

Bill as Introduced

HB 1586 - AS INTRODUCED

2012 SESSION

12-2414

08/04

HOUSE BILL

1586

AN ACT

relative to the acquisition of land for conservation purposes.

SPONSORS:

Rep. Mirski, Graf 10

COMMITTEE:

Municipal and County Government

ANALYSIS

This bill requires the selectmen of a town to hold public meetings before the acquisition of land or a lesser interest in land for conservation purposes.

Explanation:

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

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

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the acquisition of land for conservation purposes.

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

1 1 New Paragraph; Acquisition of Property by Municipalities. Amend RSA 41:14-a by inserting
2 after paragraph II the following new paragraph:

3 III. When the acquisition of land or a lesser interest in land for the purposes of conservation
4 under RSA 36-A:4 is considered, the selectmen shall hold 2 public hearings at least 10 but not more
5 than 14 days apart on the proposed acquisition or sale; provided, however, upon the written petition
6 of 50 registered voters presented to the selectmen, prior to the selectmen's vote, according to the
7 provisions of RSA 39:3, the proposed acquisition or sale shall be inserted as an article in the warrant
8 for the town meeting. The selectmen's vote shall take place no sooner than 7 days nor later than 14
9 days after the second public hearing which is held.

10 2 Effective Date. This act shall take effect 60 days after its passage.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 1586

BILL TITLE: relative to the acquisition of land for conservation purposes.
DATE: February 2, 2012
LOB ROOM: 301 **Time Public Hearing Called to Order:** 10:37 am
Time Adjourned: 11:14 am

(please circle if present)

Committee Members: Reps. Ferrante, Sterling, B. Patten, Lockwood, Accornero, Belanger, Burt, Coffey, Copeland, Moore, Munck, Shackett, Stroud, DeStefano, Roberts, Hooper and Tatro.

Bill Sponsors: Rep. Mirski, Graf 10

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. John Burt speaking for Rep. Paul Mirski. Introduces the bill. This bill requires two hearings prior to the acquisition of any land or land interest.

Rep. Kathleen Hoetzel of Rockingham District 2. Supports the bill. There is some confusion about what the role of Conservation Commissions is and would like to work with a subcommittee on an amendment to the bill.

Harriet Cady of Deerfield. Supports the bill. People need to know how irrevocable easements are. Only way to take an easement back is by eminent domain. I see no problem with having lots of public hearings to inform the public. This does not take away any Conservation Commission's rights.

Rep. Frank Bishop of Raymond. Supports the bill. You have to read the whole chapter to understand the issue.

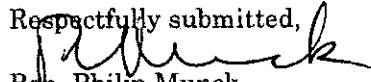
Ralph Kirschner of New Hampton Conservation Commission which opposes the bill. The law requires the selectmen have to hold a public meeting but don't have to hold a hearing. The Conservation Commission must hold public hearings. The intent of this bill appears to be intended to hamstring Conservation Commissions. Conservation Commissions answers to the town meeting and not to the governing body.

***Diane Gilbert** of Epping. Supports the bill. All this bill does is to give the voters an opportunity to speak before land is acquired. Existing law gives the selectmen ability to acquire land with no opportunity for the voters to express their opinion. This is the tip of the iceberg about how Conservation Commissions are exploiting the taxpayers. They are back room deals.

Carol Andrews representing the NH Association of Conservation Commissions. Opposes the bill. Discusses the funding of Conservation Commissions. We see this addition as being very confusing.

Cordell Johnston of NHMA. Has comments. If you want to pass this bill, please put this into RSA 36-A:4 instead of 41:14-a.

Respectfully submitted,



Rep. Philip Munck
Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 1586

BILL TITLE: relative to the acquisition of land for conservation purposes.

DATE: 2/2/12

LOB ROOM: 301 **Time Public Hearing Called to Order:** 10:37

Time Adjourned: 11:14

(please circle if present)

Committee Members: Reps. Ferrante, Sterling, B. Patten, Lockwood, Accornero, Belanger, Burt, Coffey, Copeland, Moore, Munck, Shackett, Stroud, DeStefano, Roberts, Hooper and Tatro

Bill Sponsors: Rep. Mirski, Graf 10

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. John Burt speaking for Rep. Paul Mirski. Introduces the bill. This bill requires two hearings prior to the acquisition of any land or land interest.

Rep. Kathleen Hoetzel of Rockingham District 2. Supports the bill. There is some confusion about what the role of Conservation Commissions is and would like to work with a subcommittee on an amendment to the bill.

