

# Senate Commerce Committee

*Aaron Jones 271-2609*

**HB 398**, relative to notice of PFAS contamination prior to the sale of real property.

**Hearing Date:** April 2, 2024

**Time Opened:** 11:51 a.m.

**Time Closed:** 12:06 p.m.

**Members of the Committee Present:** Senators Gannon, Ricciardi, Soucy and Chandley

**Members of the Committee Absent :** Senator Innis

**Bill Analysis:** This bill requires certain notice of PFAS and other groundwater contamination prior to the sale of real property.

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**Sponsors:**

Rep. W. Thomas

Rep. N. Murphy

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**Who supports the bill:** Representative Wendy Thomas, Representative David Meuse, Representative Heath Howard, Representative Ellen Read, Representative Rosemarie Rung, Representative Nancy Murphy, Bob Quinn (NH Realtors), Brandon Kernen (NHDES), Daniel Richardson, Janet Lucas

**Who opposes the bill:** Julie Smith

**Who is neutral on the bill:** No one

**Summary of testimony presented in support:**

***Representative Wendy Thomas***

- Real estate agents must notify buyers of the possibility of lead, arsenic, and radon in their water. This bill would add poly- and perfluoroalkyl substances (PFAS) to the notification.
- Recently, PFOAS were found to be carcinogenic and PFAS were found to be likely carcinogenic.
- In Representative Thomas' neighborhood, there are four houses with private wells that are contaminated. In all of the houses, the residents have developed or died from cancer due to chronic PFAS exposure.
- In 2016, Representative Thomas installed a filtration system that cost \$3,000 and \$1,000 to install. In addition, they installed a reverse osmosis filtration

system that cost \$1,000 and \$900 to install. There is a \$500 yearly maintenance cost for these systems.

- Over the past four years, they are one of 700 families who exist on bottled water that is provided to them.
- There are health costs associated with cancer, treatments, surgeries, monitoring, prescriptions, and physical therapy. There are also small animal health costs.
- Representative Thomas said her children have health issues because it has been found that PFAS is excreted from breastmilk.
- The town has paid to filter the water in their public schools, and there is a warrant to install a \$14 million town filtration system.
- Representative Thomas said the town has seen an increase in school costs for special education. Chronic exposure to PFAS when a woman is pregnant means a lower birth weight and higher incident of learning disabilities.
- Representative Thomas said not notifying buyers was immoral, unethical, and criminal.
- **Senator Soucy** asked if this would be an advisory to the buyer that a potential of PFAS contamination exists.
  - **Representative Thomas** said correct.

#### ***Bob Quinn, CEO, New Hampshire Association of Realtors***

- The Association worked with members of the House on this bill.
- The language of this bill would go under Page 2, Section 12 of the purchase and sales agreement.
- In Section 13, there is a requirement that a buyer acknowledge receipt of the property disclosure form from the seller, which includes information on water quality. If a seller has knowledge of a water test, they are required to disclose it.
- In Section 14, the buyer must sign off on the potential sale or transfer of property contingent upon a water quality test.
- Mr. Quinn said these are areas where information is added to initiate a conversation between a buyer, a seller, and their agents.
- Mr. Quinn reminded the Committee that if there is a lot of language in these agreements, then it diminishes the likelihood of an individual reading them.

#### ***Representative Rosemarie Rung***

- Representative Rung has served on a committee to study the health and environmental impacts of PFAS contamination in southern New Hampshire. In the past year, the Legislature has added representatives from Londonderry to the committee.
- Since groundwater flows, contamination that was concentrated in Merrimack has spread to other communities.
- Currently, there are 4,000 residences or properties that have been identified for sampling.

- 2,500 of those households have been supplied with bottled water or alternate water sources.
- Since January 2024, 100 properties have been added to the list.
- Some of these properties are outside of the agreement between Saint-Gobain and the Department of Environmental Services (DES). As a result, residents have not received notification from their towns to understand if they are at risk.
- Representative Rung said it does not take much for PFAS to pose a health hazard. Health advisory announcements have used parts per quadrillion. PFAS are odorless, colorless, and tasteless.
- Representative Rung said individuals who are buying a property need notice at the time of their purchase that their water might be impacted.
- In New Hampshire, 48 percent of properties are served by private wells.
- Last year, the USGS conducted a soil survey in partnership with DES. In that survey, New Hampshire was divided into 100 grids. Excluding some areas, almost every soil sample tested positive for PFAS.

***Brandon Kernen, Administrator of Drinking and Groundwater Bureau, New Hampshire Department of Environmental Services***

- This bill was worked on by a diverse group of stakeholders who reached a consensus.
- Mr. Kernen reiterated that it is important for homebuyers to be notified of PFAS.
- The Department has sampled 12,000 private wells mostly in southern New Hampshire.
  - About 27 percent exceeded drinking water standards for PFAS.
  - If the draft EPA standard is adopted, about 57 percent would exceed those standards.

**Summary of testimony presented in opposition:** None

**Neutral Information Presented:** None

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Date Hearing Report completed: April 8, 2024