

Bill as
Introduced

HB 230 - AS INTRODUCED

2011 SESSION

11-0384

06/10

HOUSE BILL **230**

AN ACT exempting the repair of certain structures from compensatory mitigation requirements.

SPONSORS: Rep. Hunt, Ches 7

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill exempts owners of waters, that are solely within the boundaries of the owner's property and have no abutters, who repair or replace existing structures from compensatory mitigation requirements.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT exempting the repair of certain structures from compensatory mitigation requirements.

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

1 1 New Subparagraph; Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-
2 A:3, IV by inserting after subparagraph (b) the following new subparagraph:

3 (c) The replacement or repair of existing structures in any waters which are not public
4 waters of the state under RSA 271:20 and which are located solely within the boundaries of the
5 owner's property, and which have no direct abutters, is exempt from the compensatory mitigation
6 requirements of this chapter.

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

Committee Minutes

SENATE CALENDAR NOTICE

ENERGY AND NATURAL RESOURCES

✓ Senator Bob Odell Chairman
 ✓ Senator John Gallus V Chairman
 ✓ Senator Jeb Bradley
 ✓ Senator Gary Lambert
 ✓ Senator Amanda Merrill

For Use by Senate Clerk's
Office ONLY

☐ Bill Status

☐ Docket

☐ Calendar

Proof: ☐ Calendar ☐ Bill Status

Date: April 6, 2011

HEARINGS

Thursday

4/14/2011

ENERGY AND NATURAL RESOURCES

LOB 102

9:30 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:30 AM HB144

(New Title) relative to energy efficiency and clean energy districts.

9:45 AM HB196

relative to the certificates of completion of a basic hunter education program or bow hunter education program.

✓ 10:00 AM HB230

exempting the repair of certain structures from compensatory mitigation requirements.

10:15 AM HB381

authorizing net metering for micro-combined heat and power systems.

10:30 AM HB387

requiring providers of prepaid cellular telephone service to provide subscriber information to the enhanced 911 system.

Sponsors:

HB144

Rep. Carol McGuire

HB196

Rep. Dennis Reed

Rep. David Palfrey

HB230

Rep. John Hunt

HB381

Rep. Robert Introne

Rep. Naida Kaen

Rep. Sam Cataldo

HB387

Rep. Robin Read

Rep. Beatriz Pastor

Rep. Charles Townsend

START: 10:03am

END: 10:10am

Richard Parsons 271-3076

Sen. Bob Odell

Chairman

Energy and Natural Resources Committee

Hearing Report

TO: Members of the Senate

FROM: Richard Parsons, Legislative Aide

RE: Hearing report on HB 230 – **exempting the repair of certain structures from compensatory mitigation requirements.**

HEARING DATE: 04/14/2011

MEMBERS OF THE COMMITTEE PRESENT: Senators Odell, Gallus,
Lambert, Merrill

MEMBERS OF THE COMMITTEE ABSENT: Senator Bradley

Sponsor(s): Rep. Hunt, Ches 7

What the bill does: This bill exempts owners of waters, that are solely within the boundaries of the owner's property and have no abutters, who repair or replace existing structures from compensatory mitigation requirements.

Who supports the bill: No one.

Who opposes the bill: No one.

Neutral position: Rene Pelletier, DES;

Summary of testimony received:

Rep. John Hunt, Ches 7 – prime sponsor

- Hearing opened at 10:03 am

Rene Pelletier, DES

- The Department does not have a position on HB 230.
- RSA 482-A:2, IX, a, defines a "structure" as "something installed, erected, or constructed, but shall not include a bench, landings, or stairs are installed, erected, or constructed without regarding or recontouring of the shoreline and are not over water. Structure include, but are not limited to, the following: fence, dock, breakwater, post, building, bridge, culvert, and wall."

