

Amendment to HB 1293

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT relative to the design of sewage or waste disposal systems for a person's own
4 domicile, and relative to water well and sewage or waste disposal systems.

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6 Amend the bill by replacing all after section 1 with the following:

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8 2 New Paragraphs; Water Pollution and Waste Disposal; Definitions. Amend RSA 485-A:2 by
9 inserting after paragraph XXIV the following new paragraphs:

10 XXV. "Water well contractor" shall mean "water well contractor" as defined in RSA 482-B:2.

11 XXVI. "Water well board" means the water well board established in RSA 482-B:3.

12 XXVII. "Well" shall mean "well" as defined in RSA 482-B:2.

13 3 Water Pollution and Waste Disposal; Protective Well Radii. RSA 485-A:30-b is repealed and
14 reenacted to read as follows:

15 485-A:30-b Protective Well Radii.

16 I. The requirements in this paragraph shall apply to wells other than municipal or state-
17 owned wells and to sewage disposal systems.

18 (a) The commissioner shall adopt rules under RSA 541-A providing for protective well
19 radii for private wells and for regulation of land use within the radii boundary.

20 (b) No action of the department, and nothing in this section, shall have the effect of
21 encumbering any lot, other than a lot upon which a well or sewage disposal system is installed or
22 replaced, without the lot owner's permission. However, the department shall adopt rules that:

23 (1) Allow abutting landowners to overlap protective well radii.

24 (2) Allow an applicant to count state and locally-mandated setbacks, recorded
25 easements, or land under conservation or similar dedication toward the required protective well
26 radius provided such setback, easement, or dedicated land ensures the protection of drinking water
27 quality.

28 II. The requirements in this paragraph shall apply to the installation of wells other than
29 municipal or state-owned wells.

30 (a) For any well being installed or utilized to serve one or more new commercial
31 buildings or a non-community water system as defined in RSA 485:1-a, the entire protective well
32 radius shall be located on-lot or in conformance with subparagraph I(b)(2). For the purposes of this

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1 section, the term “commercial building” means a building that houses a commercial use but shall not
2 include a residence which is also used for commercial purposes unless the total water withdrawal
3 exceeds 600 gallons per day. A new commercial building means a new structure intended for
4 commercial use, an existing residential structure being converted to commercial use, or an increase
5 in water use at an existing commercial building to a level that requires a larger protective well
6 radius under rules adopted by the department.

7 (b) For all other wells, if the applicable protective well radius cannot be met either on-lot
8 or using the methods described in subparagraph I(b), the on-lot protective radius shall be maximized
9 to the extent practicable. The department may require water quality monitoring, record keeping,
10 and reporting by the owner of the property as it deems necessary to ensure that the well water is
11 suitable for its intended uses for any well installation that does not meet the applicable protective
12 well radius.

13 (c) Whenever a water well contractor installs a well that does not meet the applicable
14 protective well radius, the water well contractor shall notify the property owner of the consequences
15 of such reduced radius and advise the property owner whether special precautions should be taken
16 relative to well installation.

17 (d) Prior to a water well contractor changing the location of an existing well, the water
18 well contractor shall advise and consult with the property owner or the property owner’s agent about
19 the best possible alternative location, considering distance to property boundaries, and, if applicable,
20 to the sewage disposal system, and the capability for the lot to support the existing sewage loading
21 considering the alternative location.

22 (e) Wells shall be installed in conformance with applicable water well board statutes and
23 rules, including RSA 482-B.

24 (f) When a well is installed concurrently with a sewage disposal system, and prior to the
25 system being placed into operation in accordance with RSA 485-A:29, I, and the well cannot be
26 installed as shown on the approved plan, the water well contractor shall advise and consult with the
27 property owner or the property owner’s agent on the best possible alternative location, considering
28 distance to property boundaries and to the sewage disposal system and the capability for the lot to
29 support the sewage loading considering the alternative location. The owner shall ensure that an
30 amended sewage disposal plan showing the actual location of the well is submitted to the
31 department. If the entire protective well radius cannot be located on-lot, the owner of the property
32 shall sign a standard release form prepared by the department, to acknowledge the potential loss of
33 the protection of any portion of the radius which extends over the property line. Within 30 days
34 after well installation, the owner shall record the release form in the registry of deeds of the county
35 in which the property is located.

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1 (g) Any portion of a protected well radius that is not maintained on lot shall not be
2 deemed to have protection and, therefore, sewage disposal systems shall not be required to meet the
3 setback distance to wells on abutting lots.

