

Bill as
Introduced

HB 645-FN - AS AMENDED BY THE HOUSE

19Mar2019... 0933h

2019 SESSION

19-0768
08/03

HOUSE BILL **645-FN**

AN ACT establishing a dock registration procedure.

SPONSORS: Rep. Renzullo, Hills. 37

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill establishes a procedure for voluntarily registering docks with the department of environmental services.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT establishing a dock registration procedure.

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

1 1 Excavating and Dredging Permit; Registration for Seasonal Docks. Amend RSA 482-A:3, I(d)-
2 (e) to read as follows:

3 (d) *If an applicant chooses to register a seasonal dock, at the time the applicant*
4 *registers with the department, he or she shall also submit a nonrefundable fee of \$200.*

5 (e) At the time the applicant files the application with the department, the applicant
6 shall provide written notice of the proposed project to:

7 (1) All abutters, as defined in the rules of the department, unless exempted in such
8 rules, which shall be provided by certified mail or other delivery method that provides proof of
9 receipt. The applicant shall retain such receipts and provide copies to the department upon
10 request. The department shall have no obligation to verify the identity of abutters or their receipt
11 of notice. Any abutter who has actual notice of the filing of an application shall have no cause to
12 challenge the application based on failure to receive written notice. Nothing in this subparagraph
13 shall prevent the department from taking appropriate action in the event an applicant fails to
14 provide the required notice or provides false information.

15 (2) The local river management advisory committee if the project is within a river
16 corridor as defined in RSA 483:4, XVIII, or a river segment designated in RSA 483:15. Such notice
17 shall be sent by certified mail or other delivery method that provides proof of receipt. The applicant
18 shall retain such receipts and provide copies to the department upon request. The local river
19 management advisory committee shall, under RSA 483:8-a, III(a)-(b), advise the commissioner and
20 consider and comment on the permit application.

21 {(e)} (f) Beginning October 1, 2007, the department shall submit an annual report to the
22 house and senate finance committees, the house resources, recreation and development committee,
23 and the senate energy and natural resources committee relative to administration of the wetlands
24 fees permit process established by this section.

25 2 Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3; IV-a to read as
26 follows:

27 IV-a.(a) [Temporary] Seasonal docks [~~installed on any lake or pond~~] shall be exempt from
28 the permitting requirements of this section, provided that a notification is sent to the department by
29 the owner of property that includes the name and address of the property owner, *a copy of the*
30 *deed for the property on which the dock is to be installed*, the municipality, the waterbody,
31 [~~and~~] tax map and lot number on which the proposed dock will be located, *and plans of the*

1 *waterfront and structure to be installed showing that the requirements of this paragraph*
 2 *will be met.* To qualify for an exemption under this paragraph, a [~~temporary~~] seasonal dock shall
 3 be:

4 [~~(a)~~] (1) The only docking structure on the frontage;

5 [~~(b)~~] (2) Constructed to be removed during the non-boating season;

6 [~~(c)~~] (3) Removed from the lake bed for a minimum of 5 months of each year;

7 [~~(d)~~] (4) Configured to be narrow, rectangular, and erected perpendicular to the
 8 *shoreline of a lake or pond or parallel to the bank of a river;*

9 [~~(e)~~] (5) No more than 6 feet wide and no more than 40 feet long if the water body is
 10 1,000 acres or larger, or no more than 30 feet long if the water body is *a river* or less than 1,000
 11 acres *in size;*

12 [~~(f)~~] (6) Located on a parcel of land that has 75 feet or more of shoreline frontage;

13 [~~(g)~~] (7) Located at least 20 feet from an abutting property line or the imaginary
 14 extension of the property line over the water;

15 [~~(h)~~] (8) Installed in a manner which requires no modification, regrading, or
 16 recontouring of the shoreline, such as installation of a concrete pad for construction of a hinged
 17 dock;

18 [~~(i)~~] (9) Installed in a manner which complies with RSA 483-B; and

19 [~~(j)~~] (10) Installed in a location that is not in, or adjacent to, an area that has been
 20 designated as a prime wetland in accordance with RSA 482-A:15.

21 (b) *The repair or replacement of legally existing docking facilities in non-tidal*
 22 *waters shall be exempt from the permitting requirements for this section, provided that*
 23 *the structure has a valid registration filed with the department by the owner of the*
 24 *property, in accordance with RSA 482-A:11, XI, that includes the name and address of the*
 25 *property owner, the municipality, the waterbody, tax map and lot number on which the*
 26 *proposed dock will be located, photographs of all existing structures constructed or*
 27 *installed in the waterbody, and plans of the waterfront and structures to be repaired*
 28 *showing that the requirements of this paragraph will be met. To qualify for an exemption*
 29 *under this paragraph, the owner of the docking facilities shall provide evidence that the*
 30 *docking structures to be repaired:*

31 (1) *Have been constructed and maintained in compliance with a permit*
 32 *issued under RSA 482-A or its preceding statutes;*

33 (2) *Have been maintained in their current size, location, and configuration*
 34 *since January 1, 2000;*

35 (3) *Were not constructed to make land in public waters;*

36 (4) *Are not subject to RSA 482-A:26; and*

37 (5) *Are not the subject of a department administrative order, consent*
 38 *decree, or court order that limits any aspect of the construction or use of the docking*

1 structures.

