception and I'm hoping that it will help the public perception that we need to actually do a statistically valid sample.

For example, in 1997, we tested about twenty three sludges, and we found two that were over the hundred parts per million level. Now to me that's an unusually high number to come out of just that small number of tests so I think that it is important that we have more tests, that we have statistically valid tests, so after I got into the middle of it, I talked with Joel Anderson who is our committee researcher, and we came up with some objectives of a random testing program on land applied sludge and I don't think I'll read them all to you unless you really would like to see them. I would be glad to supply this to you.

In any case, we set up the criteria, we talked with Dr. Nephus and Dean Mock and we talked with DES and we talked about how this statistically valid random sampling program could be implemented. So, this bill is a result of that effort and when it got into the E&A Committee, we had a sub committee on it and the issues were sufficiently complex that it was rereferred for study over the summer and into the fall and we worked to come up with some compromise language from the original bill, and basically the amendment that we worked on has several effects, now let me see if I can outline them for you.

The main thrust was to involve the University of New Hampshire and come up with a statistically valid program and the other thrust that we attempted to get into this amendment, I am not a hundred percent sure we got it completely into the amendment but, the principal of having the generators do the testing is embedded in the current rules and the only testing that's done by a third, disinterested third party is done under the random testing

program so I'm hoping that we can achieve a balance between the generator testing and the random testing. I believe it is important for the generators to test their own product and report the results to the DES. I think it's important that we have this random testing in order to see whether we meet the criteria that we developed and whether we can get more information about the quality of the sludges that we are spreading.

So, that basically is the thrust of the bill, and it was written with Joy Anderson's help and I have to acknowledge that he did a great deal of work on this bill and worked with DES so, the bill was amended and recommended to the House, the House passed it and sent it to Finance and Finance made a few amendments to it and the total program is going to cost about eighty-five thousand dollars.

The final thing I need to tell you is that the Chairman of Division one in Finance, Representative Torr, was particularly emphatic with me at the hearing and subsequent to it that I talk to Chairman Musler and recommend that Chairman Musler send a letter to DES, Commissioner Varney and to Senator Russman the Chairman of this Committee saying that this should be included in the budget, and that we should not have to go through these funding hoops and so I am pleased about that. I think that's a huge step forward. I think it should please the people who are worried about 28A concerns and so on.

Senator Richard L. Russman, D. 19: Any questions for Representative Hall? Thank you very much for your testimony. Chair would note that Chris Ruggerberg of the Sierra Club is here in favor of the bill, does not wish to speak. Representative Almy of House Finance is in favor of the bill does not wish to speak and Dick Flanders from DES would like to say a few words.

Dick Flanders: [Written Testimony Attachment A].

Senator Richard L. Russman, D. 19: Questions? Thanks very much for your testimony. Judy Silva.

Judy Silva: Very briefly yes. Thank you I am Judy Silva from the Municipal Association. I just want to say that we support this bill. we are not opposed to additional testing, we are just opposed to additional Municipal Costs and I support the compromise that we've been able to reach that takes this out of excess funds. Thank You.

Senator Richard L. Russman, D. 19: Thanks, Questions? Thanks very much for your testimony. Anybody else want to speak on House Bill 648? Seeing none we'll close the hearing on House Bill 648.

HEARING CLOSED

Respectfully Submitted,

Anna-Maria Tsorvas
Committee Secretary

Attachment A

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982

March 23, 2000

The Honorable Richard L. Russman, Chairman
Senate Environment Committee
Legislative Office Building, Room 104
Concord, New Hampshire 03301

Re: HB 648-FN, relative to a sludge testing program

Dear Chairman Russman:

The Department of Environmental Services (DES) wishes to thank the Committee for the opportunity to comment on HB 648-FN, as amended. The bill is intended to replace the present random sludge testing program, instituted by the Legislature in 1998 (HB 1224), with a testing program that produces a statistical evaluation of contaminant levels in sludge. The Department supports this legislation but cautions that the proposed funding source is not guaranteed as it is contingent on the availability of surplus wastewater state aid grant monies.

Chapter 275, L '99, enacted last session, allocated $210,000 in unexpended wastewater construction grant funds for sludge testing. $40,000 of this has been contracted to the University of New Hampshire for sludge research and statistical analysis assistance. The Department is currently analyzing, through a contract laboratory, sludges from 28 municipal wastewater treatment facilities. With this information, substantial progress will be made toward the goal of a statistically-based description of sludge contaminant levels. The proposed bill will complement this effort by expanding the existing random sludge testing program to verify sludge quality as field applied. Chapter 275, L '99 focuses on sludge testing of non-random samples taken at the point of sludge generation.

Last fiscal year, $653,982 of state aid grant monies lapsed out of an available budget of $14,671,027. The Department's appropriations were lowered by $1,333,059 in FY 2000 and $1,200,000 in FY 2001. Therefore, the final balances in FY 2000 and FY 2001 will, in part, depend on whether projects move forward which were delayed last year for various reasons, including uncertainty with school funding, or new projects are approved at town meetings in 2000 and 2001. It appears there will be sufficient lapsed funds to cover the $85,000 requested under this bill for FY 2000, however we cannot estimate the amount of lapsed monies in FY 2001, if any.