4 III. The requirements in this paragraph shall apply to the installation or replacement of
5 sewage disposal systems.

6 (a) Plans and specifications for a proposed sewage disposal system for a property which
7 is or will be served by an on-lot well, shall show the location or proposed location of the well, or a
8 designated area within which the well will be located, and shall show the protective radius as
9 specified in the department's rules.

10 (b) If the location of a proposed sewage disposal system will not meet the applicable well
11 radius of a well that is or is proposed to be on the same lot, the owner of the property shall sign a
12 setback waiver form prepared by the department upon which the actual distance from wells within
13 the applicable well radius shall be noted. For existing wells, the owner shall record the approved
14 setback waiver form in the registry of deeds within 30 days after the sewage disposal system
15 approval is issued or, for proposed wells, within 30 days after well installation. The department may
16 require water quality monitoring, record keeping, and reporting by the owner of the property as it
17 deems necessary to ensure that the well water is suitable for its intended uses when any installation
18 or replacement of a sewage disposal system impinges on the applicable protective well radius.

19 4 Rulemaking; Duties of the Commissioner. Amend the introductory paragraph of RSA 485-
20 A:41, IV to read as follows:

21 IV. Adopt rules, pursuant to RSA 541-A and after public hearing, relative to the
22 implementation of this subdivision. The commissioner shall adopt rules relative to the
23 circumstances under which the commissioner may grant a waiver of any rule, except that no waivers
24 of rules relating to site loading or set-back distances to ground or surface waters shall be allowed for
25 sewage or waste disposal systems on lots in subdivisions created after September 1, 1989. A waiver
26 must be consistent with the intent of this subdivision and have a just result. In particular, ~~an~~
27 ~~encroachment waiver~~ **a waiver that would result in a protective well radius not being met**
28 shall meet the following criteria:

29 5 Sewage Disposal Systems; Action on Applications. Amend RSA 485-A:31, I to read as follows:

30 I. Subject to paragraphs II and III, the department shall give notice in writing **or email** to
31 the person submitting the plans and specifications for subdivision of land of its approval or
32 ~~disapproval~~ **of the need for additional information to complete the review** of such plans and
33 specifications within 30 days of the date such plans and specifications and the required fees are
34 received by the department and shall give notice in writing to the person submitting plans and
35 specifications for sewage or waste disposal systems of its approval or ~~disapproval~~ **of the need for**
36 **additional information to complete the review** of such plans and specifications within 15
37 working days of the date such plans and specifications and the required fees are received by the

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1 department. Unless such written [~~disapproval~~] ***notice of the need for additional information to***
2 ***complete the review*** shall be mailed to the person submitting plans and specifications within 30
3 days in the case of plans and specifications for subdivision of land and 15 working days in the case of
4 plans and specifications for sewage or waste disposal systems from the date of receipt with the
5 required fees by the department, the plans and specifications shall be deemed to have been
6 approved. ***If the department gives notice of the need for additional information, the***
7 ***department shall, within 30 days of the receipt of such information in the case of plans and***
8 ***specification for subdivision of land and within 15 working days of the receipt of such***
9 ***information in the case of plans and specifications for sewage or waste disposal systems,***
10 ***approve or deny the application.*** The department shall send a copy of the approval or
11 disapproval of such plans and specifications to the planning board or board of selectmen of the
12 affected municipality.

13 6 New Paragraph; Sewage Disposal Systems; Action on Applications. Amend RSA 485-A:31 by
14 inserting after paragraph III the following new paragraph:

15 IV. The commissioner shall adopt rules pursuant to RSA 541-A relative to the procedures for
16 review and standards for rendering a final decision for approval or denial of plans and specifications
17 for subdivision of land and sewage or waste disposal systems.

18 7 Repeal. The following are repealed:

19 I. RSA 485-A:2, III-a, relative to the definition of encroachment waiver.

20 II. RSA 485-A:30-a, relative to notice of applications for sewage or waste disposal systems.

21 8 Effective Date. This act shall take effect 60 days after its passage.

2022-1825s

AMENDED ANALYSIS

This bill:

I. Repeals the exemption allowing any person who desires to submit plans and specifications for a sewage or waste disposal system for the person's own domicile to do so without a permit.

II. Clarifies the subsurface waiver process in water well systems.

III. Clarifies certain notice requirements for the department of environmental services on sewage and waste disposal systems.