2 (c) Registrations for the repair or replacement of legally existing docking
3 structures shall be effective on the date issued and shall be valid for 2 years or until
4 ownership of the property changes, whichever occurs first.

5 (d) Within 10 business days of receipt of a registration filing, the department
6 shall issue a written notice to the property owner stating that the registration has either
7 been accepted and issued a registration number, or rejected. If the department does not
8 respond within the 10-day period, the property owner or agent may submit to the
9 department a written request for a response. If the department fails to respond to the
10 written request within an additional 5 days the property owner or agent shall be deemed
11 to have submitted a complete and qualifying registration and may proceed with the repair
12 or replacement of the legally existing docking structures as presented in the registration
13 filing. The authorization provided by this subparagraph shall not relieve the applicant of
14 complying with all requirements applicable to the project, including but not limited to
15 requirements established in or under this chapter and RSA 485-A relative to water quality.

16 (e) Docking structures registered and maintained in accordance with section
17 shall be considered to be in compliance with the permitting requirements of this chapter.

18 3 New Paragraph; Administrative Provisions. Amend RSA 482-A:11 by inserting after
19 paragraph X the following new paragraph:

20 XI. The commissioner shall adopt rules pursuant to RSA 541-A, establishing registration
21 forms, the registration renewal process, and the display of registration number and the registration
22 process for the installation of seasonal docking structures and the repair or replacement of legally
23 existing docking structures pursuant to RSA 482-A:3, IV-a.

24 4 Posting of Permits; Display of Registration Numbers. Amend RSA 482-A:12 to read as
25 follows:

26 482-A:12 Posting of Permits, *Display of Registration Numbers*, and Reports of Violations.
27 Project approval by the department shall be in the form of a permit, a copy of which the applicant
28 shall post in a secured manner in a prominent place at the site of the approved project. The
29 department shall mail a copy of such permit to the local governing body of the municipality where
30 the project is located. *Any registration number issued by the department pursuant to RSA*
31 *482-A:3, IV-a(c) shall be prominently displayed on the lakeward face of the docking*
32 *structures.* Any person proceeding without a posted permit shall be in violation of this chapter.
33 All state, county, and local law enforcement officers are directed to be watchful for violations of the
34 provisions of this chapter and to report all suspected violations to the department.

35 5 Effective Date. This act shall take effect 60 days after its passage.

HB 645-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2019-0933h)

AN ACT establishing a dock registration procedure.

FISCAL IMPACT: State County Local None

METHODOLOGY:

This bill establishes a procedure for voluntarily registering docks with the Department of Environmental Services. The Department indicates the bill would establish an optional registration process for all docking structures either built in compliance with a permit or which has been maintained at the same size and in the same location and configuration since January 1, 2000. The new registration process would allow docking structure owners to repair the structures without going through the current permitting process in RSA 482-A. The proposed fee of \$200 is equal to the minimum impact application fees currently required. As such, the Department assumes there will be no impact on state, county and local revenue or expenditures.

AGENCIES CONTACTED:

Department of Environmental Services

HB 645-FN - AS AMENDED BY THE SENATE

19Mar2019... 0933h
05/15/2019 1893s

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8 ~~[(d)]~~ (4) Configured to be narrow, rectangular, and erected perpendicular to the
9 shoreline *of a lake or pond or parallel to the bank of a river*;

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2 *or court order that limits any aspect of the construction or use of the docking structures.*

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HB 645-FN - FINAL VERSION

19Mar2019... 0933h
05/15/2019 1893s
13Jun2019... 2459-EBA

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35 provisions of this chapter and to report all suspected violations to the department.

36 5 Effective Date. This act shall take effect January 1, 2020.

- 1 VETOED July 19, 2019
- 2 Veto Sustained September 18, 2019
- 3

HB 645-FN- FISCAL NOTE
 AS AMENDED BY THE SENATE (AMENDMENT #2019-1893s)

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FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input type="checkbox"/> General Wetlands Fees	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other -

METHODOLOGY:

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<i>Funding Source:</i>	<input type="checkbox"/> General Wetlands Fees	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other -

METHODOLOGY:

This bill establishes a procedure for voluntarily registering docks with the Department of Environmental Services. The Department indicates the bill would establish an optional registration process for all docking structures either built in compliance with a permit or which has been maintained at the same size and in the same location and configuration since January 1, 2000. The new registration process would allow docking structure owners to repair the structures without going through the current permitting process in RSA 482-A. The proposed process maintains the same fee and terms of valid use as the existing permitting process. Since the Department cannot predict how many individuals may choose to utilize the new voluntary process, the impact on wetland fee restricted revenue is indeterminable. The Department assumes existing staff and computers would be adapted to implement these changes without additional cost. There would be no impact on county or local governments.

