

Committee Report

REGULAR CALENDAR

March 17, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on Resources,
Recreation and Development to which was referred HB
158,**

AN ACT relative to the definition of prime wetland.

**Having considered the same, report the same with the
following resolution: **RESOLVED,** that it is
INEXPEDIENT TO LEGISLATE.**

Rep. Andrew Renzullo

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Resources, Recreation and Development
Bill Number:	HB 158
Title:	relative to the definition of prime wetland.
Date:	March 17, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

Wetlands designated as “prime” are the gold standard of wetlands. Because of their size, unspoiled character, fragile condition, and other relevant factors they are considered as being substantially significant. They are the premier wetlands in NH. In 2011, SB 19 was enacted that tightened up the regulations as to what characteristics made a wetland “prime.” Among these objective requirements were that a prime wetland must be contiguous, at least two acres in size, and have a width of at least 50 feet at its narrowest point, plus meet four of the primary wetlands functions. Any wetland missing any one of these requirements, while still being considered a wetland, could not be designated a “prime” wetland. This bill would allow a lesser width (less than 50 ft) if it can be demonstrated that its narrower portions provide a significant contribution (a subjective determination) to the primary wetland functions of the prime wetland. This cheapens the designation of prime wetlands as it suddenly allows sub-prime wetlands, or even streams (which are not wetlands) to connect prime wetlands that do not meet the size requirements of the statute. In his testimony, the sponsor made much of the bill itself not defining the size of the buffer zone (non-wetland) which is required to protect the prime wetland, suggesting that there would be no buffer setback. Not so, as the local buffer setback requirements in the local wetland ordinance setbacks would apply. The New Hampshire Timber Owners Association opposed the bill stating, “...portions of a wetland less than 50 feet wide could be eligible for designation (e.g., inlets/outlets to, or depressions adjacent to, a bog or swamp). Once designated, the regulatory /permitting requirements for any activity (including forest management) become a lot more complex and costly (e.g., abutter notification, Conservation Commission review, wetland assessments, etc.). Because this law remains a problem for landowners seeking to conduct forest management projects on properties with prime wetlands, the NHTOA opposes it. Currently, there are 32 N.H. towns with prime wetlands, and in some communities, if the inlets and outlets were to become designated, large parcels of land would be “land locked” behind this regulation.” The NH Association of Natural Resource Scientists, an organization of wetland scientists, soil scientists, biologists, foresters, surveyors, ecologists, state and municipal employees and citizens who work to promote the science of New Hampshire’s wetlands and soils, opposed the bill, along with the NH Homebuilders Association and The NH Association General Contractors. And finally, on July 29th, 2019, Governor Sununu vetoed the predecessor to this bill. The Governor stated that “New Hampshire currently has sound and responsible protections for wetlands and our environment. This bill adds additional and unnecessary regulations to those laws and does not properly account for property owners who could be negatively affected by them. Any change to the definition of prime wetland should allow for sufficient protection for individual property rights before moving forward.” There are many sections in DES statutes dealing with prime wetlands. The majority believes that expansion of the prime wetlands

Original: House Clerk
Cc: Committee Bill File

designation proposed by this bill will have a deleterious effect on land owners who will be subject to stringent permitting requirements on usable land presently not under such requirements.

Vote 11-10.

Rep. Andrew Renzullo
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

Majority Blurb for HB158 - Relative to the Definition of Prime Wetlands by Andy Renzullo

Majority Recommendation ITL

Wetlands designated as “prime” are the gold standard of wetlands. Because of their size, unspoiled character, fragile condition, and other relevant factors they are considered as being substantially significant. They are the premier wetlands in NH. In 2011, SB 19 was enacted that tightened up the regulations as to what characteristics made a wetland “prime.” Among these objective requirements were that a prime wetland must be contiguous, at least two acres in size, and have a width of at least 50 feet at its narrowest point, plus meet four of the primary wetlands functions. Any wetland missing any one of these requirements, while still being considered a wetland, could not be designated a “prime” wetland. This bill would allow a lesser width (less than 50 ft) if it can be demonstrated that its narrower portions provide a significant contribution (a subjective determination) to the primary wetland functions of the prime wetland. This cheapens the designation of prime wetlands as it suddenly allows sub-prime wetlands, or even streams (which are not wetlands) to connect prime wetlands that do not meet the size requirements of the statute. In his testimony the sponsor made much of the bill itself not defining the size of the buffer zone (non-wet land) which is required to protect the Prime Wetland, suggesting that there would be no buffer setback. Not so, as the local buffer setback requirements in the local wetland ordinance setbacks would apply. The New Hampshire Timber Owners Association opposed the bill stating, “...portions of a wetland less than 50 feet wide could be eligible for designation (e.g., inlets/outlets to, or depressions adjacent to, a bog or swamp). Once designated, the regulatory /permitting requirements for any activity (including forest management) become a lot more complex and costly (e.g., abutter notification, Conservation Commission review, wetland assessments, etc.). Because this law remains a problem for landowners seeking to conduct forest management projects on properties with prime wetlands, the NHTOA opposes it. Currently there are 32 N.H. towns with prime wetlands, and in some communities, if the inlets and outlets were to become designated, large parcels of land would be “land locked” behind this regulation.” The NH Association of Natural Resource Scientists, an organization of wetland scientists, soil scientists, biologists, foresters, surveyors, ecologists, state and municipal employees and citizens who work to promote the science of New Hampshire’s wetlands and soils, opposed the bill, along with the NH Homebuilders Association and The NH Association General Contractors. And finally, on July 29th, 2019, Governor Sununu vetoed the predecessor to this bill. The Governor stated that “New Hampshire currently has sound and responsible protections for wetlands and our environment. This bill adds additional and unnecessary regulations to those laws and does not properly account for property owners who could be negatively affected by them. Any change to the definition of prime wetland should allow for sufficient protection for individual property rights before moving forward.” There are many sections in DES statutes dealing with prime wetlands. The majority believes that expansion of the prime wetlands designation proposed by this bill will have a deleterious effect on land owners who will be subject to stringent permitting requirements on usable land presently not under such requirements.

