

# Bill as Introduced

HB 1332 – AS INTRODUCED

2010 SESSION

10-2224

03/09

HOUSE BILL

***1332***

AN ACT

relative to planning board members.

SPONSORS:

Rep. A. Perkins, Rock 14; Rep. Weare, Rock 14

COMMITTEE:

Municipal and County Government

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ANALYSIS

This bill limits the applicability of the prohibition on 2 or more town planning board members serving on another board or commission.

.....

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT                   relative to planning board members.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Planning Board Members Serving on Other Local Boards. Amend RSA 673:7, I to read as  
2 follows:

3           I. In the case of towns, appointed or elected members of the planning board may also serve  
4 on any other municipal board or commission, provided that such multiple membership does not  
5 result in 2 planning board members serving on the [same] ***zoning board of adjustment, conservation***  
6 ***commission, heritage commission, or other land use*** board or commission.

7           2 Effective Date. This act shall take effect 60 days after its passage.

HB 1332 – AS AMENDED BY THE HOUSE

27Jan2010... 0193h

2010 SESSION

10-2224  
03/09

HOUSE BILL

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4 on any other municipal board or commission, provided that such multiple membership does not  
5 result in 2 planning board members serving on the [same] *conservation commission, the local*  
6 *governing body, or a local land use* board [~~or commission~~] *as defined in RSA 672:7.*

7       2 Effective Date. This act shall take effect 60 days after its passage.

# Committee Minutes

ATTENDANCE

**SENATE CALENDAR NOTICE  
PUBLIC AND MUNICIPAL AFFAIRS**

- ✓ Senator Betsi DeVries Chairman
- ✓ Senator Matthew Houde V Chairman
- Senator Kathleen Sgambati
- ✓ Senator Sheila Roberge
- ✓ Senator John Barnes, Jr.

START: 9:31 AM  
END: 9:41 AM

For Use by Senate Clerk's  
Office ONLY

Bill Status

Docket

Calendar

Proof:  Calendar  Bill Status

Date: April 8, 2010

**HEARINGS**

**Thursday**

**4/15/2010**

**PUBLIC AND MUNICIPAL AFFAIRS**

**LOB 103**

**8:30 AM**

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

8:30 AM HB1335-FN

(New Title) establishing a local option to authorize the governing body to set the interest rate on late and delinquent property tax payments, subsequent payments, and other unpaid taxes, relative to the authority to expend municipal transportation improvement funds.

8:45 AM HB1138

9:05 AM HB1332

relative to planning board members.

9:15 AM HB1198-L

relative to public hearings on municipal budget preparation.

Sponsors:

**HB1335-FN**

Rep. Steve Vaillancourt

Rep. Susan Kepner

Rep. John Henson

Rep. Trinka Russell

**HB1138**

Rep. Donna Schlachman

Rep. Dianne Schuett

Sen. Amanda Merrill

**HB1332**

Rep. Amy Perkins

Rep. Everett Weare

**HB1198-L**

Rep. Timothy Butterworth

Rep. Betsey Patten

# Public and Municipal Affairs Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Shannon Whitehead, *Legislative Aide*

**RE:** Hearing report on **HB 1332-AN ACT** relative to planning board members

**HEARING DATE:** April 15, 2010

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**MEMBERS OF THE COMMITTEE PRESENT:** Senator DeVries, Senator Houde, Senator Roberge, and Senator Barnes

**MEMBERS OF THE COMMITTEE ABSENT:** Senator Sgambati

**Sponsor(s):** Rep. A. Perkins, Rock 14; Rep. Weare, Rock 14

**What the bill does:** The bill limits the applicability of the prohibition on 2 or more town planning board members serving on another board or commission.

**Who supports the bill:** Cordell Johnston (NHMA) Rep. Mary Cooney, Rep. Amy Perkins, Rep. Dianne Shuett

**Who opposes the bill:** No one appeared in opposition.

**Summary of testimony received:**

**Rep. Perkins: Prime Sponsor**

- The intent of this bill was to adjust the existing restrictions of planning board membership and to prevent an interest of dual membership on the board. RSA 673:7
- It was recognized that in smaller municipalities there may be only a few individuals willing to serve on town boards.