AGENCIES CONTACTED:

Department of Environmental Services

Amendments

Amendment to HB 645-FN

1 Amend RSA 482-A:3, I(d) as inserted by section 1 of the bill by replacing it with the following:

2

3 (d) *If an owner chooses to register existing docking structures, at the time the*
4 *owner registers the structures with the department, he or she shall also submit a*
5 *nonrefundable fee of \$200.*

6

7 Amend RSA 482-A:3, IV-a, (b)-(e) as inserted by section 2 of the bill by replacing it with the
8 following:

9

10 (b) *The repair or replacement of legally existing docking facilities in non-tidal*
11 *waters shall be exempt from the permitting requirements of this section, provided that the*
12 *structure has a valid registration filed with the department by the owner of the property,*
13 *in accordance with RSA 482-A:11, XI, that includes the name and address of the property*
14 *owner, the municipality, the waterbody, tax map and lot number on which the proposed*
15 *dock will be located, photographs of all existing structures constructed or installed in the*
16 *waterbody, and plans of the waterfront and structures to be repaired showing that the*
17 *requirements of this paragraph will be met. To qualify for an exemption under this*
18 *paragraph, the owner of the docking facilities shall provide evidence that the docking*
19 *structures to be repaired:*

20

(1) *Have been:*

21

(A) *Constructed and maintained in compliance with a permit issued*
22 *under RSA 482-A or its preceding statutes; or*

23

(B) *Maintained in their current size, location, and configuration since*
24 *January 1, 2000;*

25

(2) *Were not constructed to make land in public waters;*

26

(3) *Are not subject to RSA 482-A:26; and*

27

(4) *Are not the subject of a department administrative order, consent*
28 *decree, or court order that limits any aspect of the construction or use of the docking*
29 *structures.*

30

(c) *Registrations for the repair or replacement of legally existing docking*
31 *structures shall be effective on the date issued and shall be valid for 5 years or until*
32 *ownership of the property changes, whichever occurs first.*

1 (d) *Within 10 business days of receipt of a registration filing, the department*
2 *shall issue a written notice to the property owner stating that the registration has either*
3 *been accepted and issued a registration number, or rejected. If the department does not*
4 *respond within the 10-day period, the property owner or agent may submit to the*
5 *department a written request for a response. If the department fails to respond to the*
6 *written request within an additional 5 days the property owner or agent shall be deemed*
7 *to have submitted a complete and qualifying registration and may proceed with the repair*
8 *or replacement of the legally existing docking structures as presented in the registration*
9 *filing. The authorization provided by this subparagraph shall not relieve the applicant of*
10 *complying with all requirements applicable to the project, including but not limited to*
11 *requirements established in or under this chapter and RSA 485-A relative to water quality.*

12 (e) *Docking structures registered and maintained in accordance with this*
13 *section shall be considered to be in compliance with this chapter.*

14
15 Amend the bill by replacing section 5 with the following:

16
17 5 Effective Date. This act shall take effect January 1, 2020.

UNAPPROVED

Amendment to HB 645-FN

1 Amend RSA 482-A:3, I(d) as inserted by section 1 of the bill by replacing it with the following:

2

3 *(d) If an owner chooses to voluntarily register existing docking structures, at*
4 *the time the owner registers the structures with the department, he or she shall also*
5 *submit a nonrefundable fee of \$200.*

6

7 Amend RSA 482-A:3, IV-a, (b)-(e) as inserted by section 2 of the bill by replacing them with the
8 following:

9

10 *(b) The repair or replacement of legally existing docking facilities in non-tidal*
11 *waters shall be exempt from the permitting requirements of this section, provided that the*
12 *structure has a valid registration filed with the department by the owner of the property,*
13 *in accordance with RSA 482-A:11, XI, that includes the name and address of the property*
14 *owner, the municipality, the waterbody, tax map and lot number on which the proposed*
15 *dock will be located, photographs of all existing structures constructed or installed in the*
16 *waterbody, and plans of the waterfront and structures to be repaired showing that the*
17 *requirements of this paragraph will be met. To qualify for an exemption under this*
18 *paragraph, the owner of the docking facilities shall provide evidence that the docking*
19 *structures to be repaired:*

20 *(1) Have been:*

21 *(A) Constructed and maintained in compliance with a permit issued*
22 *under RSA 482-A or its preceding statutes; or*

23 *(B) Maintained in their current size, location, and configuration since*
24 *January 1, 2000;*

25 *(2) Were not constructed to make land in public waters;*

26 *(3) Are not subject to RSA 482-A:26; and*

27 *(4) Are not the subject of a department administrative order, consent*
28 *decree, or court order that limits any aspect of the construction or use of the docking*
29 *structures.*

30 *(c) Registrations for the repair or replacement of legally existing docking*
31 *structures shall be effective on the date issued and shall be valid for 5 years or until*
32 *ownership of the property changes, whichever occurs first.*

