Bill as Introduced

HB 401 – AS INTRODUCED

2003 SESSION

03-0383
06/10

HOUSE BILL ***401***

AN ACT relative to approvals under the groundwater protection act.

SPONSORS: Rep. Spang, Straf 72; Rep. Wall, Straf 72; Rep. Musler, Straf 68; Sen. Estabrook, Dist 21; Sen. Green, Dist 6

COMMITTEE: Resources, Recreation and Development

ANALYSIS

I. This bill requires the applicant to submit a final report which includes aquifer testing analysis to the department of environmental services, the municipalities, and each supplier of water within the anticipated zone of contribution. It also provides for a hearing and comment period following receipt of the final report.

II. This bill permits a municipality to establish a large groundwater withdrawal review committee comprised of members from municipalities in the zone of contribution and directs the department to meet with and provide information to the committee. The committee may make recommendations and the department shall explain any decision that is contrary to a recommendation of the committee.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 401 – AS INTRODUCED

03-0383
06/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to approvals under the groundwater protection act.

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

1 Large Groundwater Withdrawals; Final Report Required. RSA 485-C:21, IV is repealed and reenacted to read as follows:

IV. The applicant shall submit a final report to the department which shall include aquifer testing analysis. Copies of the final report shall be forwarded by certified mail by the applicant to the governing bodies of each municipality and each supplier of water within the anticipated zone of contribution to the well.

2 Large Groundwater Withdrawals; Hearing After Final Report Added. RSA 485-C:21, V is repealed and reenacted to read as follows:

V. Following the submission of the final report, the department shall hold a public hearing on the final report in the municipality in which the proposed withdrawal is to be made upon the request of the governing body of any municipality or supplier of water within the anticipated zone of contribution, provided that such a hearing is requested within 15 days of receipt of the final report.

3 Large Groundwater Withdrawals; Public Hearings. RSA 485-C:21, VI is repealed and reenacted to read as follows:

VI. The department shall hold the public hearing within 30 days after the request of the governing body of the municipality or the supplier of water, made pursuant to paragraph III or V. Notice of the hearing shall be made by the applicant and shall be published twice in 2 different weeks, the last publication to be 7 days before the hearing, in one newspaper of general circulation throughout the state and another newspaper of general circulation in the municipality. The notice shall also be posted in 2 public places in the municipality.

4 New Paragraphs; Comment Periods; Appeals; Large Commercial Groundwater Withdrawal Review Committee. Amend RSA 485-C:21 by inserting after paragraph VI the following new paragraphs:

VII. The applicant and the governing body of each municipality and each supplier of water within the anticipated zone of contribution to the well may submit comments to the department relative to the proposed withdrawal within 45 days after the public hearing in the municipality on the application or the final report. If no hearing is requested, comments may be submitted within 45 days after the receipt of the application or final report. If the comments relative to the application or final report make recommendations to the department, the department shall specifically consider such recommendations and shall issue written findings with respect to each issue raised that is contrary to the decision of the department.

VIII. The water council shall hear rehearings and appeals from a decision of the department under this section in accordance with RSA 21-O:14.

IX. A municipality in which a large commercial withdrawal of groundwater is proposed may establish a large groundwater withdrawal review committee to make recommendations to the department concerning the approval of the large groundwater withdrawal.

(a) The members of the committee shall be as follows:

(1) Three members appointed by the governing body of the municipality where the withdrawal is proposed, one of whom shall be a member of the municipality's planning board.

(2) Two members from each of the other municipalities in the zone of contribution, appointed by the governing body of their municipalities, one of whom shall be a member of the municipality's planning board.

(b) The committee shall be formed within 60 days after the municipalities within the anticipated zone of contribution receive the preliminary application from the applicant.

(c) Upon formation, the committee shall notify the department and provide it with the chairperson's contact information.

(d) The department shall provide all information concerning the application for the large commercial groundwater withdrawal to the review committee chairperson and shall meet with the committee within 15 days of receiving a request for a meeting.

(e) The committee may hold one or more public information session regarding the proposed withdrawal.

(f) If a public hearing has been requested under paragraph III or V, the committee shall provide written recommendations to the department within the time limits specified in paragraph VII. If no hearing has been requested, the committee shall provide written recommendations to the department within 90 days after the receipt of the application.

