CONSENT CALENDAR

April 12, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Resources, Recreation and Development to which was referred SB 123-FN,

AN ACT relative to the adoption of ambient groundwater quality standards by the department of environmental services. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. Rosemarie Rung

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Resources, Recreation and Development**
Bill Number:	**SB 123-FN**
Title:	**relative to the adoption of ambient groundwater quality standards by the department of environmental services.**
Date:	**April 12, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**OUGHT TO PASS**

STATEMENT OF INTENT

Filed at the request of the NH Department of Environmental Services (NHDES), this bill aligns the process that the NHDES uses to set state water quality standards with regulations set by the US Environmental Protection Agency (EPA). Presently NHDES coordinates its standards with EPA health advisories. However, the EPA is now establishing both health advisories and Maximum Contaminant Levels (MCLs) for PFAS, which combined, create a conflict within the process currently in NH statute. The committee felt the passage of this bill will allow NHDES and legislators to respond with agility to changes in advisories and MCL changes the EPA puts forth as they address PFAS contamination and other drinking water contaminants.

Vote 17-0.

Rep. Rosemarie Rung
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Resources, Recreation and Development

SB 123-FN, relative to the adoption of ambient groundwater quality standards by the department of environmental services. **OUGHT TO PASS.**

Rep. Rosemarie Rung for Resources, Recreation and Development. Filed at the request of the NH Department of Environmental Services (NHDES), this bill aligns the process that the NHDES uses to set state water quality standards with regulations set by the US Environmental Protection Agency (EPA). Presently NHDES coordinates its standards with EPA health advisories. However, the EPA is now establishing both health advisories and Maximum Contaminant Levels (MCLs) for PFAS, which combined, create a conflict within the process currently in NH statute. The committee felt the passage of this bill will allow NHDES and legislators to respond with agility to changes in advisories and MCL changes the EPA puts forth as they address PFAS contamination and other drinking water contaminants. **Vote 17-0.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on SB 123-FN

BILL TITLE: relative to the adoption of ambient groundwater quality standards by the department of environmental services.

DATE: April 12, 2023

LOB ROOM: 305-307

MOTIONS: OUGHT TO PASS

Moved by Rep. Rung Seconded by Rep. Healey Vote: 17-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Juliet Harvey-Bolia, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/9/2023 12:07:14 PM
Roll Call Committee Registers Report

2023 SESSION

Resources, Recreation and Development

Bill #: SB 123-FN Motion: OTP AM #: _____ Exec Session Date: 04/12/23

Members	YEAS	Nays	NV
Renzullo, Andrew Chairman	17		
Harb, Robert D. Vice Chairman	1		
Gould, Linda R.	2		
Horgan, James F.	3		
Harvey-Bolia, Juliet Clerk	4		
Healey, Robert V.	5		
Wolf, Dan H.	6		
McGough, Tim S	7		
Donnelly, Tanya	8		
Dunn, Ron	9		
Vail, Suzanne M.	10		
Rung, Rosemarie	11		
~~Kelley~~, Eamon P.			
~~Simpson~~, Alexis H			
Baldwin, Heather P	12		
Darby, Will	13		
Hoyt, Tommy	14		
LaMontagne, Jessica F	15		
~~Lovett~~, Peter			
Ryan, Linda V	16		
TOTAL VOTE:	17	Ø	

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SB 123-FN

BILL TITLE: **relative to the adoption of ambient groundwater quality standards by the department of environmental services.**

DATE: **April 12, 2023**

LOB ROOM: **305-307** **Time Public Hearing Called to Order:**

Time Adjourned:

Committee Members: Reps. Renzullo, Harb, J. Harvey-Bolia, L. Gould, Horgan, Healey, Wolf, McGough, Donnelly, Dunn, Vail, Rung, E. Kelley, Simpson, Baldwin, Darby, Hoyt, LaMontagne, Lovett and Ryan

Bill Sponsors:

Sen. Watters	**Sen. Perkins Kwoka**	**Sen. Gray**
Sen. Avard	**Sen. Altschiller**	**Rep. Notter**
Rep. Rung	**Rep. Healey**	**Rep. W. Thomas**

TESTIMONY

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

- Sen. Watters introduced the bill and spoke in favor of it. The bill addresses inconsistencies in the law. The bill is a NHDES request. It also allows the Commissioner the ability to set a lower standard as conditions warrant.