1 ***(d) Within 10 business days of receipt of a registration filing, the department***
2 ***shall issue a written notice to the property owner stating that the registration has either***
3 ***been accepted and issued a registration number, or rejected. If the department does not***
4 ***respond within the 10-day period, the property owner or agent may submit to the***
5 ***department a written request for a response. If the department fails to respond to the***
6 ***written request within an additional 5 days, the property owner or agent shall be deemed***
7 ***to have submitted a complete and qualifying registration and may proceed with the repair***
8 ***or replacement of the legally existing docking structures as presented in the registration***
9 ***filing. The authorization provided by this subparagraph shall not relieve the applicant of***
10 ***complying with all requirements applicable to the project, including but not limited to***
11 ***requirements established in or under this chapter and RSA 485-A relative to water quality.***

12 ***(e) Docking structures registered and maintained in accordance with this***
13 ***section shall be considered to be in compliance with this chapter.***

14

15 Amend the bill by replacing section 5 with the following:

16

17 5 Effective Date. This act shall take effect January 1, 2020.

Committee Minutes

SENATE CALENDAR NOTICE

Energy and Natural Resources

Sen Martha Fuller Clark, Chair
 Sen Dan Feltes, Vice Chair
 Sen David Watters, Member
 Sen Jeb Bradley, Member
 Sen Bob Giuda, Member

Date: April 17, 2019

HEARINGS

Tuesday

04/23/2019

(Day)	(Date)	
Energy and Natural Resources	SH 103	9:00 a.m.
(Name of Committee)	(Place)	(Time)
PRESENTATION		
9:00 a.m.	Committee to Study Exotic Aquatic Weeds and Exotic Aquatic Species of Wildlife in the State of New Hampshire	
9:30 a.m.	HB 325	relative to control of marine pollution and aquatic growth.
9:45 a.m.	HB 326	relative to the definition of prime wetland.
10:00 a.m.	HB 682-FN	establishing a water resources fund in the department of environmental services and charging certain application and permit fees.
10:15 a.m.	HB 645-FN	establishing a dock registration procedure.
10:30 a.m.	HB 459-FN	defining industrial hemp, relative to its growth in New Hampshire, its use in food, and establishing a committee to study the federal guidelines on growing industrial hemp.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 325

Rep. Grassie

Rep. Adjutant

HB 326

Rep. Grassie

Rep. Adjutant

HB 682-FN

Rep. Spang

Sen. D'Allesandro

Sen. Watters

HB 645-FN

Rep. Renzullo

HB 459-FN

Rep. Bixby

Rep. Gagne

Rep. Pearl

Rep. Knirk

Rep. O'Connor

Rep. Cushing

Sen. Giuda

Sen. Reagan

Sen. Fuller Clark

Griffin Roberge 271-7875

Martha Fuller Clark
Chairman

Senate Energy and Natural Resources Committee
Griffin Roberge 271-7875

IB 645-FN, establishing a dock registration procedure.

Hearing Date: April 23, 2019.

Time Opened: 11:14 a.m.

Time Closed: 11:34 a.m.

Members of the Committee Present: Senators Fuller Clark, Feltes, Watters and Bradley.

Members of the Committee Absent: Senator Giuda.

Bill Analysis: This bill establishes a procedure for voluntarily registering docks with the department of environmental services.

Sponsors:
Rep. Renzullo

Who supports the bill: Michele Tremblay (NH Rivers Council), Representative Suzanne Smith (Grafton - District 8), Bob Quinn (NH Realtors Association), Representative Judith Spang (Strafford - District 6), Representative Andrew Renzullo (Hillsborough - District 37), Darlene Forst & Rene Pelletier (NHDES).

Who opposes the bill: Paul Goodwin (Watermark Marine Systems, LLC).

Who is neutral on the bill: None.

Summary of testimony presented in support:

*Representative Andrew Renzullo – provided written testimony
Hillsborough – District 37*

- HB 645-FN creates a voluntary program for registering docks with the NH Department of Environmental Services (NHDES).
- Representative Renzullo is a member of the Commission to Study the Effectiveness of the Current Statutes related to Management of Non-Tidal Public Waterways and the Construction or Placement of Structures within Them (Commission) created via HB 1810 (2018).
- The Commission discussed the merits of HB 645-FN. The Commission felt that passing HB 645-FN would be premature until its final report was released on November 30th, 2019. The Commission voted unanimously to recommend a vote of Inexpedient to Legislate (ITL) on HB 645-FN.
- Senator Watters asked if Representative Renzullo would be amenable to a motion of re-refer to give the Commission a chance to review HB 645-FN after the Commission's final report was released.
 - Representative Renzullo said he would support a motion of re-refer.
- Senator Fuller Clark asked if there was an interim report released by the Commission.
 - Representative Renzullo said there was no interim report, but there were notes available.