(g) The department shall issue a written report of findings relative to the large commercial groundwater withdrawal review committee's recommendations. The report shall specify the department's response to each of the recommendations and provide an explanation of any decision that is contrary to a recommendation of the committee.

5 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Rep. Spang, Straf 72
March 18, 2003
2003-0779h
06/09

Amendment to HB 401

Amend the bill by replacing all after the enacting clause with the following:

1 Approval for Large Groundwater Withdrawals; Large Groundwater Withdrawal Review Committee. RSA 485-C:21, III - VI are repealed and reenacted to read as follows:

III. The applicant shall submit a final report to the department which shall include aquifer testing analysis. Copies of the final report shall be forwarded by certified mail by the applicant to the chair of the large groundwater withdrawal review committee, governing bodies of each municipality and each supplier of water within the anticipated zone of contribution to the well.

IV. Following the submission of the final report, accepted by the department as complete, the department shall hold a public hearing on the application in the municipality in which the proposed withdrawal is to be made upon the request of the governing body of any municipality, supplier of water within the anticipated zone of contribution, or the chair of a large groundwater withdrawal review committee, provided that such a hearing is requested within 15 days of their receipt of the final report.

V. The department shall hold the public hearing within 30 days after the request of the governing body of any municipality, supplier of water within the anticipated zone of contribution, or the chair of a large groundwater withdrawal review committee. Notice of the hearing shall be made by the applicant and shall be published twice in 2 different weeks, the last publication to be 7 days before the hearing, in one newspaper of general circulation throughout the state and another newspaper of general circulation in the municipalities within the anticipated zone of contribution. The notice shall also be posted in 2 public places in the municipalities.

VI. The applicant, the governing body of each municipality, the large groundwater review committee, and each supplier of water within the anticipated zone of contribution to the well may submit comments to the department relative to the proposed withdrawal within 45 days after the public hearing in the municipality or, if no hearing is requested, within 45 days after the receipt of the final report by the municipality, large groundwater review committee, and water suppliers. If the comments relative to the application make recommendations to the department, the department shall specifically consider such recommendations and shall issue written findings with respect to each issue raised that is contrary to the decision of the department.

VII. Rehearings and appeals from a decision of the department under this section shall be in accordance with RSA 21-O:14.

VIII. A municipality in which a large commercial withdrawal of groundwater is proposed

may establish a large groundwater withdrawal review committee to make recommendations to the department concerning the approval of the large groundwater withdrawal.

(a) The members of the committee shall be as follows:

(1) Three members appointed by the governing body of the municipality where the withdrawal is proposed, one of whom shall be a member of the municipality's planning board.

(2) Two members from each of the other municipalities in the zone of contribution, appointed by the governing body of their municipalities, one of whom shall be a member of the municipality's planning board.

(b) The committee shall be formed within 60 days after the municipalities within the anticipated zone of contribution receive the preliminary application from the applicant.

(c) Upon formation, the committee shall notify the department and provide it with the chairperson's contact information.

(d) The department shall provide all information concerning the application for the large commercial groundwater withdrawal to the review committee chairperson and shall meet with the committee one time within 15 days of receiving a request for a meeting.

(e) The committee may hold one or more public information session regarding the proposed withdrawal.

2 Effective Date. This act shall take effect 60 days after its passage.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 401 Date March 4, 2003

Committee Resources, Recreation + Development

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Harriet Cady	Dunbarton	463-9727	Dist 13	✓	
Michelle Bouchard	Bennington	588-3311	Monadnock Paper Mills		✓
Gary Abbott	Bow	225-2701	Assoc. General Contractors		✓
Ralph Peams	Kennebunkport, Me.	207-468-1165	Monadnock Mt. Spring Water Co.		✓
Sen. Iris Estabrook			District 21	✓	

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON HB 401

BILL TITLE: relative to approvals under the groundwater protection act.

DATE: March 4, 2003

LOB ROOM: 305 **Time Public Hearing Called to Order:** 10:00 A.M.

Time Adjourned: 11:20 A.M.