- This bill allows candidates additional board or commission opportunities while restricting conflicting dual membership only to all land use boards, conservation commissions or local governing bodies.
- The House Municipal and County Government committee voted 17-1.
- Recognizes conflict but opens up opportunity for individuals to be apart of the board if there is not a conflict of interest. The RSA was broad.
- Preserves of any land use boards
- The bill was approved by the Office of Energy and Planning. Jennifer Sise and Ben frost helped with the wording.

**Cordell Johnston: NHMA**

- In support of the bill. Stated that the problem is in small towns where it is hard to volunteer to be on one board or commission.
- Elected members of the planning board may also serve on any other municipal board or commission, provided that multiple membership does not result in 2 planning board members serving on the conservation commission, the local governing body and or local land use board.
- This addresses, voids concerns and prevents

**Funding:** *Not applicable*

**Future Action:** Pending

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Date: April 15, 2010  
Time: 9:31 a.m.  
Room: LOB Room 103

The Senate Committee on Public and Municipal Affairs held a hearing on the following:

HB 1332 relative to planning board members.

Members of Committee present: Senator DeVries  
Senator Houde  
Senator Roberge  
Senator Barnes

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The Chair, Senator Betsi DeVries, opened the hearing on HB 1332 and invited the prime sponsor, Representative Amy Perkins, to introduce the legislation.

Senator Betsi DeVries, D. 18: Good Morning.

Representative Amy Perkins: Thank you very much. I'm so delighted to be here because it means we're halfway there. So this is a huge honor. I am Representative Amy Perkins. I represent Rockingham County District 14, Hampton Falls, Seabrook, South Hampton and Kensington. And I bring forth HB 1332.

I believe that this bill, first of all, it is amendment to New Hampshire RSA 673:7. And I believe that 673:7, the original intent of the bill was to prevent a conflict of interest of planning board members serving dual memberships on other boards in a town. I think that HB 1332 recognizes that conflict and the potential. HB 1332 does recognize the conflict, but it does open up the ability for other members of the planning board to serve on other boards that may not have a conflict. For example, the Conservation Commission, the local governing body or another local land use board. And I will give you an example.

In my town, we have an individual who does serve on our Planning Board. She also serves on our Conservation Committee. And thirdly, she serves on

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our Rec Commission. And, as a result of her dedicated service, anybody else that sits on the Planning Board with her cannot sit on any of those other boards. And I did use the Rec Commission over and over as an example in the Committee hearing, because I don't believe that there would be a conflict if there were two members of the Planning Board serving on the Rec Commission together.

I hope that I've been able to explain that somewhat eloquently. If there is some confusion, but again, HB 1332 is a simple amendment and it continues to honor the possibility of a conflict by dual memberships. But it does open up the ability, especially in a small town, for individuals to take membership on another board or committee, as long as there's no conflict of interest.

Senator Betsi DeVries, D. 18: Question from Senator Barnes. I knew that might be forthcoming. If you are willing.

Senator John S. Barnes, Jr., D. 17: Thank you, Madam Chair.

Representative Perkins: I am, thank you.

Senator John S. Barnes, Jr., D. 17: Who determines the conflict of interest?

Representative Perkins: The conflict of interest was first determined in the original New Hampshire RSA 673:7. But it was very broad. It was very broad saying that there could not be dual membership on any other board. Again, we don't believe that there would be a conflict of interest if two members served on the Planning Board and the Rec Commission. There are so many commissions. We now have Energy Commissions. There shouldn't be a conflict of interest there. Again, HB 1332 preserves a potential conflict of any other land use board, or Select board or governing body.

Senator John S. Barnes, Jr., D. 17: Would you believe a conflict of interest is in the eyes of the beholder?

Representative Perkins: I would believe that, Senator.

Senator John S. Barnes, Jr., D. 17: Half the town says it is, and half the town says it isn't.

Representative Perkins: I would believe that. I would believe that.

Senator John S. Barnes, Jr., D. 17: And that's why I have a concern about conflict of interest, would you believe?