*Rene Pelletier & Darlene Forst - provided written testimony
Assistant Director, Water Division, NHDES
Shoreland Section Supervisor, Water Division, NHDES*

- NHDES supported the Commission created via HB 1810 (2018) to allow for a full review of statutes and rules relating to docks and structures within non-tidal waterways.
- NHDES clarified that NHDES abstained from the Commission's vote on HB 645-FN.
- NHDES spends a great deal of time and money getting into disputes with neighbors of property owners who have installed docks. Neighbors will often claim that the dock's installation was not legal.
- HB 645-FN seeks to create an optional registration process for existing non-tidal docks that would allow owners to opt into a new registration process to be exempted from obtaining permits for any necessary docking structure repairs so long as the structure remains registered. This process would offer benefits to waterfront property owners:
 - Reduces the need for paperwork and would allow them to simply schedule repairs when needed, saving time and consultant costs.
 - Provides a mechanism for the owners of existing non-tidal docking structures that had existed prior to January 1st, 2000, but for which no permitting records could be found, to obtain legal status for those structures by registering them with NHDES.
 - NHDES has aerial photography from 1985 onward to determine if a dock was existing. NHDES estimated there are 10,000 docks in NH. If people chose to voluntarily register their dock for a \$200 fee, the structure would be deemed legal from that point forward.
- NHDES requested an amendment to HB 645-FN as amended by the House on page 1, lines 3-4, which would read: "If an owner chooses to register existing docking structures, at the time the owner registered the structures with the department, he or she shall also submit a nonrefundable fee of \$200."
 - This language was not the language NHDES submitted to the House Resources, Recreation, and Development Committee (RRD Committee) during the public hearing on March 5th, 2019.
 - The intent of this proposed language was to carry forward the existing \$200 fee for a dock repair permit to the newly created registration process so that the procedural changes would result in no effect on the fees received by NHDES.
 - NHDES requested HB 645-FN be amended to maintain the current \$200 fee for repairs instead of moving forward with HB 645-FN as amended by the House, which would create a new seasonal dock fee.
- Currently, if a dock is in need of repair, there is a fee of \$200 and a permit by notification. Under HB 645-FN, if a waterfront property owner voluntarily registered their dock, they would be exempted from seeking a permit, but would need to notify NHDES and provide certain evidence as outlined in HB 645-FN.
- HB 645-FN does nothing to change policies relating to a dock's dimensions, width, depth, or density. Those policies are the focus of the Commission.
- Senator Fuller Clark asked for clarification on NHDES's proposed amendment.
 - Mr. Pelletier said HB 645-FN as amended by the House allows for voluntary registration for only seasonal docks. The intent was to look at all docks - seasonal and permanent docks. As a result of a drafting error, HB 645-FN only focuses on seasonal docks and none of the other structures that NHDES oversees.
- Senator Fuller Clark noted Representative Renzullo's testimony where the Commission supported holding HB 645-FN until further review. She looked for NHDES to comment on that and the need to move forward with HB 645-FN.
 - Mr. Pelletier said there are many issues that come up with respect to a shorefront property owner's right to wharf. Arguments between neighbors and other waterfront property owners can go on for months. Some neighbors will make an argument that a dock is not legal. Docks were grandfathered into compliance on 1967. NHDES's records of grandfathered docks between 1967 and 1985 are not comprehensive, leading to lengthy disputes between NHDES, a dock owner, and neighbors. HB 645-FN sets up a voluntary process to register a dock, clearing up any ambiguity about a dock's legality.

Summary of testimony presented in opposition:

*Paul Goodwin – provided written testimony
Principal, Watermark Marine Systems*

- It would not be prudent to create an entirely new process separate from the regular permit approval process.
 - HB 645-FN states that a voluntarily registration would be effective on the date issued and be valid for two years. Currently, there is no registration process for the installation of any dock or non-tidal water structure. In order to install a dock currently, one needs a wetlands permit. A wetlands permit is valid for five years and can be extended once for an additional five years. It would make more

sense to align the voluntary registration process proposed under HB 645-FN with the wetlands permitting time line of five years.

- Concern with January 1st, 2000 grandfather date proposed under HB 645-FN:
 - It is nearly impossible to go back to 1967 and prove that a dock did or did not exist. HB 645-FN changes the grandfather date to January 1st, 2000 for the registration process. January 1st, 2000 should be the grandfather date for all permits, not just the registration process. Otherwise, there are two different standards on two different applications.
 - The grandfather date of 1967 promotes noncompliance - contractors like Watermark Marine Systems cannot prove a dock was established before 1967. Therefore, clients move ahead with projects without the proper permits because they argue their dock existed before 1967..
 - The grandfather date should be set at January 1st, 2009. Google Earth's aerial photography from 2009 is far better than Google Earth's aerial photography from 2000.
- Make dock registration a component of permit by notification. This would eliminate having to file two different applications under two different processes.
- Modify the permit application filing statute in RSA 482-A:3 to allow a copy of a Wetlands Permit application to be sent by certified mail to the Town or City Hall, similar to the Shoreland Permit process.
 - Watermark Marine Systems, under current statute, must drive to each town or city hall with five copies and personally obtain the town clerk's signature and subsequently send one signed copy to NHDES. This is a waste of paper and fuel since most cities and towns discard three of the four copies left with them.
- Supports the idea of re-referring HB 645-FN to give the Commission an opportunity to review it after their final report is released.
- Senator Fuller Clark asked if Mr. Goodwin had testified before the House RRD Committee.
 - Mr. Goodwin said that he had not.