(please circle if present)

Committee Members: Reps. Royce, Lawton, R. Cooney, D. Fields, Russell, Bruno, D. Christensen, Akins, Camm, Ruffner, Cali, Campbell, C. LaFlamme, Merrow, Wiley, Spang, McEachern, Bleyler, Brueggemann, Donovan, and Parkhurst.

Bill Sponsors: Rep. Spang, Straf 72; Rep. Wall, Straf 72; Rep. Musler, Straf 68; Sen. Estabrook, Dist 21; Sen. Green, Dist 6

TESTIMONY

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

Rep. Judith Spang - Prime sponsor of the bill. References Water Law in New Hampshire. "Right of reasonable use". Anyone can use any water as long as it affects no one else. Municipalities have responsibility to provide adequate water supply for residents. Bill also provides for multi-town coalitions in the event water source is from several towns. Stresses need for towns to be involved in permitting process.

Chairman Royce: Will town have no veto power? ANS: Yes.

Rep. McEachern: Can this bill be incorporated with other study committees? ANS: I think this one is ready to go.

Rep. Christensen: Will this system not put town and state at odds? ANS: It shouldn't.

Rep. Ruffner: If bill doesn't pass, will towns be entirely out of loop? ANS: Up to DES to determine.

Rep. Lawton: Is there a problem with towns now? ANS: They feel left out of process.

*** Sarah Pillsbury, NH Department of Environmental Services (DES)** - Supports the bill with suggestions to improve it. Appeals go to Superior Court instead of Water Council. We don't need another hearing process – need to keep it simple.

Chairman Royce: Can DES hold a second hearing after information is gathered? ANS: Repetitive.

Rep. Bruno: Page 2, line 9, What is "zone of contribution"? ANS: In theregs now there is definition (485-C).

Rep. Cooney: Regarding Review Committee – will this tax resources of DES? ANS: No.

Maura Carroll, NH Municipal Association - Supports bill as far as it goes. Urges committee to adopt system, as long as towns are involved in permitting process. Opposes towns having veto power.

Patrick Donoho, International Bottled Water Association - Opposes the bill. Claims it is a complicated and slow process.

Bill McCann, Save Our Groundwater - Supports the bill. By towns coming together, it should help DES.

Ralph Pears, Monadnock Mountain Spring Water Company - Opposes the bill. Thinks it's unnecessary. Not cost effective to hold two public hearings.

Rep. Brueggemann: What part of bill do you like? ANS: Involvement of municipalities.

Rep. Christensen: What about idea of municipal study committees? ANS: I have not objection

Marjory Swope, NH Association of Conservation Commissions - Supports the bill including the two hearing process. Thinks proposed committees will be a big help to DES.

*** Michael Giaimo, Business & Industry Association of NH (BIA)** - Opposes the bill.

Rep. Brueggemann: Why would you favor only an early hearing process? ANS: I don't.

Brian Goetz, NH Water Works Association - Supports the two hearing process, but not the rest of the bill. Will be happy to work with subcommittee.

Rep. McEachern: Why are you opposed to a little delay? ANS: I'm not.

Rep. George Musler - Supports the bill. Was not present to speak.

Respectfully submitted,

David H. Russell

Rep. David H. Russell
Clerk

Testimony

GROUNDWATER ISSUES
Judith Spang

The water issue can be discussed in terms of
SUPPLY
DEMAND
and
HOW DECISIONS SHOULD BE MADE ABOUT WHO GETS HOW MUCH

SUPPLY

WATER SUPPLY IS A MULTI-JURISDICTIONAL PHENOMENON

- Water supply lands contributing water to underground and surface waters can overlap many towns. Protecting these "watersheds" therefore requires inter-municipal cooperation.
- Like lakes, sand and gravel aquifers – the most productive locations of groundwater – can cover hundreds of acres or more.
- Bedrock aquifers travel down cracks in the rock that may extend for miles.

WATER SUPPLIES ARE NOT INFINITE, NOR INFINITELY RENEWABLE BECAUSE OF:

CONTAMINATION

- Only 12% of critical water supply lands are protected from contamination.
- Water supply lands are four times more developed than land in the state as a whole.
- Very few (39%) municipalities control the land adjacent to their wells (even the 150-400 foot "sanitary radius" around them).
- Almost 1,000 known contamination sources are located on land with critical water supply.