- Mike Wimsatt and Scott Drew, NHDES spoke in favor of the bill

House Remote Testify

Resources, Recreation and Development Committee Testify List for Bill SB123 on 2023-04-12

Support: 47 Oppose: 1 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	Signed Up
Gray, Senator James	Rochester - District 6, NH James.Gray@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/5/2023 9:15 AM
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/8/2023 8:06 AM
Casino, Joanne	Concord, NH joannecasino@comcast.net	A Member of the Public	Myself	Support	No	No	4/9/2023 6:53 PM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Support	No	No	4/9/2023 6:55 PM
Blanchard, Sandra	Loudon, NH sandyblanchard3@gmail.com	A Member of the Public	Myself	Support	No	No	4/9/2023 7:11 PM
Beauchain, Brenda	Fremont, NH bbfly728@yahoo.com	A Member of the Public	Myself	Support	No	No	4/9/2023 7:26 PM
Beauchain, Edward	Fremont, NH ed@forwater.com	A Member of the Public	Myself	Support	No	No	4/9/2023 7:37 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Support	No	No	4/9/2023 8:42 PM
Ellermann, Maureen	Concord, NH ellermannf@aol.com	A Member of the Public	Myself	Support	No	No	4/10/2023 6:17 AM
Willing, Maura	Concord, NH Maura.Willing@Comcast.net	A Member of the Public	Myself	Support	No	No	4/10/2023 8:45 AM
Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Support	No	No	4/10/2023 9:59 AM
Devore, Gary	Pembroke, NH torin_asheron@yahoo.com	A Member of the Public	Myself	Support	No	No	4/10/2023 10:03 AM
Robinson, Steven	Northwood, NH Nikkiandme@yahoo.com	A Member of the Public	Myself	Support	No	No	4/10/2023 10:25 AM

Robinson, Karen	Northwood, NH KarenRobinson578@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2023 10:34 AM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	No	4/10/2023 10:38 AM
Englund, Alfrieda	Munsonville, NH ditaenglund43@gmail.com	An Elected Official	Myself	Support	No	No	4/10/2023 12:03 PM
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2023 1:38 PM
Bissex, Hannah	Rindge, NH hannahinrindge@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2023 3:24 PM
Hershey, Jane	Rindge, NH janelhershey@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2023 3:26 PM
Merlone, Lynn	Rindge, NH prulone@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2023 3:26 PM
Holt, Kimberley	Concord, NH kimberleyholt2301@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2023 4:21 PM
Thomas, A	Rindge, NH annekerosie@gmail.com	A Member of the Public	Myself	Support	No	No	4/10/2023 9:01 PM
Martin, Patricia	Rindge, NH pmartin2894@yahoo.com	A Member of the Public	Myself	Support	No	No	4/10/2023 9:35 PM
Laker-Phelps, Gail	Chichester, NH lpsart@tds.net	A Member of the Public	Myself	Support	No	No	4/11/2023 12:44 PM
Perkins Kwoka, Rebecca	Portsmouth, NH rebecca.perkinskwoka@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/11/2023 2:57 PM
Walker, Deborah Klein	Meredith, NH debbie.walker@earthlink.net	A Member of the Public	Myself	Support	No	No	4/11/2023 5:42 PM
Rettew, Ann	Concord, NH abrettew@gmail.com	A Member of the Public	Myself	Support	No	No	4/11/2023 7:13 PM
Bishop, Nancy	Plaistow, NH nanbis71@gmail.com	A Member of the Public	Myself	Support	No	No	4/11/2023 11:06 PM
Gordon, Laurie	Weare, NH Lgord23@yahoo.com	A Member of the Public	Myself	Support	No	No	4/12/2023 8:12 AM
Racusin, Sharon	Hanover, NH sdracusin@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 8:37 AM
Deupree, Jean	Hanover, NH jennydeupree@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 8:59 AM