Neutral Information Presented: None.

GJR, edited by Cameron Lapine.

Date Hearing Report completed: April 23, 2019.

Speakers

Senate Energy & Natural Resources Committee

SIGN-IN SHEET

Date: Tuesday, April 23rd, 2019 Time: 10:15 a.m.

HB 645-FN AN ACT establishing a dock registration procedure.

Name/Representing (please print neatly)

Name/Representing	Support	Oppose	Speaking?	Yes	No
Michelle [unclear] ^{new house} ^{mas. com.}	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Suzanne Smith RRD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
Bob Quinn NH REACTORS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep J. Spang RRD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Andy Renzullo Spinsol	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DParkes Forst NH Dept of Env Serv	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rene Pelletier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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if need be

Testimony

Monday, April 22, 2019

Senate Committee, Energy and Natural Resources

Chairman Clark

On April 15 the Commission to study the effectiveness of the current statutes related to management of non-tidal public waterways and the construction or placement of structures within them discussed the merits of HB 645 establishing a dock registration procedure.

One of our charges is to review all current statutes and standards for the construction or placement of both permanent and temporary structures within non-tidal waters and it is our collective opinion that enacting HB 645 is premature at this time.

The commission shall make a final report of its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, the senate clerk, the house clerk, and the state library on or before November 30, 2019.

By a unanimous vote of our members present we request that you vote to Inexpedient to legislate HB 645 at this time.

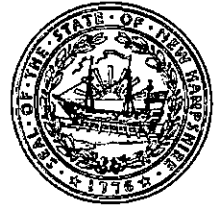
Respectively submitted for your consideration;


Mark McConkey

Chairman Commission to study the effectiveness of the current statutes related to management of non-tidal public waterways and the construction or placement of structures within them



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

April 23, 2019

The Honorable Martha Fuller Clark
Chair, Senate Energy and Natural Resources Committee
State House, Room 103
Concord, NH 03301

RE: HB 645, AN ACT establishing a dock registration procedure.

Dear Chair Fuller Clark and Members of the Committee:

Thank you for the opportunity to comment on HB 645. The language of this bill is intended to create an optional registration process for existing non-tidal docks that would allow owners that opt into a new registration process to be exempted from the requirement to obtain permits for any necessary docking structure repairs so long as the structure remains registered. The New Hampshire Department of Environmental Services (NHDES) supports the intent of this bill but would call attention to a flaw in the language of the current draft which still must be changed if this legislation is to have its intended effect.

As currently drafted this legislation would amend RSA 482-A:3, I, to insert new language in paragraph (d) that would create a new \$200 fee for seasonal dock legislation. This language was not the language that was submitted discussed during the House Resource, Recreation, and Development hearing on this bill on March 5, 2019. The amendment request language that was submitted for this section during the hearing in fact read:

“(d) If an owner chooses to register existing docking structures, at the time the owner registers the structures with the department, he or she shall also submit a nonrefundable fee of \$200.

(e) At the time the applicant files the application with the department, the applicant shall provide written notice of the proposed project to: ...”

The intent of this proposed language was to carry forward the existing \$200 fee for a dock repair permit to the newly created registration process so that the procedural changes would result in no effect on the fees received by the NHDES. The NHDES requests that the legislation be amended to reflect the language provided above to maintain the current \$200 fee for repairs instead of moving forward with the current language which would create a new seasonal dock fee.

Notwithstanding the current flaws within the fee language the NHDES would like to call attention to significant benefits that this legislation could provide for waterfront property owners. Owners that opt into this new registration process would be exempted from the requirement to obtain permits for any necessary docking structure repairs so long as the structure remains registered. This reduces the need

The Honorable Martha Fuller Clark
Chair, Senate Energy and Natural Resources Committee
April 23, 2019
Page 2

for paperwork and would allow them to simply schedule repairs when needed; saving them time, and potentially, consultant costs. An additional benefit to property owners that opt into this new registration process would be to provide a mechanism for the owners of existing non-tidal docking structures that had existed prior to January 1, 2000, but for which no permitting records could be found, to obtain legal status for those structures by registering them with the NHDES. This would not apply to docking structures that are the subject of pending compliance actions or to areas of fill placed in public waters. As stated previously, the \$200 registration fee proposed in the requested amendment is equal to the current minimum impact fee required with the submittal of repair permit applications pursuant to RSA 482-A:3. The NHDES respectfully requests that this Committee consider amending this legislation as suggested above. The NHDES supports this legislation provided that it is amended as requested.

Thank you again for the opportunity to comment on HB 645. Should you have any questions, or need additional information, please feel free to contact either Rene Pelletier, Assistant Director, Water Division, at 603-271-2951 or Rene.Pelletier@des.nh.gov, or Darlene Forst, Shoreland Section Supervisor at 603-271-4067 or Darlene.Forst@des.nh.gov.