Representative Perkins: I was going to share with you folks the position of New Hampshire Municipal, but Cordell is here, thankfully, to do that. This bill was overwhelmingly supported by the Committee, except for one individual who, quite frankly, admitted that he didn't understand it. Secondly, it was also supported by the New Hampshire Office of Energy and Planning.

Senator Betsi DeVries, D. 18: Well, that would raise a question for me, the New Hampshire Office of Energy and Planning. They are representing the planning component, you mean for planning boards 'cause they don't normally, I think, express an opinion. It's the Planning Association we usually hear from. So did they send a formal letter in support?

Representative Perkins: Actually, Jennifer Czysz testified, as did Ben Frost, and they did support.

Senator Betsi DeVries, D. 18: Okay. Okay, I think that's the Planning Association, then.

Representative Perkins: And Jennifer Czysz from New Hampshire Planning also supported it. She actually helped with the wording of the amendment.

Senator Betsi DeVries, D. 18: Senator Barnes has...

Senator John S. Barnes, Jr., D. 17: Yes, would you believe. The Planning Board in our town, and I'm sure in a lot of other towns, has a lot of interaction with the Conservation people? And let's say I'm a developer. I'm not, but let's say I'm a developer and I go before the Planning Board. Now all of a sudden I look up and the Conservation Commission gets involved and geez, two of them are on the Planning Board. I have a problem with that. I think it's a little heavy. And that has been the problem in our town. Matter of fact, and I won't get into it here, but I can tell you on the side, if two members of the Planning Board came on the Conservation, I'd have a real problem with that.

Representative Perkins: Again, Senator, I would believe, therefore, we adjusted HB 1332 to again prohibit and prevent two members of the Planning Board from also serving on the Conservation Committee. That was part of the amendment. So again, for the record, HB 1332 prevents

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dual membership from Planning Board members from sitting on the Conservation Commission, as well as the local governing body, which would be your Select board, or a local land use board. So it simply opens up the language to allow, again, going back to the Rec Commission as an example, for two individuals who may be sitting on the Planning Board to also share membership on the Rec Commission. But no other land use board.

Senator John S. Barnes, Jr., D. 17: That takes care of it.

Senator Betsi DeVries, D. 18: Thank you very much for your testimony this morning.

Representative Perkins: My pleasure. Thank you.

Senator Betsi DeVries, D. 18: Representative Cooney, you did indicate that you would like to speak. Would you like to still speak in support?

Representative Mary Cooney: Well, I don't think I need to speak. That probably Cordell Johnston can answer any questions. I did pass out the statutes so that you can look at what...Please see **Attachment #1 - Representative Mary Cooney's Title LXIV Planning and Zoning Statutes.**

Senator Betsi DeVries, D. 18: And we appreciate that, thank you. And I also have Representative Schuett, who has signed in not speaking, but in support. And I would call on Cordell Johnston. Morning, again.

Attorney Cordell Johnston: Good morning. Thank you. Cordell Johnston, representing the New Hampshire Municipal Association, and we do support the bill. I think Representative Perkins explained it quite well.

The problem is, particularly in small towns where it's hard enough to get people to volunteer just to be on one board or commission. And I often use the example of Hart's Location, population 33. I don't know how many of those are adults who are old enough to actually serve on local boards or commissions. But, if you can't have two members of the Planning Board serving on, say, Budget Committee or Recreation Committee or any number of other boards or committees or commissions, it makes it really difficult, and in some cases, probably impossible to get enough people to be on those different boards. And it has been a problem in municipalities. There's been a problem in my town.

So I think this addresses that problem, and it avoids the concern that Senator Barnes raised of a conflict of interest because it does exclude, it does

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prevent having more than one planning board member on either the Conservation Commission or any other land use board, or the Board of Selectmen or other governing body, for that matter.

And, just for clarification, I don't remember, but if it was Jennifer Czysz, she is from the Office of Energy and Planning. Ben Frost would have been from the Planners' Association.

Senator Betsi DeVries, D. 18: Thank you. Thank you for that clarification. And a question from Senator Barnes.

Senator John S. Barnes, Jr., D. 17: Thank you, Madam Chair. Cordell, Selectmen have representatives on these boards, so let's suppose a Selectman's rep who is a Selectman's rep to the Conservation Commission, and she's also a member of the ZBA.