REGULAR CALENDAR

Resources, Recreation and Development

HB 158, relative to the definition of prime wetland. **OUGHT TO PASS.**

Rep. Chuck Grassie for the **Minority** of Resources, Recreation and Development. Prime wetlands are those few wetlands which a municipality has asked to be so designated by the state "because of their size, unspoiled character, fragile condition or other relevant factors making them of substantial significance." Nomination by the town follows a thorough study and a vote by the town. A wetland permit application for a prime wetland receives a higher level of review by the state. Several years ago the statutes defining prime wetlands were changed so they eliminated some of the most important parts of the wetland, the narrower portions that might connect two wetland systems or be an integral part of their water supply and wildlife habitat. This bill corrects this by allowing these significant but narrower portions to be included in the delineated prime wetland as they should be. These areas must meet the same requirement that they "provide significant contribution to the primary wetland functions of the prime wetland." The bill provides for exemptions for man-made structures such as drainage ditches and berms, work conducted by the Department of Transportation within highway right-of-ways, does not require any set buffers, and would not impact forest management activities on adjoining uplands. The bill also provides that a "municipality shall consider any potential adverse effects on the landowner from including any narrower portion." Any designation as a prime wetland shall require landowner and abutter notice, a vote by the local land use board, receive a full public hearing, and a vote by the local legislative body. Finally, the EPA has stated that "wetlands' highly developed root systems hold the soil in place and filter pollutants, naturally improving water quality (including water that is eventually used for drinking)."

Original: House Clerk

Cc: Committee Bill File

Rep. Chuck Grassie for the Minority of Resources, Recreation and Development: Minority recommendation: OTP

Prime wetlands are those few wetlands which a municipality has asked to be so designated by the state “because of their size, unspoiled character, fragile condition or other relevant factors making them of substantial significance.” Nomination by the town follows a thorough study and a vote by the town. A wetland permit application for a prime wetland receives a higher level of review by the state. Several years ago the statutes defining prime wetlands were changed so they eliminated some of the most important parts of the wetland, the narrower portions that might connect two wetland systems or be an integral part of their water supply and wildlife habitat. This bill corrects this by allowing these significant but narrower portions to be included in the delineated prime wetland as they should be. These areas must meet the same requirement that they “provide significant contribution to the primary wetland functions of the prime wetland.” The bill provides for exemptions for man-made structures such as drainage ditches and berms, work conducted by the Department of Transportation within highway right-of-ways, does not require any set buffers, and would not impact forest management activities on adjoining uplands. The bill also provides that a “municipality shall consider any potential adverse effects on the landowner from including any narrower portion.” Any designation as a prime wetland shall require landowner and abutter notice, a vote by the local land use board, receive a full public hearing, and a vote by the local legislative body. Finally, the EPA has stated that “wetlands’ highly developed root systems hold the soil in place and filter pollutants, naturally improving water quality (including water that is eventually used for drinking).”

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 158

BILL TITLE: relative to the definition of prime wetland.

DATE: March 3, 2021

LOB ROOM: Hybrid

MOTIONS: **INEXPEDIENT TO LEGISLATE**

Moved by Rep. Gunski

Seconded by Rep. Creighton

Vote: 11-10

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Juliet Harvey-Bolia, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on

BILL TITLE: HB 158

DATE: 03/03/21

LOB ROOM:

306

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year)
- (if offered)*

Moved by Rep. Gunski Seconded by Rep. Greighton Vote: 11/10

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year)
- (if offered)*

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year)
- (if offered)*

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year)
- (if offered)*

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: _____ Motion _____

Respectfully submitted: *Juliet Harvey-Bolia*
Rep Juliet Harvey-Bolia, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



HB 158

1/27/2021 9:56:53 AM
Roll Call Committee Registers
Report

2021 SESSION

Resources, Recreation and Development

Bill #: ~~158~~ 158 Motion: ITL AM #: Exec Session Date: 03/03/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Dutzy, Sherry		✓	
Renzullo, Andrew Chairman	✓		
Gunski, Michael D. Vice Chairman	✓		
Gould, Linda R.	✓		
Horgan, James F.	✓		
Harb, Robert D.	✓		
Creighton, Jim L.	✓		
Dodge, Dustin	✓		
Harvey-Bolia, Juliet Clerk	✓		
Healey, Robert V.	✓		
Mayville, Mary L.	✓		
Post, Lisa C.M.	✓		
Smith, Suzanne J.		✓	
Spang, Judith T.		✓	
Grassie, Chuck W.		✓	
Gottling, Suzanne H.		✓	
Cohen, Bruce L.		✓	
Connors, Erika F.		✓	
Vail, Suzanne M.		✓	
Kelley, Eamon P.		✓	
Moran, Melbourne R.		✓	
TOTAL VOTE:	11	10	

Hearing Minutes

RR & D Action Minutes
February 10, 2021

Members Present: Reps. Renzullo, Gunski, Harvey-Bolia, Gould, Horgan, Harb, Creighton, Dodge, Healey, Mayville, Post, Smith, Spang, Grassie, Gottling, Cohen, Connors, Vail, E. Kelley and Moran

The meeting was convened as a Zoom webinar at 9:02 a.m. by Rep. Renzullo as Chair, who proceeded to read the script prepared by Committee staff regarding authorization for the Committee to meet remotely in accordance with the Governor's Emergency Order #12 and pursuant to Executive Order 2020-4.