Sincerely,



Robert R. Scott
Commissioner

cc: Representative Renzullo

Watermark Marine Systems, LLC

1218 Union Avenue
Laconia, NH 03246
603-293-4000 603-524-8100 Fax



April 23, 2019

Hon. Martha Fuller Clark, Chair
NH Senate Energy and Natural Resources Committee
State House Room 103
Concord, NH 03301

RE: HB-645 "Dock Registration"

Dear Senator Clark & Committee Members,

As the largest single permit applicant for Shoreline Structures under the Wetlands Program in New Hampshire, we have an intimate knowledge of the permitting process and procedures.

As written and amended March 19, 2019, HB-645 is confusing and perhaps contradictory. Here are some thoughts and comments:

1. This appears to only apply to "Seasonal Docks" (see Page 1 - Line 3 and Line 27) yet a later paragraph (see Page 2 – starting at Line 21 and Page 3 – Line 2) refers to repair or replacement of a "legally existing" docking facility which would appear to encompass all docks, not just "seasonal".
2. Administrative Rules state that seasonal docks do not require a permit to be repaired "in kind" as long as there is no change in "size, location or configuration" so we're not sure why anyone would voluntarily pay \$200.00 every two years to do something for which no permit is required?

Env-Wt 402.05 Seasonal Docks (c) Seasonal docks, once permitted, shall require no further action unless there is a change in size, location, or configuration.

3. We do not believe it is efficient or prudent to create an entirely new process based upon alternative time-lines (2 years as proposed – see Page 3 – Line 3) opposed to the regular permit approval process.

A permit is valid for 5 years and can be extended once for an additional 5 years (net 10 years). It would be a lot clearer to everyone if any new process was valid for 5 or 10 years to match the present permitting time lines.

4. This bill appears to create a "grandfather" date which will only apply to the new process called "Dock Registration". This concept is very important to us as we waste more time on this issue than any other single issue in the permit preparation business.



However, as Google Earth has relatively clear photos going back approximately 10 years, we believe that January 1, 2009 would be a better look-back window for establishing "Grandfather Status" and that this date should apply to all permit applications under the Wetlands Program. Tens years is sufficient time as to not promote miss-use of this concept and is a reasonable time frame for an applicant to be able to research photography, neighbors, and past residents who may be familiar with the waterfront structure history.

We suggest moving "(2) *Having been maintained in their current size, location, and configuration since January 1, 2009.*" to it's own section such that it will apply to ALL permit applications.

5. Another suggestion is to make "*Dock Registration*" a component of the "Permit By Notification" (PBN) process such that DES staff will at least have a chance to look over the application and consider turbidity controls, accurate drawings, side-line setbacks, etc. This will prove to be significantly more efficient compared to creating an entirely new process.

Especially in those cases where structures existing in the 20 ft setback area (or over the imaginary extension of the adjoining property line) are to be repaired or rebuilt, there should be at least some limited review by DES Wetlands Staff. Further, a cursory review of siltation controls, turbidity controls, and temporary impacts, etc. associated with the proposed repair or rebuild should be a component of allowing work to occur in jurisdiction. The PBN process already provides for both of these reviews.

This could also eliminate having to file two applications under two different processes in cases where a land owner may want to add a seasonal boatlift, seasonal PWC lift, concrete hinge pad, etc. where these minimally impacting things can be completed under the present PBN process but would not be allowed under the registration process.

6. In the interest of efficiency, it would also be prudent to modify the permit application filing statute (RSA 482-A:3) to allow a copy of a Wetlands Permit application to be sent via certified mail to the Town or City Hall, similar to the Shoreland Permit process.

Presently, we have to drive to each Town or City Hall with 5 copies and personally obtain the Town Clerk's signature and subsequently send one signed copy to DES. This is a massive waste of paper and fuel and most Cities and Towns in the Lakes Region are throwing away 3 of the 4 copies we leave with them.

It would be far more efficient to send a copy to DES and the Town/City via Certified Mail, as we do under the Shoreland Program, rather than driving all over the state with 4 copies.

WETLANDS:

482-A:3 Excavating and Dredging Permit; Certain Exemptions. – (1) A complete application form that has been signed by the town or city clerk of the municipality in which the property is located or, if the property is located in more than one municipality, by the city or town clerk of each such municipality,

certifying that the municipality has received 4 copies of the form and attachments as provided in subparagraph (a)(2). The town or city clerk shall send a copy of the form and attachments to the local governing body, the municipal planning board, if any, and the municipal conservation commission, if any, and shall retain one copy to be made reasonably accessible to the public. Applications and fees for projects by agencies of the state may be filed directly with the department, with 4 copies of the application, plan, and map filed at the same time with the town or city clerk.