  - **THE COSTS TO CLEAN UP CAN BE EXORBITANT**
    - Seabrook: $1 million
    - Merrimack: $1 million
    - Peterborough: $16.5 million

DROUGHT

- Of the 24 wells of public water supply, 22 of them were at record lows this year, causing water conservation to be required in some communities well into the fall.

OVER-WITHDRAWING

- A more substantial program for drought management and long-term water conservation is needed (Senator Cohen's Bill).

At present, we know where the aquifers are in the New Hampshire. But we don't know how much water they could yield, and we don't know whether they will be contaminated when we try to tap them. This makes water planning and permitting difficult.

A study is beginning in the Seacoast region (where there is a shortage of water in some towns) to determine quantities of water in mapped aquifers. The study will be lengthy and expensive, so it will be a long time before such work can be done statewide.

DEMAND

- A function of: growth in population, agriculture and business.
- The most worrisome use of water is that which removes the water from the basin (eg. Bottling) as opposed to uses which return it to the ground (eg. Septic systems and agriculture).
- A town's master plan for residential and business growth should address the issue of water availability in the future.

WHO GETS THE WATER?

- Common Law establishes much of the framework. Common Law is that derived by ancient custom as interpreted by court cases.

IN THE WEST

- Prior appropriation: First in time, first in right.

IN NEW HAMPSHIRE

- New Hampshire has two conflicting, unreconciled principles:
  - Riparian Rights: If a person owns land next to or over water, they have priority.
  - Reasonable Use / Public Trust: The New Hampshire Courts have qualified this right by saying riparian owners can only make "reasonable use" of water that will not infringe on rights of others. The case *Bassett v. Salisbury* (1862) found that reasonable use must be determined in reference to rights of others. An Instream Flow model being developed for surface waters leaves it up to users to allocate water among themselves.

    The "Doctrine of Public Trust" establishes that the public has rights to water which further defines what is reasonable use of water. The public interest is being interpreted to include water necessary to protect ecological resources, such as fish in rivers.

    The Legislature has not refined where they would like the line to be drawn between these two "rights" but the courts will ultimately decide where the proper balance is between Riparian Rights and Reasonable Use / Public Trust.

WHO CONTROLS IT?

- **STATE: CAN THE LEGISLATURE DICTATE WATER RIGHTS?** *Purdue v. N.H. Attorney General* (1999) determined that the Legislature can make statutes that override common law to take away landowner's Riparian "reasonable use", but *only if the landowner is compensated.*

  The State has retained the right to control permitting for withdrawals of water. This obvious conflict with common law doctrines of Riparian Rights is the heart of most of our current legislative debate.

- **LOCAL:** The Legislature has given municipalities the right to enact ordinances for protection of water *quality*. But in 1998, RSA 485 C-13 took away municipal control over withdrawals.

CURRENT PERMITTING PROCESS

- Designed to determine whether a proposed withdrawal will deplete a water source or affect neighboring wells or uses.
- Applicant does a pump test to see that the aquifer can recharge the amount to be withdrawn on a daily basis. But, the pump test does not tell how much is left for other uses, especially for the future.
- Permits are reviewed every 10 years and are modified or withdrawn if there are adverse impacts on other properties or natural resources.

IN CONCLUSION

- The big problem is that water is: a necessary statewide resource, needed for large uses; an inter-municipal resource; and a necessity for local municipalities that they feel the must be able to protect, not only in quality, but quantity.
- The current large groundwater withdrawal permitting process retains state control. The challenge is to also reassure municipalities that their water supplies will not be jeopardized.
- The upcoming bills this session are geared towards modifying the current system (list available in from Democratic Office). These would improve the system by:
  - Assuring more local input so towns feel they can trust the State to safeguard their interests.
  - Studying water supplies to ascertain their total potential yields.
  - Determining ways for the permitting process to protect future needs, not just evaluate a single application's impact on the current supply and needs.
  - Developing a system for deciding which uses get priority, in both permitting new withdrawals and in deciding which uses should be curtailed when there is a water shortage.

