

Bill as Introduced

HB 111 - AS AMENDED BY THE HOUSE

30Jan2013... 0014h

2013 SESSION

13-0055
10/05

HOUSE BILL

111

AN ACT relative to the acquisition of property rights at Akers Pond dam in the town of Errol by the fish and game department and the acquisition of property rights at Northwood Lake dam in the town of Epsom and Hermit Lake dam in the town of Sanbornton by the department of environmental services.

SPONSORS: Rep. Chandler, Carr 1; Rep. Rappaport, Coos 1; Rep. Enman, Coos 1; Sen. Woodburn, Dist 1

COMMITTEE: Resources, Recreation and Development

AMENDED ANALYSIS

The bill allows the fish and game department to acquire an easement at the Akers Pond dam in Errol for the purpose of improving and controlling the water rights for the benefit of the state. The bill also allows the department of environmental services to acquire easements at the Northwood Lake dam in the town of Epsom and the Hermit Lake dam in the town of Sanbornton for the purpose of improving and controlling the water rights for the benefit of the state.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 111 - AS AMENDED BY THE HOUSE

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STATE OF NEW-HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the acquisition of property rights at Akers Pond dam in the town of Errol by the fish and game department and the acquisition of property rights at Northwood Lake dam in the town of Epsom and Hermit Lake dam in the town of Sanbornton by the department of environmental services.

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

1 1 New Paragraphs; Acquisition by State of Certain Dams and Water Rights; Akers Pond Dam;
2 Northwood Lake Dam; Hermit Lake Dam. Amend RSA 482:48 by inserting after paragraph VII the
3 following new paragraphs:

4 VIII. For a consideration of \$1, the fish and game department may accept an easement from
5 the property owners of all rights necessary to repair, maintain, and operate Akers Pond dam access
6 and dike area in the town of Errol, adjacent to and abutting the state owned dam known as number
7 080.20 for the purpose of improving and controlling the water rights for the benefit of the state. The
8 easement the fish and game department is authorized to acquire for the benefit of the state shall be
9 exempt from taxation as long as the easement is held by the state. The fish and game department
10 may transfer rights in these properties under RSA 482:51 to the department for purposes of repair
11 and maintenance. With the exception of such \$1 consideration, nothing in this paragraph shall
12 mandate or authorize the expenditure of any funds or capital relative to the provisions of this
13 paragraph.

14 IX. For a consideration of \$1 each, the department of environmental services may accept an
15 easement from the property owners of all rights necessary to access, repair, maintain, and operate
16 the dike at Northwood Lake in the town of Epsom appurtenant to the state owned dam known as
17 number 079.01 and the dike at Hermit Lake in the town of Sanbornton appurtenant to the state
18 owned dam known as number 211.01, for the purpose of improving and controlling the water rights
19 for the benefit of the state. The easements the department is authorized to acquire for the benefit of
20 the state shall be exempt from taxation as long as the easements are held by the state. With the
21 exception of such \$1 consideration for each, nothing in this paragraph shall mandate or authorize
22 the expenditure of any funds or capital relative to the provisions of this paragraph.

23 2 Effective Date. This act shall take effect 60 days after its passage.

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

1 New Paragraphs; Acquisition by State of Certain Dams and Water Rights; Akers Pond Dam; Northwood Lake Dam; Hermit Lake Dam. Amend RSA 482:48 by inserting after paragraph VII the following new paragraphs:

VIII. For a consideration of \$1, the fish and game department may accept an easement from the property owners of all rights necessary to repair, maintain, and operate Akers Pond dam access and dike area in the town of Errol, adjacent to and abutting the state owned dam known as number 080.20 for the purpose of improving and controlling the water rights for the benefit of the state. The easement the fish and game department is authorized to acquire for the benefit of the state shall be exempt from taxation as long as the easement is held by the state. The fish and game department may transfer rights in these properties under RSA 482:51 to the department for purposes of repair and maintenance. With the exception of such \$1 consideration, nothing in this paragraph shall mandate or authorize the expenditure of any funds or capital relative to the provisions of this paragraph.