- RSA 482 271:20 defines "state-owned public waters" as "all natural bodies of fresh water situated entirely in the state having an area of 10 acres or more."
 - It further states that these waters are "held in trust by the state for public uses; and no corporation or individual shall have or exercise in any such body of water any rights or privileges not common to all citizens of this state..."
 - DES maintains an official list of all public waters in the state which we can provide to the Committee upon request.
- HB 230 proposes to exempt the replacement or repair of existing structures from the compensatory mitigation requirements of RSA 482-A for structures that are not in public waters of the state and that are located on waters which are on one owner's property.
 - As proposed, this bill does not conflict with other state requirements and federal wetlands permitting requirements under the United States Army Corps of Engineers State Programmatic General Permit (SPGP) for NH.
- The bill as currently written deals with ponds that are publicly classified.
- Think we may want a legal opinion on this from the AG if the Committee would consider passing the bill.
- Question from Senator Odell: So we have a bill introduced to solve a problem for one problem pond and current law seems to be working, and if we don't amend this bill we may not be even addressing the 30 acre issue?
 - Yes.
- Question from Senator Gallus: The sponsor is clear on this issue?
 - Yes he understands.
 - This came about because the individual wanted to dredge a pond and use that material to repair the dam.

Hearing closed at 10:10 am

Funding: *Not applicable*

Future Action:

Senator Gallus made the motion that the bill be inexpedient to legislate and the motion was seconded by Senator Lambert. The vote was 5-0 and Senator Gallus will report the bill to the floor.

RMP

[file: HB 0230 report]
Date: 04/15/2011

Speakers

Senate Energy and Natural Resources Committee: Sign-In Sheet

Date: 4/13/2011

Time: 10:00 AM Public Hearing on HB 230

HB 230

exempting the repair of certain structures from compensatory mitigation requirements.

Name _____

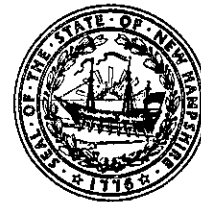
Representing

[illegible]

Testimony



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 14, 2011

The Honorable Bob Odell, Chairman
Energy and Natural Resources Committee
Legislative Office Building, Room 102
Concord, New Hampshire 03301

Re: HB 230, exempting the repair of certain structures from compensatory mitigation requirements.

Dear Chairman Odell:

Thank you for the opportunity to comment on HB 230, which would exempt the replacement or repair of existing structures from compensatory mitigation requirements when the structures are not located on public waters of the state. The Department of Environmental Services (DES) does not have a position on HB 230 and is providing this letter to assist the Committee to understand the scope of the bill.

RSA 482-A:2, IX, defines a "structure" as "something installed, erected, or constructed, but shall not include a bench, landing with dimensions no larger than 10 feet wide by 10 feet long, or stairs with a width not exceeding 6 feet, provided that such benches, landings, or stairs are installed, erected, or constructed without regrading or recontouring of the shoreline and are not over water. Structures include, but are not limited to, the following: fence, dock, breakwater, post, pile, building, bridge, culvert, and wall."

RSA 271:20 defines "state-owned public waters" as "all natural bodies of fresh water situated entirely in the state having an area of 10 acres or more." and further states that these waters are "held in trust by the state for public use; and no corporation or individual shall have or exercise in any such body of water any rights or privileges not common to all citizens of this state....." DES maintains an official list of all public waters in the state which we can provide to the Committee upon request.

HB 230 proposes to exempt the replacement or repair of existing structures from the compensatory mitigation requirements of RSA 482-A for structures that are not in public waters of the state and that are located on waters which are on one owner's property. As proposed, this bill does not conflict with other state requirements and federal wetlands permitting requirements under the United States Army Corps of Engineers State Programmatic General Permit (SPGP) for New Hampshire.

Thank you for this opportunity to comment. Please call Collis Adams at 271-4054, or me at 271-2958, if you have any questions or need additional information.

Very truly yours,

Thomas S. Burack, Commissioner

cc: Representative Hunt
Representative Renzullo

ittle Harbor

vessel" and set penalty. See now
3:1 et seq.

and River of Piscataqua

ilities Commission.

of pilotage of the harbor and
taqua to the public utilities com-

Areas

or corporation harvesting ice
ate shall, at the beginning of
e area from which ice is to be
as long as any danger exist

he provisions of RSA

ired dollars, or imprisoned
ninety days, or both" followi
the section.