Giaimo

Business & Industry Association of New Hampshire

To promote and preserve the economic well-being of New Hampshire.

March 4, 2003

The Honorable Chairman Representative Charles Royce,
House Resource, Recreation & Development Committee
305 Legislative Office Building
Concord, New Hampshire 03301

RE: BIA's Comments to **HB 401 Approvals Under the Groundwater Protection Act**

Good morning Representatives, my name is Michael S. Giaimo, and I am Vice President responsible for Environmental Affairs and Policy for the Business & Industry Association of New Hampshire (BIA). I appreciate the opportunity to come before you today and discuss with you the concerns that the BIA has with **HB 401.**

The BIA offers the following 3 issues and 1 suggestion for you to consider as you deliberate and subsequently act on HB 401:

1. The BIA is Concerned that HB 401 Prolongs the Application Process

The current permitting process for large groundwater withdrawals is adequate and includes municipal interaction and review (see RSA 485-C:21). As such there is no need to modify the pre-existing system, because it gives the public the ability to be engaged in the process, and to have their concerns addressed by the applicant and the department. HB 401 attempts to modify the process and the number of public hearings required to obtain a groundwater withdrawal permit. HB 401 changes the number of public hearings from one to two, which can add almost 6 months to the application process.

2. The BIA Believes that HB 401 is Bad Public Policy and Sends Businesses a Bad Message

What HB 401 really does is prolong the process and time needed to get a permit application, with the objective of making it such a long and tedious process that applicants will not want to go through the arduous rigors of a protracted application. As a policy, the state should not be making applications, which will stimulate projects that increase the number of jobs in a community, more complicated, which is what HB 401 attempts to do.

3. BIA is of the Opinion that Public Comments Should be at the Start of Application Process

The BIA believes that the public should offer their comments at the beginning of the application process, and not at the end, which is what HB 401 suggests. By allowing the public to speak and raise issues at the beginning of the process, both the department and the applicant can work to alleviate the communities concerns (before it is too late). If the municipalities are going to take issue with a permit it does not make sense for the municipalities to wait until the end of the process to express their concerns; to do so, is to have the applicant waste money should the municipality's concerns be valid. It makes sense

to have the public informed early, so that businesses do not waste time and resources, and are not blindsided by municipal concerns at the last moment.

4. BIA Hopes HB 401 and Issue of Municipal Participation Will be Put in Study Committee

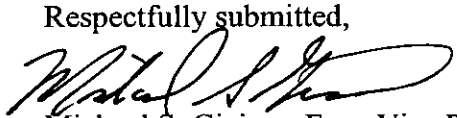
The issue of groundwater is heated and contentious, and is one that has been debated for the last two years in the legislature. The BIA recommends that this committee repeat its action of last year and pass a comprehensive study committee to explore this issue (as you did last year with the amendment to SB 410). The BIA has long advocated thoroughly studying contentious issues, so as to insure that knee-jerk and emotional reactions do not become policy and law, instead thoughtful and objective analysis and science is used in crafting prudent policy and sound legislation.

The BIA suggests that the objectives and goals of this study be included in a more comprehensive study committee, such as the one proposed by Senator Johnson and Representative Cooney. Senate Bill 155 established a commission to explore the many integral details, issues and hydrogeology related to groundwater withdrawals. The BIA believes that there is merit in incorporating the issue of municipal interaction in the groundwater permitting process into SB 155. SB 155 is the appropriate commission to resolve this issue, because it has an informed, objective and unbiased group representing the complete gambit of interests, including; municipal, environmental and conservation interests.

In conclusion, the BIA is not dismissing this bill, we are concerned with the prolonged and undue delays which could result if this bill were to pass. The BIA believes that it would be wise to send this issue to a study committee, which can weigh the merits of this bill, and subsequently determine what is the best means for public interaction in the permitting process. As such, we recommend that this bill be incorporated (if it isn't already) into SB 155 or a similar study commission to comprehensively study issues relative to large groundwater withdrawals and municipal participation in large groundwater withdrawal permits.

I appreciate this opportunity to offer the perspectives of the business community on this important issue.