IX. For a consideration of \$1 each, the department of environmental services may accept an easement from the property owners of all rights necessary to access, repair, maintain, and operate the dike at Northwood Lake in the town of Epsom appurtenant to the state owned dam known as number 079.01 and the dike at Hermit Lake in the town of Sanbornton appurtenant to the state owned dam known as number 211.01, for the purpose of improving and controlling the water rights for the benefit of the state. The easements the department is authorized to acquire for the benefit of the state shall be exempt from taxation as long as the easements are held by the state. With the exception of such \$1 consideration for each, nothing in this paragraph shall mandate or authorize the expenditure of any funds or capital relative to the provisions of this paragraph.

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

HB 111 – VERSION ADOPTED BY BOTH BODIES

30Jan2013... 0014h

2013 SESSION

13-0055

10/05

HOUSE BILL 111

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IX. For a consideration of \$1 each, the department of environmental services may accept an easement from the property owners of all rights necessary to access, repair, maintain, and operate the dike at Northwood Lake in the town of Epsom appurtenant to the state owned dam known as number 079.01 and the dike at Hermit Lake in the town of Sanbornton appurtenant to the state owned dam known as number 211.01, for the purpose of improving and controlling the water rights for the benefit of the state. The easements the department is authorized to acquire for the benefit of the state shall be exempt from taxation as long as the easements are held by the state. With the exception of such \$1 consideration for each, nothing in this paragraph shall mandate or authorize the expenditure of any funds or capital relative to the provisions of this paragraph.

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

CHAPTER 17

HB 111 – FINAL VERSION

30Jan2013... 0014h

2013 SESSION

13-0055

10/05

HOUSE BILL **111**

AN ACT relative to the acquisition of property rights at Akers Pond dam in the town of Errol by the fish and game department and the acquisition of property rights at Northwood Lake dam in the town of Epsom and Hermit Lake dam in the town of Sanbornton by the department of environmental services.

SPONSORS: Rep. Chandler, Carr 1; Rep. Rappaport, Coos 1; Rep. Enman, Coos 1; Sen. Woodburn, Dist 1

COMMITTEE: Resources, Recreation and Development

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

17:1 New Paragraphs; Acquisition by State of Certain Dams and Water Rights; Akers Pond Dam; Northwood Lake Dam; Hermit Lake Dam. Amend RSA 482:48 by inserting after paragraph VII the following new paragraphs:

VIII. For a consideration of \$1, the fish and game department may accept an easement from the property owners of all rights necessary to repair, maintain, and operate Akers Pond dam access and dike area in the town of Errol, adjacent to and abutting the state owned dam known as number 080.20 for the purpose of improving and controlling the water rights for the benefit of the state. The easement the fish and game department is authorized to acquire for the benefit of the state shall be exempt from taxation as long as the easement is held by the state. The fish and game department may transfer rights in these properties under RSA 482:51 to the department for purposes of repair and maintenance. With the exception of such \$1 consideration, nothing in this paragraph shall mandate or authorize the expenditure of any funds or capital relative to the provisions of this paragraph.

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17:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 16, 2013

Effective Date: July 15, 2013

Amendments

Rep. Chandler, Carr. 1
January 17, 2013
2013-0014h
10/04

Amendment to HB 111

Amend the title of the bill by replacing it with the following:

AN ACT relative to the acquisition of property rights at Akers Pond dam in the town of Errol by the fish and game department and the acquisition of property rights at Northwood Lake dam in the town of Epsom and Hermit Lake dam in the town of Sanbornton by the department of environmental services.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Acquisition by State of Certain Dams and Water Rights; Akers Pond Dam; Northwood Lake Dam; Hermit Lake Dam. Amend RSA 482:48 by inserting after paragraph VII the following new paragraphs:

VIII. For a consideration of \$1, the fish and game department may accept an easement from the property owners of all rights necessary to repair, maintain, and operate Akers Pond dam access and dike area in the town of Errol, adjacent to and abutting the state owned dam known as number 080.20 for the purpose of improving and controlling the water rights for the benefit of the state. The easement the fish and game department is authorized to acquire for the benefit of the state shall be exempt from taxation as long as the easement is held by the state. The fish and game department may transfer rights in these properties under RSA 482:51 to the department for purposes of repair and maintenance. With the exception of such \$1 consideration, nothing in this paragraph shall mandate or authorize the expenditure of any funds or capital relative to the provisions of this paragraph.

