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LONG ISLAND

State bill could impact LI water



POLITICS & POWER

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Backers say it's merely a clarification. But a pending state bill could have wide impact on protection of water supplies on Long Island and statewide, and save customers millions of dollars in remediation costs.

Long Island public water suppliers are backing a measure to change existing law that provides a three-year statute of limitation to bring lawsuits against polluters.

Backers of the legislation want to make clear that the time limit begins to run when contamination levels exceed pollution standards at each well.

Water officials say current law does not clearly spell out when the statute of limitations begins to run. Defendants have mounted defenses claiming the period begins when the first signs of trace pollution occur or when a supplier takes preparatory action anticipating potential contamination even if a plume has not yet directly affected water wells.

"We're not changing the three-year period to bring a lawsuit, it just clarifies when the statute of limitations begins to run," said Tim Hopkins, the Suffolk County Water Authority's general counsel.

"It's been an ongoing battle. The first thing defendants do when we file litigation is file a motion to dismiss saying the statute of limitation has already run out," Hopkins said.

The proposed legislation comes after the 2nd U.S. Circuit Court of Appeals in Manhattan last March ruled the Bethpage Water District should have filed a 2013 lawsuit against Northrop Grumman Corp. earlier.

The decision noted the water district began planning to upgrade treatment at a well site as far back as 2008 and took action before 2010.

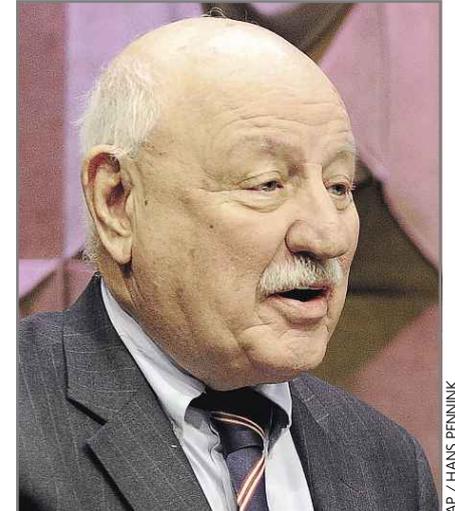
The district said the three-year period started in late 2010 when contamination was found in district water.

"The approach advocated by the district would lead to the odd result of encouraging water providers to allow contamination to reach wells so that a cause for action might accrue," the court ruled.

Water district lawyer Michael F. Ingham said the district will return to court on the 2013 lawsuit if state law changes.

"This is a taxpayer protection statute," he said.

A Northrop Grumman representative declined to comment.



State Sen. Kenneth LaValle (R-Port Jefferson) is sponsoring the legislation.

The SCWA and 22 other water districts agreed in 2010 to a \$39 million settlement in a case against nine major oil companies for MTBE contamination.

Hopkins said in that settlement some of SCWA's claims for specific wells were eliminated because of time limits. Treatment systems to deal with contamination can cost from \$1 million to \$2 million per well, he said.

"Public drinking water suppliers across Long Island have faced serious setbacks in court," said Paul Granger of the Long Island Water Conference. "This legislation would significantly enhance efforts to have those who cause contamination pay for . . . treatment and remediation" and reduce the state's burden for helping fund treatment systems.

While backers say they have encountered no visible opposition, prospects for all state legislation are uncertain. There was a 31-31 Republican-Democrat split in the State Senate last week because of the absence of retiring Sen. Tom Croci (R-Sayville).

Sen. Kenneth LaValle (R-Port Jefferson), who is sponsoring the legislation with Assemb. Fred Thiele (I-Sag Harbor), called the bill "critical for Long Island."

LaValle said the measure won't be affected by politics. "This house is very sensitive about the water supply and how it affects individuals, families and communities," he said.

Desmond Ryan, a veteran Albany business lobbyist, said he expects a number of noncontroversial bills with majority sponsors to clear both houses in the next 10 days.

"But anything's possible at the end of session because it's an election year," Ryan said.

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