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S.211

Introduced by Senator Hartwell  
Referred to Committee on Natural Resources and Energy  
Date: January 7, 2014  
Subject: Conservation and development; wastewater; holding tanks  
Statement of purpose of bill as introduced: This bill proposes to permit public buildings to install sewage holding and pumpout tanks.

An act relating to permitting of sewage holding and pumpout tanks for public buildings

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 10 V.S.A. § 1972 is amended to read:~~

~~§ 1972. DEFINITIONS~~

~~For the purposes of As used in this chapter:~~

~~(1) “Agency” means the ~~agency of natural resources~~ Agency of Natural Resources.~~

~~\* \* \*~~

~~(4)(A) “Failed supply” means a potable water supply:~~

~~(i) that has been found to exceed the standard set by the ~~secretary~~~~

~~Secretary in rule for one or more of the following contaminants:~~

~~(I) total coliform;~~

- 1 ~~(II) nitrates;~~
- 2 (III) nitrites;
- 3 (IV) arsenic; or
- 4 (V) uranium;
- 5 (ii) that the ~~secretary~~ Secretary affirmatively determines as not
- 6 potable, due to the presence of a contaminated site, a leaking underground
- 7 storage tank, or other known sources of groundwater contamination or
- 8 naturally occurring contaminants, and that information has been posted on the
- 9 ~~agency of natural resources'~~ Agency of Natural Resources' website; or
- 10 (iii) the ~~secretary~~ Secretary affirmatively determines to be failed
- 11 due to the supply providing an insufficient quantity of water to maintain the
- 12 usual and customary uses of a building or structure or campground, and that
- 13 information has been posted on the ~~agency of natural resources'~~ Agency of
- 14 Natural Resources' website.

15 \* \* \*

16 (5)(A) "Failed system" means a wastewater system that is functioning  
17 in a manner:

- 18 (i) that allows wastewater to be exposed to the open air, pool on
- 19 the surface of the ground, discharge directly to surface water, or back up into a
- 20 building or structure, unless, in any of these instances, the approved design of
- 21 the system specifically requires the system to function in such a manner; or

1 ~~(ii) that results in a potable water supply being affirmatively~~  
2 determined by the ~~secretary~~ Secretary to be a failed supply, and that  
3 information has been posted on the ~~agency of natural resources'~~ Agency of  
4 Natural Resources' website.

5 \* \* \*

6 (7) "Professional engineer" means an engineer licensed and in good  
7 standing by the ~~board of professional engineering~~ Board of Professional  
8 Engineering under 26 V.S.A. chapter 20 ~~of Title 26.~~

9 (8) "Secretary" means the ~~secretary~~ Secretary of the ~~agency of natural~~  
10 ~~resources~~ Natural Resources or a duly authorized representative of the  
11 ~~secretary~~ Secretary. A duly authorized representative of the ~~secretary~~  
12 Secretary includes a municipality that has requested delegation, in writing, and  
13 has been delegated the authority to implement provisions of this chapter in lieu  
14 of the ~~secretary~~ Secretary.

15 \* \* \*

16 (11) "Public building" means:

17 (A) a building owned or occupied by the State of Vermont, a county,  
18 a municipality, a village, or any public entity, including a school or fire  
19 district; or

1 ~~(D) a building owned by a charitable, religious, or nonprofit~~  
2 organization that is regularly used by 15 or more persons per week, measured  
3 by weekly average over the most recent 12-week period.

4 Sec. 2. 10 V.S.A. § 1979 is amended to read:

5 § 1979. HOLDING TANKS

6 (a) The ~~secretary~~ Secretary shall approve the use of sewage holding and  
7 pumpout tanks when he or she determines that:

8 (1) the existing or proposed buildings or structures to be served by the  
9 holding tank are ~~publicly owned~~ public buildings;

10 (2) the plan for construction and operation of the holding tank will not  
11 result in a public health hazard or environmental damage;

12 (3) a designer demonstrates that an economically feasible means of  
13 meeting current standards is significantly more costly than sewage holding and  
14 pumpout tanks, based on a projected 20-year life of the project; and

15 (4) the design flows do not exceed 600 gallons per day.

16 (b) A holding tank may also be used for a project that is eligible for a  
17 variance under section 1973 of this title, whether or not the project is ~~publicly~~  
18 ~~owned~~ a public building, if the existing wastewater system has failed, or is  
19 expected to fail, and in either instance, if there is no other cost-feasible  
20 alternative.

