

Senate Energy and Natural Resources Committee

Griffin Roberge 271-3042

HB 73, relative to public notice requirements for certain permits issued by the department of environmental services.

Hearing Date: March 29, 2021.

Time Opened: 1:16 p.m.

Time Closed: 1:25 p.m.

Members of the Committee Present: Senators Avard, Giuda, Gray, Watters and Perkins Kwoka.

Members of the Committee Absent: None.

Bill Analysis: This bill requires public notice using electronic means for certain permits issued by the department of environmental services.

Sponsors:

Rep. Aron

Rep. Pearl

Rep. Potucek

Who supports the bill: Representative Judy Aron, Sullivan - District 7; Richard DeMark; Nicole Fordey; Lucinda Hope; Representative Deb Stevens, Hillsborough - District 34; Elaine Thomas.

Who opposes the bill: Robin Vogt.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Representative Judy Aron – provided written testimony

Sullivan – District 7

- HB 73 is a reintroduction of HB 1507 (2020). HB 1507 was tabled in the Senate and died there because of the suspension of legislative activity due to the COVID-19 pandemic.
- HB 73 requires public notice using electronic means for certain permits issued by the NH Department of Environmental Services (NHDES). Section 1 amends RSA 149-M:7, III and requires NHDES to notice the public about solid waste permits using electronic means via NHDES's Internet website or by communicating permitting information with affected municipalities. Section 2 amends RSA 149-M:9, VIII to require public hearing notices for solid waste permit applications be placed on the NHDES' Internet website.
- HB 73 was a request from constituents in Acworth. Based on information from those constituents, notices generally appear on NHDES' calendar every day for one month. However, in one instance, notice for a Title V air pollution permit went up for one day. A constituent contacted NHDES and was told that NHDES is not required to make web-based postings.
- NHDES voluntarily posts permitting notices on its website, but there is not a consistent practice spelled out within NHDES statute or administrative rule. Current statute requires NHDES to issue notice in a newspaper of general circulation in the community, while administrative rule in Env-A 622.02 (c) requires public notice to be published by either NHDES or the applicant once in a newspaper of general daily statewide circulation and once in a newspaper of general circulation in the area in which the source is located. There is no consideration of electronic notification.

- The current notification requirements do not reflect how the public accesses much of its information. HB 73 provides a wider opportunity for public participation in significant permitting decisions with potentially long-term impacts on host communities.
- Senator Gray referenced HB 73. Lines 18-19 require NHDES to issue notice in at least one newspaper of general circulation in the community and on NHDES' Internet website. Previous revisions to public notice requirements in other areas of statute have required postings on a website and have the option to post in newspapers of general circulation. He asked if Representative Aron had considered such an approach in HB 73.
 - Representative Aron said the recommended changes in HB 73 came from NHDES. HB 73 uses the language from HB 1507 (2020) that successfully passed the House.
- Senator Avar asked if there was any opposition to HB 73.
 - Representative Aron said there was no opposition to HB 73.

Summary of testimony presented in opposition: None.

Neutral Information Presented:

Michael Wimsatt

Director, Solid Waste Division, NHDES

- While most of the public uses the Internet to access public notices, some members of the public receive their information from newspapers. Using the Internet exclusively for public notices would be easier for NHDES but doing so may miss important constituencies that may wish to take part in a public hearing. NHDES is willing to issue electronic public notices, as well as newspaper public notices.
- Director Wimsatt noted that the costs for newspaper public notices are borne by the applicant.
- Senator Gray said his question was focused on consistency across state statutes. Generally, town notices are posted on the town website. He asked Director Wimsatt to comment.
 - Director Wimsatt said any policy changes would be subject to the NH General Court. Solid waste permits tend to have the most impact in the local communities surrounding the facility. NHDES knows some members of the public become aware of public hearings through newspapers. Director Wimsatt could not comment on other statutory changes on public notice requirements, but NHDES will follow whatever the NH General Court establishes for public notice requirements.

GJR

Date Hearing Report completed: March 29, 2021.