SHORELAND:

483-B:5-b Permit Required; Exemption. – IV-a. At the time of the permit application, the applicant shall provide postal receipts or copies, verifying that the governing body of the municipality or municipalities in which the property is located and the local river management advisory committee, if the project is within a designated river corridor defined in RSA 483:4, XVIII and contains river and river segments designated in RSA 483:15, and all abutters have been notified of the application by certified mail. Applicants for the construction of public roads, public utility lines and associated structures and facilities, and public water access facilities shall only be required to provide postal receipts or copies, verifying that the governing body of the municipality or municipalities in which the property is located, and the local river management advisory committee if the project is within a designated river corridor defined in RSA 483:4, XVIII and contains river and river segments designated in RSA 483:15, have been notified of the application by certified mail.

Our suggestion is to simply copy the permit submittal language under RSA 483-B:5-b which will allow for a stream-lined and far more efficient Wetlands Permit submittal procedure.

Thank you for the opportunity to present this information. Please do not hesitate to contact me with any questions or comments.

Sincerely,



Paul W. Goodwin
pwg@watermarkmarine.com

Voting Sheets

Senate Energy & Natural Resources Committee

EXECUTIVE SESSION RECORD

2019-2020 Session

Bill # <i>HB 645-FN</i>

Hearing date: 04/23/2019

Executive Session date: 05/09/2019

Motion of: *Amendment 2019-1797S* Vote: *5-0*

Committee Member	Present	Made by	Second	Yes	No
Sen. Fuller Clark, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Feltes, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: *OTPA* Vote: *5-0*

Committee Member	Present	Made by	Second	Yes	No
Sen. Fuller Clark, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Feltes, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Fuller Clark, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Feltes, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: *Bradley*

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Thursday, May 9, 2019

THE COMMITTEE ON Energy and Natural Resources

to which was referred **HB 645-FN**

AN ACT establishing a dock registration procedure.

Having considered the same, the committee recommends that the Bill

ought to pass with amendment

by a vote of: 5-0

Amendment # 1893s

Senator Jeb Bradley
For the Committee

Griffin Roberge 271-7875

ENERGY AND NATURAL RESOURCES

HB 645-FN, establishing a dock registration procedure.

Ought to Pass with Amendment, Vote 5-0.

Senator Jeb Bradley for the committee.

Docket of HB645**Bill Title:** establishing a dock registration procedure.**Official Docket of HB645.:**

Date	Body	Description
1/16/2019	H	Introduced 01/03/2019 and referred to Resources, Recreation and Development HJ 3 P. 23
2/15/2019	H	Public Hearing: 03/05/2019 10:45 am LOB 305
3/6/2019	H	Executive Session: 03/13/2019 10:00 am LOB 305
3/14/2019	H	Committee Report: Ought to Pass with Amendment #2019-0933h for 03/19/2019 (Vote 20-0; CC) HC 16 P. 13
3/19/2019	H	Amendment #2019-0933h : AA VV 03/19/2019 HJ 10 P. 33
3/19/2019	H	Ought to Pass with Amendment 2019-0933h: MA VV 03/19/2019 HJ 10 P. 33
4/1/2019	S	Introduced 03/28/2019 and Referred to Energy and Natural Resources; SJ 12
4/17/2019	S	Hearing: 04/23/2019, Room 103, SH, 10:15 am; SC 19
5/9/2019	S	Committee Report: Ought to Pass with Amendment #2019-1893s , 05/15/2019; SC 22
5/15/2019	S	Committee Amendment #2019-1893s , AA, VV; 05/15/2019; SJ 16
5/15/2019	S	Ought to Pass with Amendment 2019-1893s, RC 19Y-5N, MA; OT3rdg; 05/15/2019; SJ 16
5/23/2019	H	House Concurs with Senate Amendment 1893s (Rep. Suzanne Smith): MA VV 05/23/2019 HJ 16 P. 11
6/13/2019	S	Enrolled Bill Amendment #2019-2459e Adopted, VV, (In recess of 06/06/2019); SJ 20
6/13/2019	H	Enrolled Bill Amendment #2019-2459e : AA VV 06/06/2019 HJ 18 P. 46
6/28/2019	S	Enrolled (In recess 06/27/2019); SJ 21
6/28/2019	H	Enrolled 06/27/2019 HJ 20 P. 53
7/24/2019	H	Vetoed by Governor Sununu 07/19/2019
9/18/2019	H	Veto Sustained 09/18/2019: RC 219-160 Lacking Necessary Two-Thirds Vote HJ 21 P. 50

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 645-FN

Senate Committee: ENR

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 1797 - amendment # 1893
- _____ - amendment # _____ _____ - amendment # _____
- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- _____ - amendment # _____ _____ - amendment # _____
- _____ - amendment # _____ _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- _____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s) 2459
- _____ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

- as amended by the senate _____ as amended by the house
- final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office jm

June 7, 2019
2019-2459-EBA
06/01

Enrolled Bill Amendment to HB 645-FN

The Committee on Enrolled Bills to which was referred HB 645-FN

AN ACT establishing a dock registration procedure.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to HB 645-FN

This enrolled bill amendment makes grammatical corrections.

Enrolled Bill Amendment to HB 645-FN

Amend RSA 482-A:11, XI as inserted by section 3 of the bill by replacing line 2 with the following:

forms, the registration renewal process, and the display of registration numbers; and the registration