

GROUNDWATER DISPUTE RESOLUTION

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House Bill 4678

Sponsor: Rep. Kevin Daley

Committee: Agriculture

Complete to 5-14-13

A SUMMARY OF HOUSE BILL 4678 AS INTRODUCED 5-2-13

The bill would amend Part 317 (Aquifer Protection and Dispute Resolution) of the Natural Resources and Environmental Protection Act to make the following changes regarding the groundwater dispute resolution process:

- Allow agricultural well owners, within 14 days after service of a dispute order, to contest the order by filing an appeal with the Agriculture Commission. Appeals would have to be scheduled for consideration at the next commission meeting and all terms of the order, except for the provision providing for an adequate supply of potable water, would be stayed until a determination is made. If a groundwater dispute order is dismissed by the Commission, the Department of Agriculture and Rural Development (MDARD) would be required to provide reimbursement for the cost of providing potable water.
- Remove the ability of all high-capacity well owners to opt out of the dispute resolution program, and allow only non-agricultural, high-capacity well owners to opt out and resolve the dispute as otherwise provided by law.
- Require the department(s) to provide actual notice of a complaint to the owner of each high-capacity well that is identified in a complaint.
- Provide the MDARD director with much of the same authority currently given to the director of the Department of Environmental Quality (DEQ) in disputes involving agricultural wells.
- Require an on-site investigation to begin within five business days of the owner of each high-capacity well being provided with the actual notice of complaint. Currently, an investigation must begin within five business days of the department receiving a complaint.
- In the instance of a complaint involving an agricultural well, require the DEQ to consult with and provide technical assistance to MDARD regarding the on-site evaluation.

- Remove a provision that requires the MDARD director to refer a complaint to the DEQ director if the MDARD director is unable to resolve a complaint within 14 days of it being submitted.
- Redefine agricultural well to mean a high-capacity well that is "located on a farm and is used for an agricultural purpose."

FISCAL IMPACT:

A fiscal analysis is in process.

BACKGROUND INFORMATION:

Part 317 of NREPA was reestablished through Public Act 602 of 2012 with the intention of providing a dispute resolution process within the Department of Environmental Quality for small-quantity well owners whose wells are thought to have been adversely affected by high-capacity wells. The program existed within the DEQ until 2009 when it was repealed because of budget constraints and the belief that existing legal remedies were available to protect small-quantity well owners from large scale water withdrawals.

According to the Department of Environmental Quality, during the program's years in operation (2003-2009), 107 complaints were received, 53 were successfully resolved, and none were declared a conflict by the director.

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