A roll call attendance was taken. Staff: Brad Greenland.

Members present remotely at this time aside from Rep. Smith, were Reps. Healey, Harvey-Bolia, Dodge, Spang, Grassie, Gottling, Cohen, Connors, Vail, E. Kelley and Moran.

At 9:09 AM, Rep Renzullo opened the hearing on HB 158, relative to the definition of a prime wetland.

Rep. Grassie , Prime Sponsor introduced the bill and spoke in support of HB 158.

Rep. Spang, declined to speak.

Abbott, Gary, A Lobbyist for the Associated General Contractors of NH, spoke against the bill.

Nyhan, Kevin, Staff for the Department of Transportation, spoke in support.

Cook, Harold, a member of the public spoke against.

Richter, Barbara A Lobbyist NH Assoc of Conservation Commissions, spoke in support.

Stock, Jasen A Lobbyist NH Timberland Owners Association, spoke against.

Van de Poll, Rick, wetland scientist spoke in favor.

Pollack, Ari, Lobbyist for NH Homebuilders spoke against.

Parsont, Michael, NH Association of Natural Resource, spoke against.

Albert, Christopher, wetland scientist, spoke neither for nor against.

Gamache, Donna spoke against.

Hearing Closed: 10:31AM.

At 10:32 , Rep Renzullo opened the hearing on HB 426, relative to shoreland septic systems.

Rep. Spang, Prime Sponsor introduced and spoke in support of the bill.

Sen. David Watters, spoke in support of the bill.

Albert, Christopher, septic designer, spoke neither for nor against.

Merrill, Lynne, spoke against the bill.

Moller, Ken, spoke against the bill.

Davis, Michelle, spoke in support of the bill.

Hanley, Diane, Lake Winnepesaukee Association spoke in support of the bill.

Russell, Peter, spoke against the bill.

Malloy, Dennis, spoke in support of the bill.

Paly, Melissa, from the Conservation Law Foundation, spoke in support of the bill.

Abbott, Gary, A Lobbyist for the Associated General Contractors of NH, spoke against the bill.

Testimony

Karen Karwocki

From: Barbara Richter <barbara@nhacc.org>
Sent: Tuesday, February 9, 2021 1:52 PM
To: ~House Resources Recreation and Development
Subject: HB 158
Attachments: HB158-testimonyRRDC.pdf

The NHACC Board of Directors supports HB158 to further define the prime wetland to include narrow wetlands when they provide a significant contribution to the functions of the prime wetland.

Wetlands provide critical functions including flood control, water quality maintenance through filtering pollution, wildlife habitat, groundwater recharge and shore land stabilization.

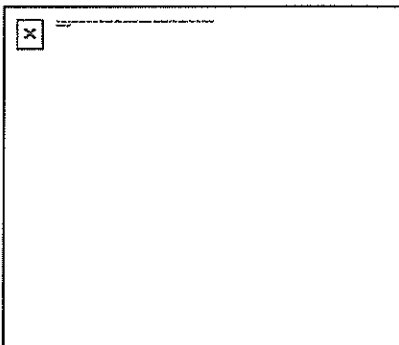
Please help conservation commissions continue to protect NH's water resources for all of us.

Vote yes on HB 158 to allow for narrow portions of wetlands to be included in the definition of prime wetlands with responsibility of documentation of wetlands functions and values on the local municipality.

Please see the attached letter for your review.

**Regards,
Barbara**

--
Barbara Richter, Executive Director
NH Association of Conservation Commissions
54 Portsmouth Street
Concord, NH 03301
603.224.7867
Barbara@nhacc.org
www.nhacc.org



Prime wetlands have high value functions, which is why they are more carefully regulated. It is important to note that often the highest value lies in the poorly drained edges, where the narrow fingers stretch out into the landscape. The existing law does not take into account wetlands that are less than 50 feet wide, and may cut off the fingers of a wetland complex. HB 158 would further define the law to include the requirement *“if the municipality can demonstrate that any such narrower portion provides a significant contribution to the primary wetland functions of the prime wetland.”* This change to the definition of prime wetlands would allow for protection of the larger wetland complex, and would better protect water resources as a whole.

Wetlands provide critical functions including flood control, water quality maintenance through filtering pollution, wildlife habitat, groundwater recharge and shore land stabilization. These functions and values in turn provide a multitude of benefits to the public good. Wetlands perform critical functions best when they are hydrologically connected across the landscape. Allowing for the flow of water between wetland areas is a basic concept in the protection of water resources. Impacts to a wetland complex are felt downstream and may eventually limit the overall function of the ecosystem.