21 \* \* \*

1 ~~(f) Any permit issued for the use of a holding tank will require a designer~~  
2 to periodically inspect the tank, visible piping, and alarms. The designer shall  
3 submit a written report to the ~~secretary~~ Secretary detailing the results of the  
4 inspection and any repairs or changes in operation that are required. The  
5 report also shall detail the pumping history since the previous report, giving the  
6 dates of pumping and the volume of wastewater removed. The frequency of  
7 inspections and reports shall be stated in the permit issued for the use of the  
8 tank, but shall be no less frequent than once per year. The designer also shall  
9 inspect the water meter or meters and verify that they are installed, calibrated,  
10 and measuring all water that is discharged as wastewater. The designer shall  
11 read the meters and compare the metered flow to the pumping records. Any  
12 significant deviation shall be noted in the report and explained to the  
13 extent possible.

14 (g) The owner of a holding tank shall maintain a valid contract with a  
15 licensed wastewater hauler at all times. The contract shall require the licensed  
16 wastewater hauler to provide written notice of dates of pumping and volume of  
17 wastewater pumped. Copies of all such notices shall be submitted with the  
18 written inspection reports.

19 Sec. 3. EFFECTIVE DATE

20 ~~This act shall take effect on July 1, 2014~~

*Sec. 1. 10 V.S.A. § 1979 is amended to read:*

*§ 1979. HOLDING TANKS*

*(a) The ~~secretary~~ Secretary shall approve the use of sewage holding and pumpout tanks when he or she determines that:*

*(1) the existing or proposed buildings or structures to be served by the holding tank are publicly owned;*

*(2) the plan for construction and operation of the holding tank will not result in a public health hazard or environmental damage;*

*(3) a designer demonstrates that an economically feasible means of meeting current standards is significantly more costly than the construction and operation of sewage holding and pumpout tanks, based on a projected 20-year life of the project; and*

*(4) the design flows do not exceed 600 gallons per day.*

*(b)(1) The Secretary shall approve the use of sewage holding and pumpout tanks for existing buildings or structures that are owned by a charitable, religious, or nonprofit organization when he or she determines that:*

*(A) the plan for construction and operation of the holding tank will not result in a public health hazard or environmental damage;*

*(B) a designer demonstrates that an economically feasible means of meeting current standards is significantly more costly than the construction and operation of sewage holding and pumpout tanks, based on a projected 20-year life of the project; and*

*(C) the design flows do not exceed 600 gallons per day.*

*(2) Before constructing a holding tank permitted under this subsection, the applicant shall post a bond or other financial surety sufficient to finance maintenance of the holding tank for the life of the system, which shall be at least 20 years.*

*(3)(A) A permit issued under this subsection shall run with the land for the duration of the permit and shall apply to all subsequent owners of the property being served by the holding tank regardless of whether the owner is a charitable, religious, or nonprofit organization.*

*(B) All permit conditions, including the financial surety requirement of subdivision (b)(2), shall apply to a subsequent owner.*

*(C) A subsequent owner shall not increase the design flows of the holding and pumpout tank system without approval from the Secretary.*

*(c) A holding tank may also be used for a project that is eligible for a variance under section 1973 of this title, whether or not the project is publicly owned, if the existing wastewater system has failed, or is expected to fail, and in either instance, if there is no other cost-feasible alternative.*

*(d) When a holding tank is proposed for use, a designer shall submit all information necessary to demonstrate that the holding tank will comply with the following requirements:*

*(1) ~~the~~ The holding tank shall be capable of holding at least 14 days of the ~~expected~~ design flow from the building;*

*(2) ~~the~~ The tank shall be constructed of durable materials that are appropriate for the site conditions and the nature of the sewage to be stored;*

*(3) ~~the~~ The tank shall be watertight, including any piping connected to the tank and all access structures connected to the tank. The tank shall be leakage tested prior to being placed in service;*

*(4) ~~the~~ The tank shall be designed to protect against floatation when the tank is empty, such as when it is pumped;*

*(5) ~~the~~ The tank shall be equipped with audio and visual alarms that are triggered when the tank is filled to 75 percent of its design capacity;*

*(6) ~~the~~ The tank shall be located so that it can be reached by tank pumping vehicles at all times when the structure is occupied; ~~and~~.*

*(7) ~~the~~ The analysis supports a claim under subdivision (a)(3) of this section.*

*(e) The permit application shall specify the method and expected frequency of pumping.*

*(f) Any building or structure served by a holding tank shall have a water meter, or meters, installed that measures all water that will be discharged as wastewater from the building or structure.*

*(g) Any permit issued for the use of a holding tank will require a designer to periodically inspect the tank, visible piping, and alarms. The designer shall submit a written report to the ~~secretary~~ Secretary detailing the results of the inspection and any repairs or changes in operation that are required. The report also shall detail the pumping history since the previous report, giving the dates of pumping and the volume of wastewater removed. The frequency of inspections and reports shall be stated in the permit issued for the use of the tank, but shall be no less frequent than once per year. The designer also shall inspect the water meter or meters and verify that they are installed, calibrated, and measuring all water that is discharged as wastewater. The designer shall read the meters and compare the metered flow*

to the pumping records. Any significant deviation shall be noted in the report and explained to the extent possible.