Harriet Cady of Deerfield. Supports the bill. People need to know how irrevocable are easements. Only way to take an easement back is by eminent domain. I see no problem with having lots of public hearings to inform the public. This does not take away any Conservation Commission's rights.

Rep. Frank Bishop of Raymond. Supports the bill. You have to read the whole chapter to understand the issue.

Ralph Kirschner of New Hampton Conservation Commission which opposes the bill. The law requires the selectmen have to hold a public meeting but don't have to hold a hearing. The Conservation Commission must hold public hearings. The intent of this bill appears to be intended to hamstring Conservation Commissions. Conservation Commissions answers to the town meeting and not to the governing body.

*Diane Gilbert of Epping. Supports the bill. All this bill does is to give the voters an opportunity to speak before land is acquired. Existing law gives the selectmen ability to acquire land with no opportunity for the voters to express their opinion. This is the tip of the iceberg about how Conservation Commissions are exploiting the taxpayers. They are back room deals.

Carol Andrews representing the NH Association of Conservation Commissions. Opposes the bill. Discusses the funding of Conservation Commissions. We see this addition as being very confusing.

Cordell Johnston of NHMA. Has comments. If you want to pass this bill, please put this into RSA 36-A:4 instead of 41:14-a.

Testimony

Municipal and County Government
HB 1586

My name is Dianne Gilbert. I am here to speak in favor of this bill. I am a four-term Selectman serving the Town of Epping; today I speak only for myself and not as a spokesman for the entire Board.

From the vantage point of my position as a Selectman, I have watched, over the last 12 years, the steady growth of power and local influence enjoyed by the Epping Conservation Commission who, in turn, used it to exploit the people they were appointed to serve by denying them fee-simple ownership and full use of conservation land bought and paid for by the taxpayers.


As Selectman, I have consistently voted against the shams put together by the Epping Conservation Commission to purchase open space land for the purpose of keeping Epping green. They tout ad nauseam the numerous benefits of the purchase to Epping residents but fail to share in an equal manner that access to the land will be limited according to a conservation easement, with language hostile to the Town, which is to be placed on the land and held by a Land Trust which operates external to the boundaries of the Town.

The wheeling and dealing makes a mockery of the law, a blatant end-run around RSA 36-A:4 which gives Conservation Commissions the right ACQUIRE an interest in land in the name of the Town, subject to the approval by the Selectmen, but not GIVE an interest. Therefore, in order to cut the Land Trust into the act, a willing seller must place the easement on the land PRIOR to the Conservation Commission consummating their end of the deal. To mitigate the Seller's risk in placing a cloud on the title, the "willing seller's" recording of that easement is done within the same minute as that of the sale of the land to the Conservation Commission and the public is wholly unaware of what just happened as it is all done out the public view.

Approval of HB 1586 serves to protect the rightful interest of the people. It will afford them the right to petition the Selectmen to bring the purchase of conservation land before the Town Meeting just as the people may currently do under RSA 41:14-a for purchases of land proposed by the Board of Selectmen.

HB 1586 restores the balance of power back to the people where it belongs. Through the right of petition under RSA 41:14-a, it will serve to fully inform the Town's people of how the Conservation Commission is working to conserve open-space; it will hold their purchases up to the light for close inspection.

I urge your support and approval for HB 1586 to amend RSA 41:14-a, to hold Conservation Commissions accountable to the people they are appointed to serve.


Dianne Gilbert, Epping, NH.

LAND Purchase
Selectmen proposed vs
Conservation
Commission proposed.

Per the court:
RSA 41-14 petition
option not applicable
here. Epping v Gilbert
**08 –E-542. Law does
not give the voters any-
control.**

**RSA 41:14A gives the
voters bypass control.**

PATH ONE:
Conservation Commission
proposes the purchase of land under RSA 36A .
Voters have NO say. Dependent upon
Selectmen to protect their best interest with no legal
recourse if they do not agree with the purchase
arrangement.

PATH TWO:
Selectmen propose the purchase
of land under RSA 41:14. Voters
can petition to force the decision
to come before the
Town Meeting.

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB1586

BILL TITLE: relative to the acquisition of land for conservation purposes.

DATE: February 14, 2012

LOB ROOM: 301

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Belanger

Seconded by Rep. Ferrante

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO (Please circle one)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Munck, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB1586

BILL TITLE: relative to the acquisition of land for conservation purposes.