Please help conservation commissions continue to protect NH’s water resources for all of us. **Vote yes on HB 158 to allow for narrow portions of wetlands to be included in the definition of prime wetlands with responsibility of documentation of wetlands functions and values on the local municipality.**

Respectfully submitted,

Barbara Richter

Barbara Richter
NHACC Executive Director



New Hampshire Association of Conservation Commissions

SERVING NEW HAMPSHIRE'S COMMUNITIES SINCE 1970

TO: Resources, Recreation and Development Committee
FROM: Barbara Richter, NHACC Executive Director
DATE: February 9, 2021
SUBJECT: Written testimony regarding HB158

Thank you for the opportunity to provide testimony on HB 158.

The NH Association of Conservation Commissions (NHACC) is a nonprofit organization which serves the approximately 217 local conservation commissions in the state. The Board of Directors of the NHACC supports HB158 to further define the prime wetland to include narrow wetlands when they provide a significant contribution to the functions of the prime wetland.


Prime wetlands are designated because they are areas of significant value worthy of extra protection under NH State Law **RSA 482-A:15** “...because of their size, unspoiled character, fragile condition, or other relevant factors, make them of substantial significance.”

Under RSA 482, NH municipal Conservation Commissions may select areas for prime wetland designation, by preparing a report on proposed wetlands, and evaluating the wetland functions and values. The majority of reports are prepared by Certified Wetland Scientist and involve a careful review by both the conservation commission and other town boards. After the municipality holds a public hearing and votes to establish prime wetlands they provide NH DES Wetland Bureau with a copy of the study and maps to identify the prime wetlands. The State designates the location as prime wetland after reviewing and approving the documentation provided by the town.

Prime wetland designation allows for a more local control and a complete review of dredge and fill permit applications so that municipalities can ensure the best level of protection for these unique wetland resources.

Permit applications that propose dredge and/or fill in a prime wetland automatically get bumped up to a Major project providing more oversight of the project. If an application proposes work in a prime wetland the Bureau must hold a public hearing regardless of the scale of the project.

If the Bureau decides to approve an application for a project adjacent to a prime wetland, no permit shall be issued until 20 calendar days after notification of the department's decision has been given to the municipal conservation commission, planning board, municipal executive body, applicant, and other interested parties who have entered written testimony or attended the public hearing. This process allows for more local involvement and transparency before prime wetlands can be dredged or filled.

Archived: Thursday, April 22, 2021 11:06:55 AM
From: June Fichter
Sent: Tuesday, February 9, 2021 3:25:00 PM
To: ~House Resources Recreation and Development
Subject: NH House Remote Testify: 9:00 am - HB158 in House Resources, Recreation and Development
Importance: Normal
Attachments:
This letter is to support HB 426.docx 

February 9, 2021

Resources, Recreation and Development

Re: House Bill 426

Dear Chair Renzullo and Committee Members,

This letter is to support HB 426, an act Requiring a detailed septic disposal system evaluation for older/unapproved septic systems prior to the sale of waterfront properties.

Healthy septic systems are one of the key factors in having healthy waterbodies. Septic systems can impact surface water bodies, such as lakes and stream, as well as drinking water wells, and ground water. The extent of this impact depends on how well the septic system is functioning. If they leak pathogens and excessive nutrients they can definitely degrade water sources nearby.

HB426 would insure septic system evaluations are properly performed, thereby insuring compliance with current codes. Noone should have to drink or swim in contaminated water.

Thank you for your consideration,

June Fichter

Executive Director

Lake Sunapee Protective Association 63 Main St, Sunapee, NH 03782

junef@lakesunapee.org

Archived: Thursday, April 22, 2021 11:06:55 AM
From: Sales, Tracie
Sent: Monday, February 8, 2021 1:04:32 PM
To: ~House Resources Recreation and Development
Cc: Scott, Robert; O'Donovan, Thomas; Diers, Ted; Michele L. Tremblay (MLT@naturesource.net); 'Larry Spencer'; Chuck Grassie
Subject: HB 158 - Rivers Management Advisory Committee Letter of Testimony
Importance: Normal
Attachments:
HB158 Prime Wetlands House RRD RMAC 20210210.pdf ;

Dear Chair Renzullo and Members of the Committee-

On behalf of the New Hampshire Rivers Management Advisory Committee (RMAC), attached is a letter of testimony for House Bill 158, relative to the definition of prime wetland.

Please contact RMAC Chair Michele L. Tremblay at 603.796.2615 or MLT@naturesource.net if you have any questions about this testimony.

Sincerely,
Tracie Sales
Staff to the Rivers Management Advisory Committee


Tracie Sales
Rivers & Lakes Programs Manager
NH Rivers & Lakes Management and Protection Programs
Watershed Management Bureau, Water Division
NH Department of Environmental Services
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095
(603) 271-2959
Tracie.Sales@des.nh.gov



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Archived: Thursday, April 22, 2021 11:06:56 AM
From: Gary Abbott
Sent: Saturday, February 6, 2021 12:31:42 PM
To: ~House Resources Recreation and Development
Subject: NH House Remote Testify: 9:00 am - HB158 in House Resources, Recreation and Development
Importance: Normal
Attachments:
Oppose HB 158 Prime Wetlands.docx 

Dear House Resources Committee,

Attached is the Associated General Contractors of NH position paper in opposition to House Bill 158 relative to Prime Wetlands. If you have any questions please feel free to contact me.