~~(g)(h)~~ The owner of a holding tank shall maintain a valid contract with a licensed wastewater hauler at all times. The contract shall require the licensed wastewater hauler to provide written notice of dates of pumping and volume of wastewater pumped. Copies of all such notices shall be submitted with the written inspection reports.

~~\*\*\* Municipal Water Connection Certification \*\*\*~~

~~Sec. 2. 10 V.S.A. § 1976 is amended to read:~~

~~§ 1976. DELEGATION OF AUTHORITY TO MUNICIPALITIES~~

~~(a)(1) If a municipality submits a written request for delegation of this chapter, the ~~secretary~~ Secretary shall delegate authority to the municipality to implement and administer provisions of this chapter, the rules adopted under this chapter, and the enforcement provisions of chapter 201 of this title relating to this chapter, provided that the ~~secretary~~ Secretary is satisfied that the municipality:~~

~~(A) has established a process for accepting, reviewing, and processing applications and issuing permits, which shall adhere to the rules established by the ~~secretary~~ Secretary for potable water supplies and wastewater systems, including permits, by rule, for sewerage connections;~~

~~(B) has hired, appointed, or retained on contract, or will hire, appoint, or retain on contract, a licensed designer to perform technical work which must be done by a municipality under this section to grant permits;~~

~~(C) will take timely and appropriate enforcement actions pursuant to the authority of chapter 201 of this title;~~

~~(D) commits to reporting annually to the ~~secretary~~ Secretary on a form and date determined by the ~~secretary~~ Secretary; and~~

~~(E) will comply with all other requirements of the rules adopted under section 1978 of this title.~~

~~(2) Notwithstanding the provisions of this subsection, there shall be no delegation of this section or of section 1975 or 1978 of this title.~~

~~\*\*\*~~

~~(g) Notwithstanding the requirements of subsection (a) of this section, if a municipality submits a written request for partial delegation of this chapter, the Secretary shall delegate authority to the municipality to permit new or modified service connections to an existing municipally owned water main or sewer main, provided that the Secretary is satisfied that the municipality.~~

~~(1) shall only issue permits for connections under this subsection if it owns both the water main and the sewer main at the site of the connection;~~

~~(2) will provide notice to the Secretary of any new connection; and~~

~~(3) has hired, appointed, or retained on contract, or will hire, appoint, or retain on contract, a licensed designer who is or will be responsible for designing and certifying the design of new service connections.~~

~~Sec. 3. WASTEWATER RULES; AMENDMENT~~

~~On or before June 1, 2015, the Agency of Natural Resources shall amend its rules under 10 V.S.A. § 1978 to conform to the provisions of Sec. 2 of this act.~~

~~Sec. 4. MUNICIPAL WATER CONNECTION PERMIT DELEGATION  
REPORT~~

~~On or before December 1, 2016, the Secretary of Natural Resources shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report that shall include:~~

~~(1) a list of municipalities that have accepted full or partial delegation of permitting authority under 10 V.S.A. § 1964;~~

~~(2) a summary of the cost of full and partial delegation of permitting authority under 10 V.S.A. § 1964 for the agency, permitting municipalities, and permit applicants; and~~

~~(3) a recommendation for whether to continue to exempt municipalities from the requirements of 10 V.S.A. § 1964(a) when permitting authority is partially delegated under 10 V.S.A. § 1964(g).~~

~~\*\*\* Effective Date \*\*\*~~

~~Sec. 5. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2014.~~

~~Sec. 2. WATER CONNECTION PERMIT MUNICIPAL DELEGATION  
STUDY~~

~~On or before January 1, 2015, the Secretary of Natural Resources shall report to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy with recommendations on the following:~~

~~(1) how to improve the process for municipal delegation under 10 V.S.A. § 1976;~~

~~(2) other ways to streamline permitting and approval under 10 V.S.A. § 1973, including through partial delegation under 10 V.S.A. § 1976; and~~

(3) a plan for outreach and education to municipalities about the delegation process under 10 V.S.A. § 1976 and the provision for approval of sewer connections at the time of sewer line construction as provided under Section 1-304(a)(14) of the Vermont Wastewater System and Potable Water Supply Rules.

~~Sec. 2~~ Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.