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

2013-0014h

AMENDED ANALYSIS

The bill allows the fish and game department to acquire an easement at the Akers Pond dam in Errol for the purpose of improving and controlling the water rights for the benefit of the state. The bill also allows the department of environmental services to acquire easements at the Northwood Lake dam in the town of Epsom and the Hermit Lake dam in the town of Sanbornton for the purpose of improving and controlling the water rights for the benefit of the state.

Committee Minutes

**SENATE CALENDAR NOTICE
ENERGY AND NATURAL RESOURCES**

Senator Russell Prescott Chairman
 Senator Bob Odell V Chairman
 Senator Jeb Bradley
 Senator Martha Fuller Clark
 Senator Jeff Woodburn

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: March 21, 2013

HEARINGS

Wednesday

3/27/2013

ENERGY AND NATURAL RESOURCES

LOB 101

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

<p>9:00 AM HB111</p> <p>9:15 AM HB157</p> <p>9:30 AM HB233</p> <p>9:45 AM HB368</p> <p>10:00 AM HB428</p> <p>10:15 AM HB513</p>	<p>(New Title) relative to the acquisition of property rights at Akers Pond dam in the town of Errol by the fish and game department and the acquisition of property rights at Northwood Lake dam in the town of Epsom and Hermit Lake dam in the town of Sanbornton by the department of environmental services.</p> <p>(New Title) renaming Blood Pond in the town of Lancaster as Evans Pond.</p> <p>(New Title) relative to the care of the war memorial in Franconia Notch state park.</p> <p>relative to the telecommunications planning and development initiative.</p> <p>relative to funds for dam maintenance, removal and improvement.</p> <p>relative to the shoreland protection act.</p>
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Sponsors:

HB111

Rep. Gene Chandler

Rep. Laurence Rappaport

Rep. Larry Enman

Sen. Jeff Woodburn

HB157

Rep. Herbert Richardson

Rep. Leon Rideout

HB233

Rep. Alfred Baldasaro

Rep. Robert Theberge

Rep. Stephen Shurtleff

Rep. Daniel Tamburello

Rep. Kenneth Weyler

Rep. Lawrence Kappler

Rep. Mary Griffin

Rep. Russell Ober

Rep. John Graham

Rep. Donald LeBrun

HB368

Rep. Laurence Rappaport

HB428

Rep. Suzanne Smith

Rep. Karen Ebel

Rep. Rebecca Brown

HB513

Rep. Judith Spang

Rep. Sid Lovett

Rep. Jane Beaulieu

Rep. Andrew Renzullo

Sen. Jeb Bradley

Sen. Martha Fuller Clark

Sen. Bob Odell

Rep. David Borden

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Chris Cote, Legislative Aide

HB 111 – (New Title) relative to the acquisition of property rights at Akers Pond dam in the town of Errol by the fish and game department and the acquisition of property rights at Northwood Lake dam in the town of Epsom and Hermit Lake dam in the town of Sanbornton by the department of environmental services.

Hearing Date: 3.27.13

Time Opened: 9am

Time Closed: 9:10AM

Members of the Committee Present: Senators Bradley, Fuller Clark, Odell, Prescott, and Woodburn

Members of the Committee Absent: none

Bill Analysis: The bill allows the fish and game department to acquire an easement at the Akers Pond dam in Errol for the purpose of improving and controlling the water rights for the benefit of the state. The bill also allows the department of environmental services to acquire easements at the Northwood Lake dam in the town of Epsom and the Hermit Lake dam in the town of Sanbornton for the purpose of improving and controlling the water rights for the benefit of the state.