Sincerely,

Gary Abbott
Executive Vice President
Associated General Contractors of NH
603-225-2701

Karen Karwocki

From: Jeremy Pegg <jempegg@yahoo.com>
Sent: Tuesday, February 9, 2021 5:15 PM
To: ~House Resources Recreation and Development
Subject: NH House Remote Testify: 9:00 am - HB158 in House Resources, Recreation and Development

Jeremy Pegg
297 Hoit Road,
Concord NH
2/10/2021

RE: HB571 Repealing the prohibition against OHRV travel on Hoit Road Marsh.

Chairman, members of the committee. My name is Jeremy Pegg, of Hoit Road, Concord, New Hampshire. I am not in favor of the amendment to allow motorbikes on the ice at Hoit Road Marsh.

The marsh on Hoit Road is special to me. I live close to it and I regularly clean up trash and hike the trails around it. I have outlined my concerns below:

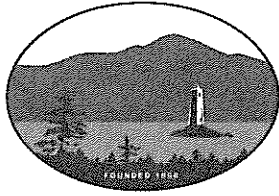
- Noise – some of the bikes the riders have been using are much louder than the 96 db limit applicable to ponds over 10 acres. We have snowmobile trails nearby and they are much quieter. Since it is only a small pond then no matter where these bikes are on the pond then I can hear them from my house.
- The marsh has been singled as ‘the place to go’ for ice riding. I don’t want riders coming from across New Hampshire to our Marsh. They won’t care about the marsh, the wildlife, the water quality or the trash they leave behind. They also won’t care if it’s a Monday, Saturday or a holiday.
- The bikers have done nothing to eliminate the noise problem or to work with local residents.
- Having the bikers on the pond means that others can’t safely use the pond for activities. I love watching wildlife but it’s very hard for the wildlife to thrive there given the circumstances. Over the last 2 winters, since the ban, I have seen a marked increase in the number of species in and around the marsh including Beavers, Fox, Porcupine and Skunk..
- There are no rest rooms onsite and very little parking close by. What parking there is is also for the nearby walking trails.
- More people are working from home these days. While a bike on a trail may come past someones house once on the way out and once again on the way back these bikes on the marsh go round in circles for hours. Quality of life is essential in attracting new people and businesses to our community as well as retaining those already here.

The department of fish and game’s mission statement is: As the guardian of the state's fish, wildlife and marine resources, the New Hampshire fish and game department works in partnership with the public:

- (1) To conserve, manage, and protect these resources and their habitats;
- (2) To inform and educate the public about these resources; and
- (3) To provide the public with opportunities to use and appreciate these resources.

I don’t believe that biking on the marsh is in line with the first objective and I think it is going beyond the 3rd goal in providing opportunities for some members of the public while denying others their own access to the marsh.

If you are going to overturn the ban you need to make sure that the Fish and Game department have both the resources, and the will, to enforce the rules.



LSPA

*Devoted to the Environmental Quality
of the Lake Sunapee Watershed*

February 9, 2021

Resources, Recreation and Development
Re: House Bill 426

Dear Chair Renzullo and Committee Members,

This letter is to support HB 426, an act Requiring a detailed septic disposal system evaluation for older/unapproved septic systems prior to the sale of waterfront properties.

Healthy septic systems are one of the key factors in having healthy waterbodies. Septic systems can impact surface water bodies, such as lakes and stream, as well as drinking water wells, and ground water. The extent of this impact depends on how well the septic system is functioning. If they leak pathogens and excessive nutrients they can definitely degrade water sources nearby.

HB426 would insure septic system evaluations are properly performed, thereby insuring compliance with current codes. Noone should have to drink or swim in contaminated water.

Thank you for your consideration,

June Fichter
Executive Director
Lake Sunapee Protective Association
junef@lakesunapee.org
63 Main St, Sunapee, NH 03782

February 10, 2021

Honorable Andrew Renzullo, Chair
House Resources, Recreation & Development Committee
State House Rm 103
Concord, NH 03301

Testimony regarding House Bill 158, an ACT relative to the definition of prime wetland

Dear Representative Renzullo and Members of the Resources, Recreation & Development Committee;

The bill before you passed in 2019 but was vetoed by Governor Sununu in spite of the hard work of countless individuals, who worked hard to find a compromise between the concerns of the developers and the concerns of those seeking to reinstate prime wetland law.

As you may recall, in 2012, the prime wetland statute was gutted. The 50-foot width minimum, which was intended to prevent long and narrow prime wetlands from being approved, was reinterpreted by NHDES to mean that *anything* less than 50 feet wide. This meant that virtually every tiny “finger” or “toe” of a wetland could no longer be a part of a prime wetland.

Recognizing that some of the most important wetland functions are contained in these ‘fingers and toes,’ an effort was begun in 2017 to clarify the language of the law in order to retain these areas.

This effort culminated in an amendment in 2018 that had the support of several stakeholders. The NH Association of Wetland Scientists appeared willing to concede the inclusion of the ‘fingers and toes’ as long as the narrower portions contained four or more primary wetland functions; the Association of General Contractors agreed if no man-made structures like ditches or drainage swales were included; the Home Builders Association insisted that the municipality consider any adverse effects on the landowner if the narrower portions were included; and the NH Department of Transportation rejected any amendment unless any and all DOT rights-of-way were prevented from being included as a prime wetland.