DATE: 2/14/12

LOB ROOM: 301

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Belanger

Seconded by Rep. Ferrante

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO (Please circle one)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,
Rep. Philip Munck, Clerk

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 1586 Title: _____

PH Date: 1/1/12

Exec Session Date: 2, 14, 12

Motion: ITL

Amendment #: _____

MEMBER	YEAS	NAYS
Ferrante, Beverly A, Chairman	✓	
Sterling, Franklin W, V Chairman	✓	
Patten, Betsey L	✓	
Lockwood, Priscilla P	✓	
Accornero, Harry	✓	
Belanger, James P	✓	
Burt, John A	✓	
Coffey, James E	✓	
Copeland, Timothy D	✓	
Moore, Robert W	✓	
Munck, Philip L, Clerk	✓	
Shackett, Jeffrey S	✓	
Stroud, Kathleen M	✓	
DeStefano, Stephen T	✓	
Roberts, Kris E	✓	
Hooper, Dorothea D <u>Porter, M.</u>	✓	
Tatro, Bruce L	✓	
TOTAL VOTE:	17	0

Committee Report

CONSENT CALENDAR

February 16, 2012

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on MUNICIPAL AND COUNTY
GOVERNMENT to which was referred HB1586,**

**AN ACT relative to the acquisition of land for
conservation purposes. Having considered the same,
report the same with the following Resolution:**

RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. James P Belanger

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	MUNICIPAL AND COUNTY GOVERNMENT
Bill Number:	HB1586
Title:	relative to the acquisition of land for conservation purposes.
Date:	February 16, 2012
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

Selectmen already hold a public hearing before acquiring land. This bill would require them to hold two such hearings not more than 14 but at least 10 days apart. When a municipality has appropriated funds set aside for land purchases, the voters have already approved of the general purpose of those funds. Yet, if an opportunity arises to make a land purchase for conservation purposes and 50 voters submit a petition, that land cannot be purchased until the next annual town meeting via a warrant article. The opportunity may not be available at that time and the axiom of striking while the iron is hot would be thrown out the window. This legislation simply inserts one more road block in the path of land purchases for conservation purposes even after the voters have approved funds and set them aside with that specific intent. After the legislative body has pre-approved funds for any purpose and given the governing body the authority to expend those funds, there is no need for more than one hearing on the matter and especially no need to bring it back before the voters at another annual meeting.

Vote 17-0.

Rep. James P Belanger
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

MUNICIPAL AND COUNTY GOVERNMENT

HB1586, relative to the acquisition of land for conservation purposes. **INEXPEDIENT TO LEGISLATE.**

Rep. James P Belanger for MUNICIPAL AND COUNTY GOVERNMENT. Selectmen already hold a public hearing before acquiring land. This bill would require them to hold two such hearings not more than 14 but at least 10 days apart. When a municipality has appropriated funds set aside for land purchases, the voters have already approved of the general purpose of those funds. Yet, if an opportunity arises to make a land purchase for conservation purposes and 50 voters submit a petition, that land cannot be purchased until the next annual town meeting via a warrant article. The opportunity may not be available at that time and the axiom of striking while the iron is hot would be thrown out the window. This legislation simply inserts one more road block in the path of land purchases for conservation purposes even after the voters have approved funds and set them aside with that specific intent. After the legislative body has pre-approved funds for any purpose and given the governing body the authority to expend those funds, there is no need for more than one hearing on the matter and especially no need to bring it back before the voters at another annual meeting. **Vote 17-0.**

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: M E C G

BILL NUMBER: HB 1586

TITLE: RE TO ACQUISITION of land for Conservation purposes

DATE: 2/14/2012 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

BAF

COMMITTEE VOTE: 17-0

<ul style="list-style-type: none"> • Copy to Committee Bill File • Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,
 Rep *Jim Belanger*
 For the Committee

HB1586 Blurb

Selectmen already hold a public hearing before acquiring land. This bill would require them to hold two such hearings not more than 14 but at least 10 days apart. When a municipality has appropriated funds set aside for land purchases, the voters have already approved of the general purpose of those funds. Yet, if an opportunity arises to make a land purchase for conservation purposes and 50 voters submit a petition, that land cannot be purchased until the next annual town meeting via a warrant article. The opportunity may not be available at that time and the axiom of striking while the iron is hot would be thrown out the window. This legislation simply inserts one more road block in the path of land purchases for conservation purposes even after the voters have approved funds and set them aside with that specific intent. After the legislative body has pre-approved funds for any purpose and given the governing body the authority to expend those funds, there is no need for more than one hearing on the matter and especially no need to bring it back before the voters at another annual meeting.