Sponsors: Rep. Chandler, Carr 1; Rep. Rappaport, Coos 1; Rep. Enman, Coos 1; Sen. Woodburn, Dist 1

Who supports the bill: Rep. Suzanne Smith, Jim Gallagher NHDES, Betsey McNaughton NH Fish and Game, Rep. Shannon Chandley

Who opposes the bill: none

Summary of testimony presented in support:

- Senator Woodburn to present the bill for Rep. Chandler, Fish and Game requested this bill, the bill will allow for certain easements in order to improve the access to the water and improve water rights,
- Rep. Suzanne Smith, here as a resource, easements were granted in order to do maintenance to dams, Q: Fuller Clark, do you perceive any difficulty in acquiring these easements? A: no problems with owners, DES and Fish and Game can provide background,

- Jim Gallagher, DES, were in negotiations with land owners, owners were receptive to giving easements, required to get legislative authority to get official access to those dams,
- Betsy McNoughton, Fish and Game, owner has signed easement and just a matter of getting legislative approval,

Summary of testimony presented in opposition:

Fiscal Note:

See Fiscal Note

Future Action: OTP 5-0 Consent

CSC

Date hearing report completed: 3.29.13

[file: HB0111 report]

Speakers

Testimony



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

March 27, 2013

The Honorable Russell Prescott, Chairman
Energy and Natural Resources Committee
Legislative Office Building, Room 101
Concord, NH 03301

RE: HB 111, relative to the acquisition of property rights at Akers Pond Dam in the Town of Errol by the Fish and Game Department and the acquisition of property rights at Northwood Lake Dam in the Town of Epsom and Hermit Lake Dam in the Town of Sanbornton by the Department of Environmental Services

Dear Chairman Prescott:

Thank you for the opportunity to testify in support of HB 111, which would authorize the acquisition of easements at the state-owned Akers Pond Dam in Errol, Northwood Lake Dam in Epsom and Hermit Lake Dam in Sanbornton. These easements are needed to maintain the safety of these dams.

Akers Pond Dam is owned by the New Hampshire Fish and Game Department (NHFG). The main dam is a concrete spillway and outlet structure, which impounds Akers Pond. This main dam is on property that is owned by NHFG at the outlet of Akers Pond. The main dam was recently repaired by the Department of Environmental Services Dam Bureau (DES), which performs all major repair and reconstruction needed on any state-owned dams, as well as the daily operation and maintenance of dams owned by DES and NHFG.

Akers Pond Dam also includes an appurtenant structure, which consists of an earthen embankment, located on the east shoreline of Akers Pond just upstream of the main dam. This earthen embankment is overgrown with trees, which must be removed to prevent failure of the embankment and loss of the pond. The earthen embankment is located beyond the property that is owned by NHFG, and an easement is needed for the state to access this area and maintain the safety of the earthen embankment. The owner of the property, on which the earthen embankment is located, is willing to provide the necessary easement to NHFG. However, under RSA 482:44, no dam or any real property appurtenant to a dam or any rights and easements in either may be acquired without an act of the legislature which authorizes the acquisition of a particular dam, real property, or right or easement. For this reason, passage of this bill is required for NHFG to acquire the easement needed to maintain the earthen embankment at Akers Pond Dam in a safe condition.

In addition to Akers Pond Dam, DES has recently identified two other state-owned dams that also require the acquisition of easements to perform the necessary maintenance and repairs needed on their appurtenant structures. These dams are Northwood Lake Dam in Epsom and Hermit Lake Dam in Sanbornton. At both of these dams, easements are needed to repair and maintain earthen dikes

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2982 • TDD Access: Relay NH 1-800-735-2964

The Honorable Russell, Chairman
March 27, 2013
Page 2 of 2

associated with the dams. Both of these repair projects are scheduled to be performed in the next biennium. Passage of this bill is necessary to provide DES the legislative authorization needed to acquire the easements necessary to perform the required work.

Thank you for the opportunity to comment in support of this bill. Please contact Jim Gallagher, Dam Bureau Administrator, at 271-1961 or james.gallagher@des.nh.gov, or me at 271-2958 or thomas.burack@des.nh.gov if you have any questions or need additional information.

