

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

SB 595, relative to the establishment of a remediation pathway for water systems required to undergo frequent testing.

Hearing Date: February 10, 2026

Time Opened: 10:06 a.m.

Time Closed: 10:21 a.m.

Members of the Committee Present: Senators Avard, Pearl, McConkey, Watters and Rosenwald

Members of the Committee Absent : None

Bill Analysis: This enables a community water system that is sanctioned by department of environmental services for missing a required water test, or submitting late water test results to return to a standard schedule of testing under certain conditions.

Sponsors:

Sen. Murphy

Sen. Avard

Sen. McGough

Sen. Pearl

Sen. Perkins Kwoka

Who supports the bill: Senator Keith Murphy (SD16), Senator Howard Pearl (SD17), Lorraine Hansen.

Who is neutral on the bill: Brandon Kernen (DES)

Summary of testimony presented:

Senator Keith Murphy, District 16

- Senator Murphy introduced the bill on behalf of a constituent who raised concerns about campground water testing requirements. Campgrounds are classified as non-community transient water systems and must submit water samples quarterly.
- The constituent's manager submitted required water samples one day late on two occasions (eight months apart). As a result, the campground was moved from quarterly to monthly testing, which has continued for years.
- To return to quarterly testing, the campground must hire a certified water engineer to inspect the system. According to discussions with DES and an EPA citation, this requirement is driven by federal regulations; DES

indicated that if the state does not enforce it, the EPA would, under stricter standards.

- Senator Murphy argued that a sample submitted only a few days late should not trigger ongoing monthly testing and suggested amending the bill to incorporate Paragraph 4 of the cited EPA regulation to ensure federal compliance.

Brandon Kernen, DES

- Mr. Kernen expressed concerns about the bill as currently drafted. As proposed, it would be inconsistent with existing federal regulations. Even if the bill were enacted, water systems would still be required to continue their current sampling practices to remain in compliance with federal law; however, they would do so under a new jurisdiction and potentially a new enforcement authority. This could create regulatory confusion without reducing the compliance burden.
- He noted that he discussed these concerns with the bill's prime sponsor. In that conversation, they reviewed how affected parties can receive relief after completing the required inspection process. The department provides significant technical assistance to help facilities come into compliance. For example, the department has assigned a staff member to conduct the inspection at the specific campground in question so that the campground does not need to hire and pay for an independent operator.
- He emphasized that although the Department of Environmental Services (DES) serves as the regulatory authority, the water industry generally views DES as a partner rather than simply an enforcer. DES works collaboratively with water systems and businesses to ensure compliance is achieved properly and efficiently. In cases involving hardship, such as this particular situation, the department makes efforts to visit the site and provide direct assistance to help resolve the issue.
- The primary concern remains ensuring that any statutory changes are fully compliant with federal regulations, so that water systems are not placed in a position where they must meet conflicting or duplicative requirements.

Senator Avard asked if they would have inspected the said campground if there was no legislation. He said they would have had to pay a fee if the Constituent didn't say anything.

Mr. Kernen explained that they do provide technical assistance; however, they do not have enough staff to help everyone consistently. He added that they offer assistance wherever they can, but they were not aware of the specific facility until yesterday.

Senator McConkey stated that he was surprised this measure was considered necessary, noting that he has worked on this issue for many years. Drawing on his

experience, he expressed concern about the requirement for monthly testing and the potential consequence of having to forgo a facility inspection as a result. He questioned whether the current approach appropriately balances compliance requirements with thorough oversight of the facility.

Mr. Kernen explained that there is a distinction between community water systems and non-community or transient water systems, which may explain why Senator McConkey has not encountered this type of situation. He stated that inspections for non-community systems are conducted every five years. If a violation occurs within 12 months of the most recent inspection, the system operator would be covered. However, if the violation occurs more than 12 months after the inspection, the responsibility would fall on the affected party to hire a third-party operator to perform a special inspection.

Senator McConkey asked if it was a simple routine water sample test that they missed.

Mr. Kernen said yes, it was just a bacteria sample. He added that it is only a \$20-30 sample that they missed.

Senator McConkey stated that the issue involved simply missing a sample, yet the consequences were extremely stringent for what amounted to a minor delay. He expressed astonishment at the severity of the penalties and indicated that this legislation may need to be moved forward.

Mr. Kernen stated that the department does not take the position that it would refuse assistance. Once the entity was identified, the department addressed the issue and provided the necessary support. He added that the industry generally considers DES to be helpful, and that this particular case was an anomaly.

Senator Keith Murphy, District 16

Senator Avard asked of Senator Murphy about the possibility of an amendment.

Senator Murphy asked the committee to look at the EPA regulations he handed out and suggested that if they took paragraph 4 and turned it into an amendment and putting in a grace period.

Senator Avard asked him to craft an amendment and submit it to committee.

Senator Rosenwald asked whether his intent was to retain the requirement for six consecutive water tests while referencing the section of the federal code that allows the state to return to quarterly testing. She requested clarification on exactly what he was proposing.

Senator Murphy stated that, based on his reading of the federal regulations, the bill as currently written could be contradictory. He expressed concern that this could invite further federal oversight, potentially allowing the EPA to assume greater regulatory authority instead of DES. He emphasized that the last thing he wants is for the EPA to impose more stringent regulations.

Senator Rosenwald asked whether the requirement for six consecutive months of testing should be explicitly included in the language. She sought clarification on whether that provision ought to be added.

Senator Murphy explained that he included the six-month timeframe because he believed six consecutive tests should be sufficient. However, he acknowledged that federal regulations require 12 months and stated that he would be comfortable adjusting the timeframe if that is the committee's preference. He further suggested that the section in question could be removed and replaced with Paragraph 4 of the applicable federal regulation to ensure compliance.

Brandon Kernen, DES

Senator Avard asked DES whether the department would be amenable to Senator Murphy's proposed amendment.

Mr. Kernen said they are happy to work on it and will be in contact with the prime sponsor.

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Date Hearing Report completed: February 13, 2026