Respectfully submitted,



Michael S. Giaimo, Esq., Vice President
Business & Industry Association of New Hampshire

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 4, 2003

The Honorable H. Charles Royce, Chairman
Resources, Recreation, and Development Committee
Room 305, Legislative Office Building
Concord, NH 03301

Subject: **HB 401, relative to approvals under the groundwater protection act**

Dear Chairman Royce:

Thank you for the opportunity to comment on HB 401which revises the Groundwater Protection Act (RSA 485-C). The Department of Environmental Services (DES) partially supports this legislation but has concerns with some parts of the bill.

In 1998, legislation was passed to address concerns about the impact of large groundwater withdrawals on existing water resources and users. The resulting law and administrative rules require that all new groundwater withdrawals sited after July 1998 that exceed 57,600 gallons over any 24 hour period be permitted by the DES. The purpose of the permitting is to ensure that there is no adverse impact to existing water resources and users, including wells, wetlands and surface waters. To date, DES has permitted five large groundwater withdrawals and is in the process of reviewing seven other applications. Feedback received from applicants, municipal officials and others involved in the permitting process and in past legislative efforts suggest that, in general, the permitting process is fair and effective.

The current law requires that large groundwater withdrawal permitting decisions are appealed directly to the New Hampshire Supreme Court. This is inconsistent with other water-related permitting decisions which are initially appealed to the Water Council. HB 401 proposes to make the large groundwater withdrawal permitting process consistent with these other programs by having appeals go first to the Water Council. DES supports this proposed change.

Currently, RSA 485-C requires that, upon request of a municipality, a hearing is to be held at the beginning of the permitting process when an application has been filed. While these early hearings have typically been held, it has been our experience that municipalities and the public have consistently requested an opportunity to comment after the final report has been submitted on aquifer testing. This is the point in the application process when hydrogeological data are available and the actual or potential impacts on local water resources and users have been assessed. HB 401 proposes that this be accomplished by a second public hearing after the final pump test report has been submitted. While the timing for the proposed second hearing makes sense, two public hearings is inconsistent with other DES permitting programs for major projects of comparable magnitude. For example, DES conducts one hearing for applications for major solid waste landfill proposals; this hearing is conducted after a complete application, including detailed plans and other information on the proposed landfill (comparable to the final pump test report), have been submitted so formal public comments are received on the complete proposal. For large groundwater applications, DES recommends replacing the current public hearing required by RSA 485-C:21, which is held very early in the application review process,

with the hearing proposed in HB 401. This would improve the benefit of the formal public hearing in the large groundwater withdrawal regulatory process and be consistent with hearing processes for other DES programs. We believe that the benefit of the "earlier" public hearing can be retained by continuing the existing process to solicit comments and concerns from municipalities and the public to provide information during the pump test planning phase as we have in the past. However, a formal public hearing is not critical at this early phase of the regulatory process because all the data are not available.

HB 401 also provides for the formation of a review committee, made up of representatives from municipalities that are potentially impacted, that will receive all information concerning the application and in theory serve as a focal point for local comments. It should be noted that the formation of a local committee can currently be done informally at the local level without this legislation. HB 401 proposes to formalize the mechanism and role of this committee. This is not critical for DES to effectively receive local input on large groundwater withdrawal permits. However, if this more formal process is preferred by the legislature, DES recommends two modifications in Section 4 of the bill:

- In the proposed paragraph RSA 485-C:21, IX (d), we recommend that the bill be amended by deleting the phrase "and shall meet with the committee within 15 days of receiving a request to meet." This proposed language is too open-ended and could subject DES to extreme demands on our time if used excessively. It also leaves no discretion for DES to consider unique circumstances such as enforcement actions involving the Department of Justice, at times when meetings may be inappropriate. Furthermore, since we have always been reasonably available to local officials, the public and the regulated community for meetings, this language is unnecessarily prescriptive and inflexible.

- We recommend deletion of the proposed paragraph RSA 484-C:21, IX (g) that requires that DES provide a written report separate from the permit decision with our findings relative to the committees recommendations. DES decisions on applications typically contain findings of facts and, if a permit is issued, permit conditions that reflect consideration of both technical information submitted by the applicant and substantial public comments. In essence, the permit decision is a written report on the information provided by all parties, including the proposed large groundwater withdrawal review committee, should one be formed. Consequently, we believe that this requirement is unnecessary as well as time consuming.