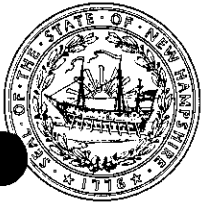
Sincerely,



Thomas S. Burack
Commissioner

Attachment

cc: Representative Gene G. Chandler
Representative Laurence M. Rappaport
Representative Larry S. Enman
Senator Jeff Woodburn



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

3/25/2013

RE: House Bill 111

Dear Energy & Natural Resources Committee Members,

For the record, I am Rep. Gene Chandler. I represent the towns of Bartlett, Harts Location and Jackson and also serve as the House Republican Leader.

I am unable to attend the hearing on HB 111 relative to Akers Pond and other easements as I have another meeting.

The initial request for the Akers pond situation was a request of the Fish and Game Department and I am in full support of this request. To the best of my understanding, the landowner and the town of Errol are in agreement with this request.

Additionally, the Department of Environmental Services asked for an amendment regarding certain easements and myself and the Fish and Game Department agree with the bill as amended.

Thank you for your time,

A handwritten signature in cursive script that reads "Gene G. Chandler".

Gene G. Chandler
House Republican Leader

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Date: 3.28.2013

THE COMMITTEE ON Energy and Natural Resources
to which was referred House Bill 111

AN ACT (New Title) relative to the acquisition of property rights at Akers Pond dam in the town of Errol by the fish and game department and the acquisition of property rights at Northwood Lake dam in the town of Epsom and Hermit Lake dam in the town of Sanbornton by the department of environmental services.

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

OUGHT TO PASS

BY A VOTE OF: 5-0

AMENDMENT # n/as

CONSENT CALENDAR VOTE: 5-0

Senator Jeff Woodburn for the Committee

The bill allows the fish and game department to acquire an easement at the Akers Pond dam in Errol for the purpose of improving and controlling the water rights for

the benefit of the state. The bill also allows the department of environmental services to acquire easements at the Northwood Lake dam in the town of Epsom and the Hermit Lake dam in the town of Sanbornton for the purpose of improving and controlling the water rights for the benefit of the state. The landowners have granted the easements in question, and by law, the department needed legislative approval to progress with their plan to improve these water rights.

Chris Cote 271-3067

New Hampshire General Court - Bill Status System

Docket of HB111

Docket Abbreviations

Bill Title: (New Title) relative to the acquisition of property rights at Akers Pond dam in the town of Errol by the fish and game department and the acquisition of property rights at Northwood Lake dam in the town of Epsom and Hermit Lake dam in the town of Sanbornton by the department of environmental services.

Official Docket of HB111:

Date	Body	Description
1/3/2013	H	Introduced 1/3/2013 and Referred to Resources, Recreation and Development; HJ 12 , PG.182
1/8/2013	H	Public Hearing: 1/15/2013 10:15 AM LOB 305
1/16/2013	H	Executive Session: 1/22/2013 2:30 PM LOB 305
1/24/2013	H	Committee Report: Ought to Pass with Amendment #0014h(NT) for Jan 30 (Vote 18-0; CC); HC 10 , PG.129-130
1/24/2013	H	Proposed Committee Amendment #2013-0014h (New Title); HC 10 , PG.145-146
1/30/2013	H	Amendment #0014h(NT): AA VV; HJ 14 , PG.239-240
1/30/2013	H	Ought to Pass with Amendment #0014h(NT): MA VV; HJ 14 , PG.239-240
2/14/2013	S	Introduced and Referred to Energy & Natural Resources
3/21/2013	S	Hearing: 3/27/13, Room 101, LOB, 9:00 a.m.; SC13
4/8/2013	S	Committee Report: Ought to Pass, 4/18/13; Vote 5-0; CC; SC16
4/18/2013	S	Ought to Pass: MA, VV; OT3rdg;
4/18/2013	S	Enrolled
4/24/2013	H	Enrolled; HJ38 , PG.1257
5/20/2013	H	Signed by Governor 05/16/2013; Effective 07/15/2013; Chapter 0017

NH House

NH Senate

Other Referrals

HB III

COMMITTEE REPORT FILE INVENTORY

_____ 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.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:


- AMENDMENT # 0014h _____ - AMENDMENT # _____
 _____ - AMENDMENT # _____ _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

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): _____

DATE DELIVERED TO SENATE CLERK 8.13.13



 BY COMMITTEE AIDE