Attorney Johnston: Okay.

Senator John S. Barnes, Jr., D. 17: How does that play out?

Attorney Johnston: You have a Selectman's rep on the Conservation Commission, and that person is also a member of the ZBA.

Senator John S. Barnes, Jr., D. 17: Yup.

Attorney Johnston: That...well, this wouldn't affect that because this deals with planning board members.

Senator John S. Barnes, Jr., D. 17: That's a land use board, the ZBA. Right?

Attorney Johnston: Right, but, in your hypothetical is that person...

Senator John S. Barnes, Jr., D. 17: This isn't hypothetical.

Attorney Johnston: Okay.

Senator John S. Barnes, Jr., D. 17: This is a real case that we have in town that is causing a great deal of conversation.

Attorney Johnston: Is she the Selectmen's rep on the Planning Board?

Senator John S. Barnes, Jr., D. 17: No, she's on the Conservation Commission.

Attorney Johnston: Okay.

Senator John S. Barnes, Jr., D. 17: Her husband is the Chairman of the Planning Board.

Attorney Johnston: Okay.

Senator John S. Barnes, Jr., D. 17: I don't think the RSA says her husband can't be there. I'm not getting into that. But I'm just stating that she is on...she is a Selectman, a Select Lady, I should say, Selectperson is what we changed it to last year. And she is the Selectmen's rep to the Conservation Commission. And she is also the Secretary on the ZBA, which is an appointed, we just reappointed her to that.

Attorney Johnston: Okay, well, I'll tiptoe through this. You definitely have some potentials for conflicts of interest there.

Senator John S. Barnes, Jr., D. 17: No question.

Attorney Johnston: However, this bill wouldn't affect that, because this only says you can have more than one planning board member serving on other boards or commissions.

Senator John S. Barnes, Jr., D. 17: Okay.

Attorney Johnston: So, I recognize the concern, but this bill wouldn't affect that.

Senator John S. Barnes, Jr., D. 17: All this conflict of interest...

Attorney Johnston: As someone said, it wouldn't help it either. That's true, it wouldn't help it.

Senator Betsi DeVries, D. 18: Thank you, Representative Patten, for the editorial comment.

Attorney Johnston: You'll have to look elsewhere for help on that.

Senator John S. Barnes, Jr., D. 17: Thank you very much.

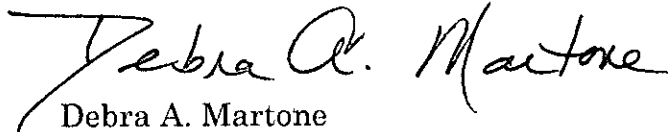
Senator Betsi DeVries, D. 18: Further questions from the Committee? Seeing none, we thank you for your testimony.

Attorney Johnston: Thank you.

Senator Betsi DeVries, D. 18: With that, I will close the hearing on HB 1332.

Hearing concluded at 9:41 a.m.

Respectfully submitted,



Debra A. Martone  
Senate Committee Secretary  
06/07/10

1 Attachment



# TITLE LXIV PLANNING AND ZONING

## CHAPTER 672 GENERAL PROVISIONS

### Words and Phrases Defined

#### Section 672:7

**672:7 Local Land Use Board.** – "Local land use board" means a planning board, historic district commission, inspector of buildings, building code board of appeals, or zoning board of adjustment established by a local legislative body.

**Source.** 1983, 447:1, eff. Jan. 1, 1984.

## CHAPTER 673 LOCAL LAND USE BOARDS

### Appointment and Terms of Local Land Use Board Members

#### Section 673:7

##### **673:7 Planning Board Members Serving on Other Local Boards.** –

I. In the case of towns, appointed or elected members of the planning board may also serve on any other municipal board or commission, provided that such multiple membership does not result in 2 planning board members serving on the same board or commission.

II. In cities, appointed members shall not hold any other municipal office, except that:

- (a) One of the appointed members may be a member of the zoning board of adjustment;
- (b) Either one appointed member or one ex officio member may be a member of the conservation commission if one exists in the city; and
- (c) Either one appointed member or one ex officio member may be a member of the heritage commission, the historic district commission, the agricultural commission, the housing commission, or all 4 if such commissions exist in the municipality.