Thank you, again, for this opportunity to comment, and please call either me at 271-3503 or Anthony Giunta at 271-1168 if you have any questions or need additional information.

Sincerely,

Robert Monaco
Acting Commissioner

cc: Representative Spang
Representative Wall
Representative Musler
Senator Estabrook
Senator Green

STATUTE AMENDED BY HB 401

485-C:21 Approval for Large Groundwater Withdrawals. –

I. No person may withdraw 57,600 gallons or more of water in any 24-hour period from a well sited after the effective date of this section without the prior approval of the department.

II. Applications for approval of water withdrawals of 57,600 gallons or more per day shall be filed with the department in a form approved by the department. A preliminary report submitted by a public water system pursuant to department rules shall be an application for purposes of this section. Copies of the application shall be forwarded by certified mail by the applicant to the governing bodies of each municipality and each supplier of water within the anticipated zone of contribution to the well.

III. Following the submission of the application, the department shall hold a public hearing on the application in the municipality in which the proposed withdrawal is to be made upon the request of the governing body of any municipality or supplier of water within the anticipated zone of contribution, provided that such a hearing is requested within 15 days of receipt of the application.

IV. The department shall hold the public hearing within 30 days after the request of the governing body of the municipality or the supplier of water made pursuant to paragraph III. Notice of the hearing shall be made by the applicant and shall be published twice in 2 different weeks, the last publication to be 7 days before the hearing, in one newspaper of general circulation throughout the state and another newspaper of general circulation in the municipality. The notice shall also be posted in 2 public places in the municipality.

V. The applicant and the governing body of each municipality and each supplier of water within the anticipated zone of contribution to the well may submit comments to the department relative to the proposed withdrawal within 45 days after the public hearing in the municipality or, if no hearing is requested, within 45 days after the receipt of the application. If the comments relative to the application make recommendations to the department, the department shall specifically consider such recommendations and shall issue written findings with respect to each issue raised that is contrary to the decision of the department.

VI. Rehearings and appeals from a decision of the department under this section shall be in accordance with RSA 541.

Source. 1998, 124:4, eff. Aug. 1, 1998.

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 401

BILL TITLE: **relative to approvals under the groundwater protection act.**

DATE: March 20, 2003

LOB ROOM: 305

Amendments:

Sponsor: Rep. Spang	OLS Document #:	2003	0779h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

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

Moved by Rep. Spang

Seconded by Rep. Bleyler

Vote: 17-1 (Please attach record of roll call vote.)

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

Moved by Rep. Spang

Seconded by Rep. Bleyler

Vote: 10-8 (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. David H. Russell, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 401

BILL TITLE: **relative to approvals under the groundwater protection act.**

DATE: 3/20/03

LOB ROOM: 305

Amendments:

Sponsor: Rep. SPAHR — OLS Document #: 2003-0779h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

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

Moved by Rep. SPAHR

Seconded by Rep. BLEYER

Vote: 17-1 (Please attach record of roll call vote.)

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

Moved by Rep. SPAHR

Seconded by Rep. BLEYER

Vote: 10-8 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: REGULAR CAL.

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. David H. Russell, Clerk

Richard Coon

OFFICE OF THE HOUSE CLERK 2003 SESSION

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: HB401 Title: APPROVALS UNDER GROUNDWATER ACT

PH Date: ___/___/___ Exec Session Date: 3/20/03

Motion: AMENDMENT Amendment #: 2003-0779h

MEMBER	YEAS	NAYS
Royce. H Charles. Chairman	X	
Lawton. David M. V Chairman	X	
Coonev. Richard T	X	
Fields. Dennis H	X	
Russell. David H		
Bruno. Pierre W		X
Christensen. D L Chris	X	
Akins. Ralph L	X	
Camm. Kevin L		
Ruffner. Walter D	X	
Cail. Kenneth B	X	
Campbell. W Packv	X	
Laflamme. Charles F		
Merrow. Harrv C	X	
Wilev. Robert W	X	
Spang. Judith T	X	
Donovan. Thomas E	X	
McEachern. Paul	X	
Blevler. Ruth Z	X	
Brueggemann. Donald A	X	
Parkhurst. Henrv A L	X	

