

Senate Calendar

TUESDAY, JANUARY 03, 2012

SENATE CONVENES AT: 10:00 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

NEW BUSINESS

GOVERNOR'S VETO

S. 77.

An act relating to water testing of private wells.

QUESTION: Shall the bill pass, notwithstanding the failure of the Governor to approve the bill? (2/3 vote required)

Text of Governor's Veto Message

The text of the communication from his Excellency, the Governor whereby he vetoed and returned unsigned **Senate Bill No. 77** to the Senate is as follows:

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-sixth day of May, 2011, he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 77. An act relating to water testing of private wells.

The Governor provided the following explanation:

“We have a responsibility with every bill that we pass to ensure that we are not imposing costs on hardworking Vermonters in rural areas. Every mandate from Montpelier must be balanced with this reality. Vermonters, on average, are earning what they made ten years ago. The vast majority of Vermont's well water is clean and safe. The General Assembly's desire to promote safe drinking water is one we all share, but I don't believe the government should mandate the testing of every single new well, with the cost and burden on individual private property owners that this bill would impose.”

Text of Bill As Passed by Senate and House

The text of the bill as passed by the Senate and House of Representatives is as follows:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The U.S. Environmental Protection Agency and the Vermont department of health estimate that 40 percent of Vermont residents obtain drinking water from groundwater sources.

(2) Property owners currently are not required to test groundwater sources that are a potable water supply serving one single-family residence.

(3) In adults and especially in children, consumption of contaminated groundwater can cause serious health effects, such as digestive problems, kidney problems, blue baby syndrome, and brain damage.

(4) The state lacks a comprehensive database or map identifying where groundwater contamination is prevalent in the state.

(5) To help mitigate the potential health effects of consumption of contaminated groundwater, the state should require testing of all newly developed groundwater sources and should conduct education and outreach regarding the need for property owners to test the water quality of groundwater used in potable water supplies.

(6) The state should utilize tests of groundwater sources to construct a database and map of groundwater contamination in the state so that the department of health can recommend treatment options to property owners in certain parts of the state.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. TESTING OF NEW GROUNDWATER SOURCES

(a) As used in this section, “groundwater source” means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Prior to use of a new groundwater source as a potable water supply, where testing is not otherwise required, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) A water sample collected under this section shall be analyzed for, at a minimum: arsenic; lead; uranium; gross alpha radiation; total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the agency by rule.

(d) The secretary, after consultation with the department of health, the wastewater and potable water supply technical advisory committee, the Vermont association of realtors, the Vermont home inspectors’ association, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required

under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsection (b) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to conduct the test;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

Sec. 3. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The commissioner may certify a laboratory to perform the testing and monitoring required under 10 V.S.A. chapter 56, 10 V.S.A. § 1981, and the federal Safe Drinking Water Act if such laboratory meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent.

(b)(1) The commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information;
or

(B) violated any material requirement, restriction or condition of the certificate; or

(C) violated any statute, rule or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the board under section 128 of this title.

* * *

(f) In accrediting a laboratory to conduct testing under 10 V.S.A. § 1981, the commissioner shall require a laboratory accredited under this section to submit in an electronic format the results of groundwater analyses conducted pursuant to 10 V.S.A. § 1981 to the department of health and the agency of natural resources.

Sec. 4. 27 V.S.A. § 616 is added to read:

§ 616. GROUNDWATER SOURCE TESTING; DISCLOSURE OF EDUCATIONAL MATERIAL

(a) For purchase and sales agreements executed on or after January 1, 2012, the seller shall, within 72 hours of the execution of a purchase and sales agreement for a property with a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), that is not served by a public water system, as that term is defined in 10 V.S.A. § 1671(5), provide the buyer with informational materials developed by the department of health regarding:

(1) the potential health effects of the consumption of untreated groundwater; and

(2) the buyer's opportunity under the agreement to test the potable water supply.

(b) Non-compliance with the requirements of subsection (a) of this section shall not affect the marketability of title.

Sec. 5. DEPARTMENT OF HEALTH; EDUCATION AND OUTREACH ON SAFE DRINKING WATER

The department of health, after consultation with the agency of natural resources, shall revise and update its education and outreach materials regarding the potential health effects of contaminants in groundwater sources of drinking water in order to improve citizen access to such materials and to increase awareness of the need to conduct testing of groundwater sources. In revising and updating its education and outreach materials, the department shall update the online safe water resource guide by incorporating the most current information on the health effects of contaminants, treatment of contaminants, and causes of contamination and by directly linking users to the department of health contaminant fact sheets.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (certification of laboratories), and 5 (department of health; education and outreach) of this act shall take effect upon passage.

(b) Sec. 2 (testing of new groundwater sources) of this act shall take effect upon passage, except that 10 V.S.A. § 1981(b) (the requirement to test new groundwater sources) shall take effect on January 1, 2013.

(c) Sec. 4 (disclosure of educational material) of this act shall take effect on January 1, 2012.

ORDERED TO LIE

H. 46.

An act relating to youth athletes with concussions participating in athletic activities.

PUBLIC HEARING

Public Hearing on Fiscal Year 2012 Budget Adjustment

Room: 10, State House

House Committee on Appropriation

Wednesday, January 11, 2012, 1:00 – 3:00 p.m. – The House Appropriations Committee will hold a public hearing in room 10 of the State House on the Governor's proposed FY 2012 budget adjustment. The proposed budget adjustment can be viewed on the Joint Fiscal website at http://www.leg.state.vt.us/jfo/budget_fy2012.aspx. Testimony should be limited to 2-3 minutes (subject to change) and space reserved in advance with Theresa Utton-Jerman in room 40 of the State House or (802) 828-5767 or e-mail tutton@leg.state.vt.us.