CROSS REFERENCES

Classification of crimes, see RSA 625:9.
Sentences, see RSA 651:1 et seq.

271:19 Exception. This subdivision shall not apply to ponds closed, or areas set off, by order of the director of the fish and game department under authority of RSA 206.

HISTORY

Source. 1917, 125:2. PL 152:15. RL section is obsolete. The director has been
182:16. renamed the executive director of the fish
Editor's note. The reference to the di- and game department. See RSA 206:8, II.
rector of fish and game department in this

Defining Certain Public Waters

271:20 State Water Jurisdiction; Published List of Public Waters; Rulemaking.

I. All natural bodies of fresh water situated entirely in the state having an area of 10 acres or more are state-owned public waters, and are held in trust by the state for public use; and no corporation or individual shall have or exercise in any such body of water any rights or privileges not common to all citizens of this state; provided, however, the state retains its existing jurisdiction over those bodies of water located on the borders of the state over which it has exercised such jurisdiction.

II. The department of environmental services shall prepare, maintain, and publish an official list of all public waters in the state. The commissioner of the department of environmental services shall adopt rules, pursuant to RSA 541-A, relative to this publication.

HISTORY

Source. 1901, 9:2. PL 152:16. RL —1977. Substituted "10" for "20" pre-
182:17. RSA 271:20. 1977, 24:2. 1990, ceding "acres".
1977:2, eff. June 26, 1990.

Amendments—1990. Amended section
generally.

CROSS REFERENCES

to public waters, definitions, see RSA 233-A:1.
ification of public waters, see RSA 485-A:11.

certain portions of railroad properties, transportation administration, see RSA

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: April 14, 2011

THE COMMITTEE ON Energy and Natural Resources
to which was referred House Bill 230

AN ACT exempting the repair of certain structures from
 compensatory mitigation requirements.

Having considered the same, the committee recommends that the Bill:

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 5-0

AMENDMENT # s

Senator John T. Gallus
For the Committee

Richard Parsons 271-3076

New Hampshire General Court - Bill Status System

Docket of HB230

Docket Abbreviations

Bill Title: exempting the repair of certain structures from compensatory mitigation requirements.*Official Docket of HB230:*

Date	Body	Description
1/20/2011	H	Introduced 1/6/2011 and Referred to Resources, Recreation and Development; HJ 11 , PG. 178
1/26/2011	H	Public Hearing: 2/3/2011 10:00 AM LOB 305
1/26/2011	H	Executive Session: 2/8/2011 1:00 PM LOB 305
2/10/2011	H	Majority Committee Report: Ought to Pass for Feb 15 (Vote 11-4; RC); HC 13 , PG.236
2/10/2011	H	Minority Committee Report: Inexpedient to Legislate; HC 13 , PG.236
2/15/2011	H	Special Order to Feb 16: MA Without Objection; HJ 17 , PG.378
2/16/2011	H	Ought to Pass: MA VV; HJ 19 , PG.418
3/16/2011	S	Introduced and Referred to Energy and Natural Resources
4/6/2011	S	Hearing: 4/14/11, Room 102, LOB, 10:00 a.m.; SC19
4/14/2011	S	Committee Report: Inexpedient to Legislate, 4/20/11; SC20
4/20/2011	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===; SJ 13 , Pg.264

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 230 ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE 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.

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

X COMMITTEE REPORT

X CALENDAR NOTICE

X HEARING REPORT

X HANDOUTS FROM THE PUBLIC HEARING

X PREPARED TESTIMONY AND OTHER SUBMISSIONS

X SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY
COMMITTEE:

____ - AMENDMENT # _____ - AMENDMENT # _____
____ - AMENDMENT # _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

X AS INTRODUCED _____ AS AMENDED BY THE HOUSE
____ FINAL VERSION _____ AS AMENDED BY THE SENATE

____ 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 7/22/11


BY COMMITTEE AIDE