Thank you for your consideration. If you have any questions, please contact me at 271-3503 or Dick Flanders at 271-3571.

Very truly yours,

Robert W. Varney
Commissioner

Attachment/H:\LEGIS\HB648senltra
cc: Representative Betty Hall
Representative James Phinizy

Speakers

SENATE ENVIRONMENT. COMMITTEE

Date April 4 2000 Time 10:30am Public Hearing On HB 648-FN

Appearing in FAVOR: (Please print) **Please check box at left to speak.**

Speaking?	Name	Address	Representing
☑	Dick Flanders	6 Hazen Drive Concord	NH Dept. Env. Services
☑	Rep Betty Hall	18A OLd Milford Rd Brookline	Hills 20
☐	Chris Pueggeberg	NH Sierra Club 3 Bicentennial Sq.	
☐	Rep Susan Almy	GR-14	House Finance
☒	Judy Silva	PO Box 617 Concord	NHMA
☐	Marjorie Swope		NHACC
☐			
☐			
☐			
☐			

Appearing in OPPOSITION: (Please Print) **Please check box at left to speak.**

☐			
☐			
☐			
☐			
☐			
☐			
☐			
☐			
☐			
☐			

Testimony

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982

March 23, 2000

The Honorable Richard L. Russman, Chairman
Senate Environment Committee
Legislative Office Building, Room 104
Concord, New Hampshire 03301

Re: HB 648-FN, relative to a sludge testing program

Dear Chairman Russman:

The Department of Environmental Services (DES) wishes to thank the Committee for the opportunity to comment on HB 648-FN, as amended. The bill is intended to replace the present random sludge testing program, instituted by the Legislature in 1998 (HB 1224), with a testing program that produces a statistical evaluation of contaminant levels in sludge. The Department supports this legislation but cautions that the proposed funding source is not guaranteed as it is contingent on the availability of surplus wastewater state aid grant monies.

Chapter 275, L '99, enacted last session, allocated $210,000 in unexpended wastewater construction grant funds for sludge testing. $40,000 of this has been contracted to the University of New Hampshire for sludge research and statistical analysis assistance. The Department is currently analyzing, through a contract laboratory, sludges from 28 municipal wastewater treatment facilities. With this information, substantial progress will be made toward the goal of a statistically-based description of sludge contaminant levels. The proposed bill will complement this effort by expanding the existing random sludge testing program to verify sludge quality as field applied. Chapter 275, L '99 focuses on sludge testing of non-random samples taken at the point of sludge generation.

Last fiscal year, $653,982 of state aid grant monies lapsed out of an available budget of $14,671,027. The Department's appropriations were lowered by $1,333,059 in FY 2000 and $1,200,000 in FY 2001. Therefore, the final balances in FY 2000 and FY 2001 will, in part, depend on whether projects move forward which were delayed last year for various reasons, including uncertainty with school funding, or new projects are approved at town meetings in 2000 and 2001. It appears there will be sufficient lapsed funds to cover the $85,000 requested under this bill for FY 2000, however we cannot estimate the amount of lapsed monies in FY 2001, if any.

Thank you for your consideration. If you have any questions, please contact me at 271-3503 or Dick Flanders at 271-3571.

Very truly yours,

Robert W. Varney
Commissioner

Attachment/H:\LEGIS\HB648senltra
cc: Representative Betty Hall
Representative James Phinizy

Statute Relative to HB 648-FN

§ 485-A:4. Duties of Department.

It shall be the duty of the department and the department is authorized:

XVI-c. To implement a program of random on-site testing and inspection of sludge or biosolids samples to be used for any land application by any person obtaining a permit under RSA 485-A:4, XVI-b, provided that inspection shall not be required before the issuance of a permit. The procedures for random inspection and testing of sludge or biosolids samples on a site shall include an inspection for any setback or area requirements of a site for land application and may include testing for such pollutants as heavy metals, toxins, dioxins, and polychlorinated biphenyl, as determined in rules adopted by the commissioner pursuant to RSA 541-A. The department shall develop a database of inspection results and shall monitor adherence to state and federal requirements for the spreading of sludge or biosolids. The program of random inspection and testing of sludge or biosolids shall be funded by a fee of $500 assessed annually to all sludge quality certification holders as defined in rules adopted by the commissioner. Such fee shall be payable to the department no later than January 1 of each year by all certification holders. All fees shall be deposited in a special nonlapsing account to be used by the department for the sampling and analysis of randomly collected sludge or biosolids samples.

'97

(c) 1998 by LEXIS Law Publishing, a division of Reed Elsevier Inc. All Rights Reserved.

Committee Report

Date: April 4,2000 Time: 10:30am

The Senate Committee on Environment held its hearing in Room LOB104, Concord, New Hampshire.

BILL NO.: HB648-FN TITLE: relative to a sludge testing program.

Members of the Committee present: Senator Russman
Senator Krueger
Senator Pignatelli
Senator Wheeler

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☐ Ought to Pass
- ☒ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☐ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 4, 2000

THE COMMITTEE ON Environment

to which was referred House Bill 648-FN

AN ACT relative to a sludge testing program.

VOTE: 5-0

2000-4012s

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Patricia Krueger
For the Committee