

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

HB 1089, extending the authorization of the department of environmental services for the evaluation and mitigation of new community water system contamination risks.

Hearing Date: March 19, 2026

Time Opened: 9:01 a.m.

Time Closed: 9:14 a.m.

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

Members of the Committee Absent : Senator Pearl

Bill Analysis: This bill extends the authorization of the department of environmental services for the evaluation and mitigation of new community water system contamination risks.

Sponsors:

Rep. Donnelly

Who supports the bill: Representative Tanya Donnelly (Rock.25), Brandon Kernen (NHDES), Jennifer Favreau, Cory Stone

Who opposes the bill: N/A

Summary of testimony presented:

Rep. Tanya Donnelly, Rockingham 25

- Representative Donnelly introduced the bill and said she worked with DES to come up with the legislation.
- She explained that the intent of the bill is to ensure that DES continues to be the regulatory authority over new community water systems and into ensure they do not dry up or contamination isn't introduced into homeowners that have shallow wells.
- She emphasized the importance this will have on wells and septic systems as to not introduce any groundwater contamination. She added that DES was present for any technical questions.

Senator Watters asked if she could tell him what "RSA 485 -C:21, V-c(j)" would do.

Representative Donnelley forwarded question to DES because she did not want to misrepresent anything.

Brandon Kernen, Drinking Water and Groundwater Bureau of DES

- Mr. Kernen explained that the department supports the legislation and sought Rep. Donnelly help in sponsoring the legislation. He added that the bill verifies the department has the authority to do something that they have already been doing for the past 25 years through their rules.
- He said that one of their roles is to approve new sources of community water supply wells. He stated that the department has two sets of rules: large community well siting rules and small community siting wells. The threshold is 40 gallons a minute on which depends on if you are more or less that will determine if it is a small community or large according to current statute.
- He addressed Senator Watters question with regards to the large groundwater withdrawal section statute that says the department when they're approving a new community water supply that is over 40 gallons a minute must not be drawing water in any contamination from nearby wells.
- They have been addressing these concerns and large community wells for the last 25 years as well as small community wells through their rules and broad authority. Some entities have questioned whether they have the authority to address the protection of private wells. He said the department would like it to be explicit in law as it is for large community wells that the department can be proactive and not approve something that may pull in bad contaminants into private wells if nearby. He said it is not a common scenario but it has come up here and there.

Senator Watters asked about regulations and the process, he asked if he could describe the testing and the form processes and how assurances could be given to a contiguous property owner or municipality.

Mr. Kernen explained that when a new community well is proposed, the applicant must first identify the water source, as well as nearby water users and potential sources of contamination. This evaluation helps determine the likelihood and extent of any existing or future contamination. Following this, the applicant conducts monitoring of groundwater levels to assess whether the proposed well may impact surrounding water resources. Most of these wells are drilled into bedrock aquifers, which influences both testing methods and impact analysis.

Senator McConkey affirmed that they have authority over withdrawals of more than 57,600 gallons in a 24-hour period and asked if he was correct that it would extend their authority to wells that are less than that.

Mr. Kernen believed it would clarify the authority because they believe they already do have it under a broad authority under their provision.

Senator McConkey asked for confirmation regarding the threshold of 40 gallons per minute which would get to the 57,600 gallons a day.

Mr. Kern said yes. The 57,600 gallons is the key number in law, which is 40 gallons a minute if pumped all day long.

Senator McConkey said there are many wells in his area that are dredging through sand deposits, and many of their community wells overburdened by ledge on either side. He said that the 40 gallon per minute is a very small threshold. He inquired as to if there were any guard rails. He was worried about the Extensive time it takes to get a well approved. He was worried about there being guard rails in for communities that may not be at-risk. He expressed his hesitation to give more authority to the department.

Mr. Kern responded that whether this bill passes or not will not change what the department does, as it is simply clarifying practices that are already in place. He added that Senator McConkey's area is not particularly prone to the issue, but it does depend on how much water is used. He noted that if there is no contamination in the area where the wells are being dug, there is no need for concern, as it will not be affected. He emphasized that such scenarios are rare and typically occur only in the southern part of the state.

Senator McConkey asked for clarification regarding the department's authority, noting that the bill would not change any regulations but only clarify the rulemaking.

Mr. Kern confirmed this and added that the department had proactively met with homebuilders and realtors' associations, who did not express any concerns.

Senator Rosenwald asked about slowing down development and whether she had correctly understood that the department believes it already has the authority to do so. She asked for confirmation that the bill would have no impact on the speed of development.

Mr. Kern said yes, that is correct.