III. In counties in which there are located unincorporated towns or unorganized places, the county commissioners shall determine which members of the planning board for those towns and places, if any, may serve on other municipal boards or commissions.

**Source.** 1983, 447:1. 1989, 266:10. 1992, 64:7. 2007, 266:4, eff. Aug. 28, 2007. 2008, 391:4, eff. Sept. 15, 2008.

# Speakers



# Voting Sheets

# Senate Public & Municipal Affairs Committee

## EXECUTIVE SESSION

Bill # HB 1332

Hearing date: 04/15/10

Executive session date: ~~04/15/10~~ 05/04/10

Motion of: TTL

VOTE: 4-1

Made by DeVries   
Senator: Houde   
 Sgambati   
 Roberge   
 Barnes

Seconded DeVries   
by Senator: Houde   
 Sgambati   
 Roberge   
 Barnes

Reported DeVries   
by Senator: Houde   
 Sgambati   
 Roberge   
 Barnes

Motion of: \_\_\_\_\_

VOTE: \_\_\_\_\_

Made by DeVries   
Senator: Houde   
 Sgambati   
 Roberge   
 Barnes

Seconded DeVries   
by Senator: Houde   
 Sgambati   
 Roberge   
 Barnes

Reported DeVries   
by Senator: Houde   
 Sgambati   
 Roberge   
 Barnes

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator DeVries, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Houde, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Sgambati	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roberge	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Barnes	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*Amendments: \_\_\_\_\_  
 \_\_\_\_\_

Notes: \_\_\_\_\_  
 \_\_\_\_\_

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: May 4, 2010

THE COMMITTEE ON Public and Municipal Affairs  
to which was referred House Bill 1332

AN ACT                   relative to planning board members.

Having considered the same, the committee recommends that the Bill:  
**IS INEXPEDIENT TO LEGISLATE**

BY A VOTE OF:   4-1

AMENDMENT #        s

Senator John S. Barnes, Jr.  
For the Committee

Debra Martone 271-3092

## New Hampshire General Court - Bill Status System

**Docket of HB1332**

Docket Abbreviations

**Bill Title:** relative to planning board members.*Official Docket of HB1332:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
01/06/2010	H	Introduced and Referred to Municipal and County Government; <b>HJ 6</b> , PG.236
01/06/2010	H	Public Hearing: 1/12/2010 11:00 AM LOB 301
01/06/2010	H	Executive Session: 1/20/2010 10:00 AM LOB 301
01/21/2010	H	Committee Report: Ought to Pass with Amendment #0193h for Jan 27 CC (vote 17-1); <b>HC 8</b> , PG.334
01/21/2010	H	Proposed Committee Amendment #0193h; <b>HC 8</b> , PG.361
01/27/2010	H	Amendment #0193h Adopted, VV; <b>HJ 12</b> , PG.504
01/27/2010	H	Ought to Pass with Amendment #0193h: MA VV; <b>HJ 12</b> , PG.504
03/24/2010	S	Introduced and Referred to Public and Municipal Affairs; <b>SJ 11</b> , Pg.262
04/08/2010	S	Hearing: April 15, 2010, Room 103, LOB, 9:05 a.m.; <b>SC15</b>
05/04/2010	S	Committee Report: Inexpedient to Legislate, 5/12/10; <b>SC19</b>
05/12/2010	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===

NH House

NH Senate

Contact Us

*New Hampshire General Court Information Systems*  
 107 North Main Street - State House Room 31, Concord NH 03301



# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

#B1332 ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE on which you have taken attendance

HEARING REPORT (written summary of hearing testimony)

HEARING TRANSCRIPT (verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: 1

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

\_\_\_\_ - AMENDMENT # \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_  
\_\_\_\_ - AMENDMENT # \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED  AS AMENDED BY THE HOUSE  
\_\_\_\_ FINAL VERSION \_\_\_\_\_ AS AMENDED BY THE SENATE

\_\_\_\_ PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [ a thru g or a, b, c, d] here: \_\_\_\_\_

EXECUTIVE SESSION REPORT

\_\_\_\_ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 07/12/10

  
COMMITTEE SECRETARY