TOTAL VOTE: 17-1
Printed: 1/6/2003

RESOURCES, RECREATION AND DEVELOPMENT

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Motion: OTP/A **Amendment #:** 2003-0798

MEMBER	YEAS	NAYS
Royce. H Charles. Chairman		X
Lawton. David M. V Chairman		X
Cooney. Richard T		X
Fields. Dennis H		X
Russell. David H		
Bruno. Pierre W		X
Christensen. D L Chris	X	
Akins. Ralph L	X	
Camm. Kevin L		
Ruffner. Walter D	X	
Cail. Kenneth B		X
Campbell. W Packy		X
Laflamme. Charles F		
Merrow. Harry C	X	
Wiley. Robert W		X
Spang. Judith T	X	
Donovan. Thomas E	X	
McEachern. Paul	X	
Blevler. Ruth Z	X	
Brueggemann. Donald A	X	
Parkhurst. Henry A L	X	

TOTAL VOTE: 10-8

Printed: 1/6/2003

Committee Report

MAJORITY
COMMITTEE REPORT

COMMITTEE: **Resources, Recreation and Development**

BILL NUMBER: **HB 401**

TITLE: relative to approvals under the groundwater protection act.

DATE: March 20, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill will streamline the process of approving large groundwater withdrawals by providing more structure to community input procedures. The change in statute will move the public hearing so it occurs after, rather than before the technical feasibility studies have been completed, ending time-consuming speculative discussions between the Department of Environment Services (DES) and the public. In addition, a review committee consisting of representatives of potentially impacted communities may be formed to provide a single vehicle for municipalities to discuss applications and make recommendations to DES. Appeals will go to the water council rather than directly to court.

Vote 10-8.

Rep. Judith T. Spang
FOR THE MAJORITY

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Resources, Recreation and Development

HB 401, relative to approvals under the groundwater protection act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Judith T. Spang for Resources, Recreation and Development: This bill will streamline the process of approving large groundwater withdrawals by providing more structure to community input procedures. The change in statute will move the public hearing so it occurs after, rather than before the technical feasibility studies have been completed, ending time-consuming speculative discussions between the Department of Environment Services (DES) and the public. In addition, a review committee consisting of representatives of potentially impacted communities may be formed to provide a single vehicle for municipalities to discuss applications and make recommendations to DES. Appeals will go to the water council rather than directly to court. **Vote 10-8.**

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Appeals will go to the Water Council rather than directly to court.

Judith Spang

1st Hearing in May

Gil Royce

MINORITY
COMMITTEE REPORT

COMMITTEE: **Resources, Recreation and Development**

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(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill, even as amended, uses scientific words in a loose manner, creating far-reaching unintended consequences. The "zone of contribution" of groundwater is dependent upon geologic assumptions and may be limited to a local watershed or expanded to a regional watershed—larger even then the whole State. The criteria for selecting the size of the watershed is not defined in this bill. This language will essentially enable any municipality to join action committees for large groundwater withdrawal applications. Passage of this bill encourages public stonewalling of any large groundwater withdrawal application. The minority feels this issue merits study and oversight of the current process.

Vote .

Rep. Pierre W. Bruno
FOR THE MINORITY

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Resources, Recreation and Development

HB 401, relative to approvals under the groundwater protection act. **INEXPEDIENT TO LEGISLATE**

Rep. Pierre W. Bruno for Resources, Recreation and Development: This bill, even as amended, uses scientific words in a loose manner, creating far-reaching unintended consequences. The "zone of contribution" of groundwater is dependent upon geologic assumptions and may be limited to a local watershed or expanded to a regional watershed—larger even then the whole State. The criteria for selecting the size of the watershed is not defined in this bill. This language will essentially enable any municipality to join action committees for large groundwater withdrawal applications. Passage of this bill encourages public stonewalling of any large groundwater withdrawal application. The minority feels this issue merits study and oversight of the current process. **Vote** .

Minority Report for HB 401 ITL

Pierre W. Bruno

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Ok CRoyce

P. W. B.