All of these concessions were made, right up to the Committee of Conference, and as a result, both the House and Senate passed the bill. Then, in July 2019, after ten months



New Hampshire Fish and Game Department

HEADQUARTERS: 11 Hazen Drive, Concord, NH 03301-6500
(603) 271-3421
FAX (603) 271-1438

www.WildNH.com
e-mail: info@wildlife.nh.gov
TDD Access: Relay NH 1-800-735-2964

**New Hampshire Fish and Game Department
Resources, Recreation and Development Committee
Testimony in Opposition to HB 534
Relative to municipal control of certain frozen water bodies
February 10, 2021**

We write to express the position of the New Hampshire Fish and Game Commission and the NH Fish and Game Department in opposition to HB 534, which would give municipalities in the state the discretion to regulate the time, place, and manner of use of frozen public waters of 100 acres or less in size within their boundaries. This would change the scheme for regulating the use of these waters significantly. Under current law, RSA 271:20, regulatory authority is assigned to the state for the benefit of all citizens, and RSA 271:20-b limits the role of municipalities to posting warnings in the interest of public safety during the times such waters are frozen.

It is unclear under the current proposed bill when a waterbody would be considered "frozen", or who would make this determination in any given year. The authority granted to municipalities is voluntary, and it appears that any specific municipality may elect to "opt in" to a scheme of regulation, or "opt out" on a year to year basis. This could cause confusion for the public, and certainly presents a challenge for the allocation of enforcement resources, both for state agencies and for municipalities.

We have two additional concerns, the first being the maintenance of public safety on such waters, and secondly the concern that this proposed statute would create a new scheme for the control of ice fishing on such waters that would be confusing for anglers, and very difficult for municipalities to implement.

It is within the jurisdiction of the department to enforce all criminal laws of the state, as well as laws relating to snowmobiles, OHRV use, bobhouses, the protection of the environment, and the prevention of littering and dumping. See RSA 206:26, XI. The language contained in this proposal would allow municipalities, apparently in accordance with their ordinance powers contained in RSA 31:39, to regulate the time, place and manner of the use of frozen waters. This department is not authorized to enforce municipal ordinances in any location, and thus all enforcement duties on these waters would become a municipal responsibility in those places where the new authority is exercised, to include whether to allow or prohibit the use of snowmobiles and OHRV in such areas, even though the underlying waters are held in trust by the state for the benefit of all citizens.

The responsibility for search and rescue operations in the state is assigned to the Fish and Game Department in accordance with RSA 206:26, XII. The proposal is unclear as to whether such action would excuse the department from its search and rescue duties in such places, or whether command of a search and rescue scene would thereby be granted to a local police chief or fire chief under RSA 154:7. The proposal would change lines of responsibility and duties to respond in ways that are unclear, and

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which would not be in the best interests of providing public safety services in the most efficient manner possible.

As to fishing, the control of permitting ice fishing tournaments is granted to the Fish and Game Department in all public waters (RSA 211:16-b). If this proposal were adopted, such responsibility would be unclear in the areas where municipalities exercised control. These permitted events are also required to acquire a water event permit from the Department of Safety, Marine Patrol (RSA 207-D:4). It is not clear if the ice fishing tournament organizer would continue to procure a Water Event permit for such waters. If control were moved over to the municipalities, there would be concern that existing administrative rules of the department relative to fishing seasons, bag limits, means and methods of take of species, and required and prohibited equipment for angling might not apply in those places during certain winter months. There is no authority granted in this proposal for the municipality to impose such controls, and thus the health of the waters and the health of the fish populations in these waters would be placed at risk.

Therefore, we respectfully request that the committee find this proposal to be inexpedient to legislate due to concerns regarding the maintenance of public safety, and concerns regarding the control of such waters for angling during the winter months.

Respectfully submitted,

Paul G. Sanderson
Legal Coordinator
271-1136
paul.sanderson@wildlife.nh.gov

Archived: Wednesday, July 28, 2021 2:29:01 PM
From: Gamache, Donna M
Sent: Wednesday, February 10, 2021 9:11:25 AM
To: ~House Resources Recreation and Development
Subject: Opposition to HB 158
Importance: Normal
Attachments: image001.jpg ;

Good morning members of the House Resources, Recreation and Development Committee:

I wanted to share the concerns that Eversource Energy has with the language in HB 158, relative to the definition of a prime wetland.

We believe the changes anticipated by this legislation would create confusion and potential inconsistencies. I am happy to elaborate on that point.

This bill seeks to change the definition of a prime wetland in conflict with the current definition in rule, as well as with the wetland separation sections to which utilities and others must already adhere.

If this legislature determines that such changes are required, we would hope that this committee would bring in the stakeholders to ensure that there are no patchwork of rules and inconsistencies.

Thank you very much for your attention to this matter.

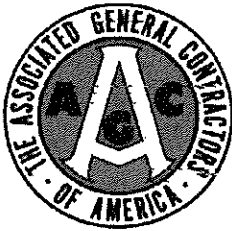
Donna Gamache

Donna Gamache, Director, Governmental Affairs

780 No. Commercial St | Manchester, NH 03101 | 📞 : 603-345-0994

✉ : donna.gamache@eversource.com

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The Associated General Contractors of New Hampshire, Inc.

48 Grandview Road ▼ Bow, New Hampshire 03304
603/225-2701 ▼ Fax 603/226-3859

In opposition of House Bill 158
Relative to expanding the definition of prime wetlands
February 10, 2021

The Associated General Contractors of NH (AGC of NH) strongly opposes House Bill 158 as written. The Association does not believe new legislation is necessary to begin with, as the current law has clear, acceptable guidelines. The current law includes a 50-foot minimum for an area to be considered prime, which HB 158 would allow municipalities to expand the definition to smaller, less defined areas.

