



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 13, 2010

The Honorable Bob Odell, Chairman
N.H. Senate
Ways and Means Committee
State House, Room 100
Concord, New Hampshire 03301

Re: Amendment to HB 1293-FN – relative to tax exemptions for water and air pollution control installations

Dear Chairman Odell and Members of the Committee:

Thank you for the opportunity to comment on the amendment to HB 1293-FN, which seeks to amend RSA 72:12-a, the statute that authorizes DES to grant exemptions from local property taxes for air and water pollution control devices, to make clear that private sewage disposal or treatment systems are not eligible for the exemption. DES requested this legislation, which would incorporate the following bolded addition to the second sentence in RSA 72:12-a, I: **This paragraph shall not apply to privately-owned landfills or ancillary facilities located at such landfills or to sewage disposal systems installed pursuant to RSA 485-A:29-44 and rules adopted pursuant thereto, except that any exemption for a sewage disposal system granted prior to January 1, 2010 shall remain in effect.**

RSA 72:12-a currently makes eligible for an exemption from local property taxes “any person” who installs “any treatment facility, device, appliance or installation wholly or partly for the purpose of reducing, controlling, or eliminating any source of air or water pollution”. Over the years, DES has granted tax exemptions to various industrial, commercial and institutional facilities for large or complex air or water pollution control facilities.

In 2009, DES received, for the first time, an application for a tax exemption for an individual sewage disposal system. The application was denied because DES did not believe that the Legislature intended that septic systems serving private residences would be eligible for a pollution control tax exemption, and it found that there was no public benefit arising from granting a tax exemption for a private septic system. This determination was appealed to the New Hampshire Supreme Court, which reversed DES on April 9, 2010 with a ruling that DES had no discretion to deny a tax exemption application for a facility that qualified as a pollution control device within the plain language of RSA 72:12-a.

The purpose of the amendment to HB 1293-FN is to explicitly state in RSA 72:12-a that it does not apply to sewage disposal systems installed pursuant to the State’s water pollution law, RSA 485-A. If this amendment were not adopted, there are hundreds of thousands of property owners who will be eligible to apply for and receive tax exemptions for their private septic systems. This will result in significant reductions in local property tax revenues in municipalities across the state, with no commensurate environmental benefit. Accordingly, we urge prompt enactment of HB 1293-FN, as amended by this additional language.

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Thank you again for the opportunity to offer our support for HB 1293-FN, as amended.
Please contact me at 271-2958 or Assistant Commissioner Michael Walls at 271-8806 if you
have any questions or would like further information.

Sincerely,


for Thomas S. Burack
Commissioner

cc: Representative L. Webb
Representative A. Peterson