Cadwallader, Leonard	Hanoverr, NH lennycad@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 9:16 AM
Robison, Dennis	Hanover, NH robisode@yahoo.com	A Member of the Public	Myself	Support	No	No	4/12/2023 9:25 AM
Lamphier, Regan	Nashua, NH reganburkelamphier@gmail.com	An Elected Official	Myself	Support	No	No	4/12/2023 9:37 AM
Miles, Nancy	Hanover, NH nmiles3342@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 9:53 AM
Nelson, Barbara Scott	Hanover, NH Barbarascottnelson@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 9:58 AM
Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 9:59 AM
Brennan, Arthur	Weare, NH arete201314@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 10:03 AM
Cadwallader, Mary	Hanover, NH marycad02@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 10:40 AM
Holcombe, Susan	Hanover, NH shholcombe@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 11:09 AM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	4/12/2023 11:24 AM
Burton, Mary	Hanover, NH maryburton@earthlink.net	A Member of the Public	Myself	Support	No	No	4/12/2023 12:19 PM
Weingeist, Carol	Hanover, NH carol.weingeist@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 12:33 PM
Drysdale, Robert	Hanover, NH scotdrysdale47@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 12:50 PM
morgan, meredith	hanover, NH meredithm@kahres.org	A Member of the Public	Myself	Support	No	No	4/12/2023 1:21 PM
Altschiller, Senator Debra	SD24, NH kevin.condict@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/12/2023 1:35 PM
Martin, Lucretia	Hanover, NH Lucretia.L.Martin@Dartmouth.EDU	A Member of the Public	Myself	Support	No	No	4/12/2023 5:39 PM
Garland, Leane	Hanover, NH leanepage@gmail.com	A Member of the Public	Myself	Support	No	No	4/12/2023 11:01 PM

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # SB 123 Date 4/12/23

Committee Resources

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Rep. Godfrey Ward	Portsmouth	436142	Rock27	✓	

The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

April 11, 2023

The Honorable Andrew Renzullo
Chair, House Resources, Recreation, and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: SB 123, AN ACT relative to the adoption of ambient groundwater quality standards by the department of environmental services.

Dear Chair Renzullo and Members of the Committee:

Thank you for the opportunity to testify on SB 123, as amended by the Senate. This bill would amend the language of RSA 485-C:6 relative to how the New Hampshire Department of Environmental Services (NHDES) sets ambient groundwater quality standards, in order to address inconsistencies in the current law. This bill is a request of NHDES and we strongly support its passage.

The purpose of RSA Chapter 485-C, the Groundwater Protection Act is to protect the natural quality of the state's groundwater resource by, among other things, establishing procedures and standards for remediation of groundwater. RSA 485-C:6 sets out criteria for the establishment and adoption of ambient groundwater quality standards (AGQS) that apply to all regulated contaminants from human operations or activities. AGQS form the basis for NHDES' regulatory authority to address groundwater contamination and inform NHDES' oversight of the investigation and remediation of contaminated sites.

This bill seeks to amend the language in RSA 485-C:6 because, as currently written, it includes internal inconsistencies regarding how NHDES must establish AGQS. For example, it states that AGQS shall be "equivalent to" any state maximum contaminant level ("MCL") but also states that AGQS shall be "at least as stringent" as any federal health advisory. This is not possible if the State MCL is less stringent than the federal health advisory. We anticipate that this circumstance may present itself with the recent proposal by USEPA of a federal MCL for several PFAS chemicals. For example, USEPA has recently issued a proposed MCL for PFOA that is three orders of magnitude higher than the current interim health advisory for PFOA. USEPA has reported that it expects to make this proposed MCL final by early 2024. Federal MCLs are typically adopted as State MCLs under NHDES' drinking water program. We anticipate that USEPA will also act in the future to finalize the health advisory for PFOA. This would expose the inconsistency in the current law and put NHDES in a quandary as to whether to adopt the State MCL or the new final health advisory as the AGQS for PFOA. This bill would address

this inconsistency, while retaining for the commissioner the discretion to adopt AGQS based upon a federal health advisory when circumstances warrant.

Thank you again for the opportunity to provide testimony in support of SB 123. Should you have questions or need additional information, please feel free to contact either Mike Wimsatt, Waste Management Division Director, at michael.wimsatt@des.nh.gov, (603) 271-1997, or me at robert.r.scott@des.nh.gov, (603) 271-2958.