AGC was part of the effort that first established the 50-foot minimum in response to some cities and towns claiming channels and drainage ditches as prime wetlands, which made it extremely difficult for development. The 50-foot minimum also ensures that areas that don't meet the requirements by themselves can't be "linked" to prime wetlands via narrow channels and ditches. I have attached a wetlands map that shows how an area that does not have the 50-foot minimum would expand the area well beyond into very well developed properties.

The difference between a classification of wetlands and a municipal voluntary prime wetlands designation has considerable impact on a given property owner. The wetlands permitting process for a property owner with this designation becomes considerably more challenging as the Department of Environmental Services regulations classify these areas as "Special Resource Areas" which need a high-level permitting review.

In previous proposals similar to this, the association has attempted to reach a compromise but each time it has been rejected. We believe that any consideration of this voluntary expansion by a community should have the property owner's approval since the property will be impacted by this through restrictions of the use of their property and a financial impact on property values.

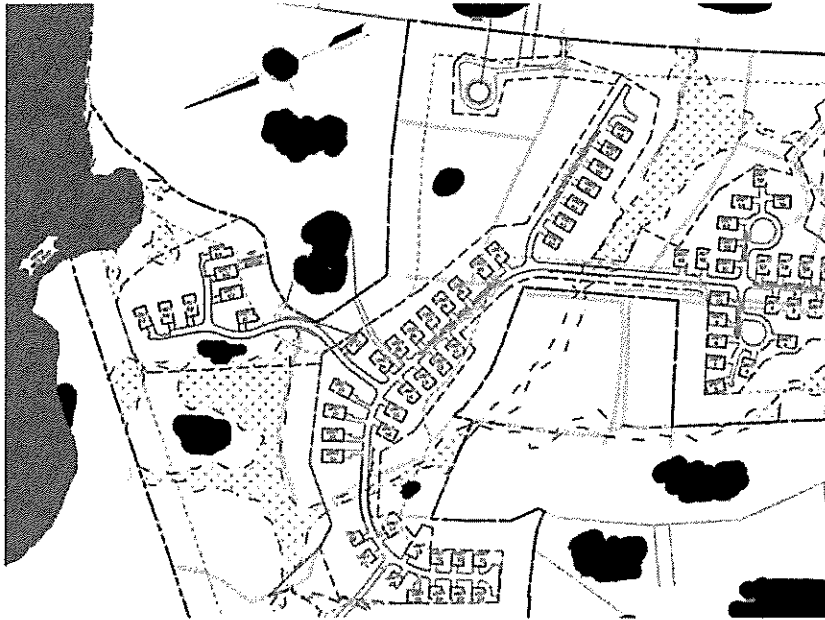
We also would like the committee to look at the record in the House and all of the major regulated industry associations have opposed this legislation.

The AGC of NH requests that the House Resources, Recreation, and Development Committee vote in opposition to HB 158.

Respectfully submitted,


Gary Abbott

Executive Vice President
Current Map of a Prime Wetland



Same Wetland under Proposed House Bill 1124
(Significant number of property owners affected)



Archived: Wednesday, July 28, 2021 2:28:05 PM
From: woodswithoutgile@tds.net
Sent: Tuesday, February 9, 2021 6:12:16 PM
To: ~House Resources Recreation and Development
Cc: Ann and Marc Davis
Subject: House Bill 158 -- Prime Wetlands
Importance: Normal
Attachments: HB 158.2021_Prime Wetlands.letter.02-09-21.docx ;

Ann W. Davis, manager

Woods Without Gile, LLC

187 Kearsarge Mountain Road

Wilmot, NH 03287-4803

February 9, 2021

Representative Andrew Renzullo, chairman

NH House of Representatives Resources, Recreation and Development Committee

NH Legislative Office Building, Room 305

Concord, NH 03301

RE: House Bill 158

Dear Sir,

Due to another commitment the morning of February 10, I cannot attend your hearing.

I oppose House Bill 158 because it would significantly increase the regulatory/permitting requirements currently in force in the 32 New Hampshire towns that have properties with prime wetlands. In some instances this bill, if passed, would create parcels that essentially would be land-locked and thus closed to timber harvesting.

I own a 500-acre woodlot that abuts the John F. Gile Memorial State Forest in Springfield, NH. In 2007 we placed a conservation easement on the property. The land is open to all forms of passive recreation – hiking, snow shoeing, cross-country skiing, fishing, and hunting.

Since 2004 we have conducted four timber harvests. The objectives include: preserving water quality, establishing a well-managed forest, diversifying habitat, establishing trails for the public to enjoy, and generating revenue. Yes, the revenue from the timber harvests plays an important role. We use the funds to pay property and yield taxes to the town. These funds also allow us to engage a consulting forester, conduct timber stand improvement, and mow the trails and meadows on the property.

Wetlands – ranging from beaver meadows and upland Red Maple swamps to vernal pools and streams – abound on this land. We always employ a forester and use loggers who are certified through the NH Timberland Owners Association's Professional Logger Program. We are always careful to exceed the state's best management practices.

Thank you for the work that you and your committee perform on behalf of New Hampshire's residents. Thank you also for sharing my letter with members of your committee.