Sincerely,

Robert R. Scott
Commissioner

ec: Sponsors of SB 123: Senators Watters, Perkins Kwoka, Gray, Avard, Altschiller, Representatives Notter, Rung, Healey, W. Thomas

Susan Moore

Daniel Richardson

Risk-free statute maintenance that a senator can vote for and look good.

SB 123-FN - AS AMENDED BY THE SENATE

03/09/2023 0635s

2023 SESSION

23-0874
08/10

SENATE BILL ***123-FN***

AN ACT relative to the adoption of ambient groundwater quality standards by the department of environmental services.

SPONSORS: Sen. Watters, Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Gray, Dist 6; Sen. Avard, Dist 12; Sen. Altschiller, Dist 24; Rep. Notter, Hills. 12; Rep. Rung, Hills. 12; Rep. Healey, Hills. 12; Rep. W. Thomas, Hills. 12

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill enables the commissioner of the department of environmental services to adopt certain ambient groundwater quality standards.

- -

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.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the adoption of ambient groundwater quality standards by the department of environmental services.

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

1 Ambient Groundwater Quality Standards. Amend RSA 485-C:6, I to read as follows:

I. The commissioner shall establish and adopt ambient groundwater quality standards for regulated contaminants which adversely affect human health or the environment. Ambient groundwater standards shall apply to all regulated contaminants which result from human operations or activities, but do not apply to naturally occurring contaminants. Where state maximum contaminant levels have been adopted under RSA 485:3, I(b), or established in law, ambient groundwater quality standards shall be equivalent to such standards[~~.~~] ***or*** where federal maximum contaminant level or health advisories have been promulgated under the Federal Safe Drinking Water Act or rules relevant to such act, ***the commissioner may adopt*** ambient groundwater quality standards [~~shall be no less stringent than~~] ***equivalent to*** such standards. The commissioner may ***also*** adopt standards ***that are*** more stringent than federal ***or state*** maximum contaminant levels or ***federal*** health advisories if, accounting for an adequate margin of safety to protect human health at all life stages, including but not limited to pre-natal development, the commissioner determines federal standards are insufficient for protection of human health. Where such standards are [~~established~~] ***adopted*** based upon health advisories ***promulgated under the Federal Safe Drinking Water Act*** that address cancer risks, the ambient groundwater quality standards shall be equivalent to that exposure which causes a lifetime exposure risk of one cancer in 1,000,000 exposed population. Where no federal or state maximum contaminant level or health advisory has been [~~issued~~] ***adopted***, the commissioner may adopt ambient groundwater quality standards on a basis which provides for an adequate margin of safety to protect human health and safety.

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

LBA
23-0874
Amended 3/13/23

SB 123-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENT #2023-0635s)

AN ACT relative to the adoption of ambient groundwater quality standards by the department of environmental services.

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Funding Source:	[X] General	[ ] Education	[ ] Highway	[X] Other -

COUNTY:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease

LOCAL:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease

METHODOLOGY:

This bill enables the commissioner of the department of environmental services to adopt certain ambient groundwater quality standards.

The Department of Environmental Services indicates this bill would amend RSA 485-C to eliminate internal inconsistencies in the existing statutory language regarding the criteria the Department must use when establishing or amending ambient groundwater quality standards (AGQS). Current law states that AGQS shall be "equivalent to" any state maximum contaminant level ("MCL") but also states that AGQS shall be "at least as stringent" as any federal health advisory. Complying with both of these criteria is not possible if the State MCL is less stringent than the federal health advisory, which is a realistic possibility. This legislation would address this inconsistency. AGQS can have a significant impact on requirements and costs associated with drinking water and wastewater treatment, and contaminated site remediation. This bill would provide clarity to the Commissioner when setting AGQS, retaining discretion for the

Commissioner to adopt AGQS based upon a federal health advisory when circumstances warrant. The Department assumes this could result in avoidance of setting an unreasonably low AGQS for a contaminant based upon federal health advisories. In such an instance, the Department assumes there could be significant reductions in expenditures required of any local, county, or state governments that operate drinking water treatment facilities, wastewater treatment facilities, or are responsible for contaminated site remediation.

It is assumed that any fiscal impact would occur after FY 2023.

AGENCIES CONTACTED:

Department of Environmental Services