Sincerely,

Ann Davis, manager

Woods Without Gile LLC

Archived: Thursday, April 22, 2021 11:14:20 AM
From: Ron Klemarczyk
Sent: Friday, February 19, 2021 12:56:54 PM
To: ~House Resources Recreation and Development
Subject: HB 158 Prime Wetlands
Importance: Normal

Hello Representative Renzullo,

After reading the various House Bills that impact forest management, I have some concerns with HB 158. As a forester and long time Conservation Commission member, I appreciate the value of wetlands and spend a lot of time laying out my logging roads, skidder trails and even hiking trails in a manner to protect or minimize impacts to wetlands. I have also spent many volunteer hours helping communities protect Open Space including tracts with a high percentage of wetlands. However, there is a big difference that impacts from forestry or agriculture operations have on wetlands as compared to commercial, industrial or residential development. I realize that without buffer zones, a wetland can "die" if the land around it is developed right up to the edge of the wetland itself, but this scenario does not occur in forestry and agricultural operations. Adding "fingers" to prime wetlands will make it difficult to access some areas of forest land where rough terrain or property lines prevent alternative routes. If managing forest land becomes too difficult, landowners will often stop trying and sell the land for other uses. I will support HB 158 if an exemption is given for Forestry and Agriculture, but otherwise would ask you not to support this Bill as I have had several experiences where Prime wetland buffers have had a negative effect on my client's long term forestry programs, especially where Towns have their own interpretation on how the law is administered. The clients have lost potential income from timber sales and I have incurred added expenses in dealing with the regulations in situations where there would have been no impact to the wetland other than we had to cross a buffer zone.

Thank you for your time and hope that you give this some thought.

Ron Klemarczyk
Contoocook NH
Licensed NH Forester #116

Archived: Thursday, April 22, 2021 11:14:20 AM
From: Sales, Tracie
Sent: Monday, February 8, 2021 1:04:32 PM
To: ~House Resources Recreation and Development
Cc: Scott, Robert; O'Donovan, Thomas; Diers, Ted; Michele L. Tremblay (MLT@naturesource.net); 'Larry Spencer'; Chuck Grassie
Subject: HB 158 - Rivers Management Advisory Committee Letter of Testimony
Importance: Normal
Attachments:
HB158 Prime Wetlands House RRD RMAC 20210210.pdf;

Dear Chair Renzullo and Members of the Committee-

On behalf of the New Hampshire Rivers Management Advisory Committee (RMAC), attached is a letter of testimony for House Bill 158, relative to the definition of prime wetland.

Please contact RMAC Chair Michele L. Tremblay at 603.796.2615 or MLT@naturesource.net if you have any questions about this testimony.

Sincerely,
Tracie Sales
Staff to the Rivers Management Advisory Committee

Tracie Sales
Rivers & Lakes Programs Manager
NH Rivers & Lakes Management and Protection Programs
Watershed Management Bureau, Water Division
NH Department of Environmental Services
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Bill as
Introduced

HB 158 - AS INTRODUCED

2021 SESSION

21-0291
08/04

HOUSE BILL **158**

AN ACT relative to the definition of prime wetland.

SPONSORS: Rep. Grassie, Straf. 11; Rep. Vail, Hills. 30; Rep. Stevens, Hills. 34

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill further defines prime wetland for local protection in fill and dredge permits.

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 Twenty One

AN ACT relative to the definition of prime wetland.

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

1 1 Prime Wetlands; Definition. Amend RSA 482-A:15, I-a and I-b to read as follows:

2 I-a. For the purposes of this chapter, "prime wetlands" shall mean any contiguous areas
3 falling within the jurisdictional definitions of RSA 482-A:2, X and RSA 482-A:4 that, because of their
4 size, unspoiled character, fragile condition, or other relevant factors, make them of substantial
5 significance. A prime wetland shall be at least 2 acres in size, ***excluding those areas described***
6 ***in paragraph I-b***, shall not consist of a water body only, shall have at least 4 primary wetland
7 functions ***within the 2 acre or greater area***, one of which shall be wildlife habitat. ***A prime***
8 ***wetland*** [~~and~~] shall have a width of at least 50 feet at its narrowest point ***across and***
9 ***perpendicular to its longitudinal axis***.

10 I-b. ***A prime wetland may include additional connected narrower wetland areas***
11 ***less than 50 feet at their narrowest point across and perpendicular to their longitudinal***
12 ***axis if the municipality can demonstrate that any such narrower portion provides a***
13 ***significant contribution to the primary wetland functions of the prime wetland. To***
14 ***qualify as a significant contribution, a narrower portion shall contain 4 or more primary***
15 ***wetland functions as defined in RSA 482-A:2, XI and shall not include any man-made***
16 ***structures under RSA 482-A:3, IV(b). The municipality shall consider any potential***
17 ***adverse effects on the landowner from including any narrower portion***.

18 I-c. The boundary of a prime wetland shall coincide, where present, with the upland edge of
19 any wetland, as defined in RSA 482-A:2, X, that is part of the prime wetland. On-site verification of
20 proposed prime wetland boundaries shall be performed where landowner permission is provided.

21 I-d. ***For the purposes of this paragraph existing state highway rights-of-way,***
22 ***including associated permanent easements, shall not include prime wetlands or their***
23 ***adjacent buffers***.

24 [~~I-b.~~] I-e. The commissioner shall adopt rules under RSA 541-A relative to the form,
25 criteria, and methods that shall be used to designate, map, and document prime wetlands, determine
26 boundaries in the field, and amend maps and designations once filed and accepted by the
27 department under paragraph II.

28 2 Effective Date. This act shall take effect 60 days after its passage.