
Committee Report

CONSENT CALENDAR

March 10, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Resources, Recreation and Development to which was referred HB 534,

AN ACT relative to municipal control of certain frozen water bodies. Having considered the same, report the same with the following resolution: **RESOLVED**, that it is **INEXPEDIENT TO LEGISLATE**.

Rep. Robert Healey

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Resources, Recreation and Development
Bill Number:	HB 534
Title:	relative to municipal control of certain frozen water bodies.
Date:	March 10, 2021
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would allow the local governing body of a municipality to regulate the time, place, and manner of use of frozen public waters of 100 acres or less within their boundaries. This contradicts RSA 271:20, I, which states: "All natural bodies of fresh water situated entirely in the state having an area of 10 acres or more are state-owned public waters, and are held in trust by the state for public use;". This bill had opposition from many state agencies including NHDES, State of New Hampshire Department of Parks and Cultural Resources, New Hampshire Fish and Game Department, and NH Rivers and Management Advisory Committee. To quote the Chair of NH Rivers and Management Advisory Committee, "If passed this bill would effectively remove the public's free use of the states smaller lakes and ponds during the winter months". In addition, during hearings, Captain Eastman of Fish and Game suggested that the public currently has the ability to address local grievances via Administrative Rules.

Vote 21-0.

Rep. Robert Healey
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Resources, Recreation and Development

HB 534, relative to municipal control of certain frozen water bodies. **INEXPEDIENT TO LEGISLATE.**

Rep. Robert Healey for Resources, Recreation and Development. HB534 would allow the local governing body of a municipality to regulate the time, place, and manner of use of frozen public waters of 100 acres or less within their boundaries. This contradicts RSA 271:20, I, which states: "All natural bodies of fresh water situated entirely in the state having an area of 10 acres or more are state-owned public waters, and are held in trust by the state for public use;". This bill had opposition from many state agencies including NHDES, State of New Hampshire Department of Parks and Cultural Resources, New Hampshire Fish and Game Department, and NH Rivers and Management Advisory Committee. To quote the Chair of NH Rivers and Management Advisory Committee, "If passed this bill would effectively remove the public's free use of the states smaller lakes and ponds during the winter months". In addition, during hearings, Captain Eastman of Fish and Game suggested that the public currently has the ability to address local grievances via Administrative Rules. HB 534 was deemed Inexpedient to legislate unanimously by the Resources, Recreation and Development Committee. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

Blurb for HB534 by Robert Healey

HB534 would allow the local governing body of a municipality to regulate the time, place, and manner of use of frozen public waters of 100 acres or less within their boundaries. This contradicts RSA 271:20, I, which states: "All natural bodies of fresh water situated entirely in the state having an area of 10 acres or more are state-owned public waters, and are held in trust by the state for public use;". This bill had opposition from many state agencies including NHDES, State of New Hampshire Department of Parks and Cultural Resources, New Hampshire Fish and Game Department, and NH Rivers and Management Advisory Committee. To quote the Chair of NH Rivers and Management Advisory Committee, "If passed this bill would effectively remove the public's free use of the states smaller lakes and ponds during the winter months". In addition, during hearings, Captain Eastman of Fish and Game suggested that the public currently has the ability to address local grievances via Administrative Rules. HB 534 was deemed Inexpedient to legislate unanimously by the Resources, Recreation and Development Committee.

Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on HB 534

BILL TITLE: relative to municipal control of certain frozen water bodies.

DATE: March 5, 2021

LOB ROOM: Hybrid

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Gunski

Seconded by Rep. Cohen

Vote: 21-0

CONSENT CALENDAR: YES

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: 534

DATE: 03/03/21

LOB ROOM: 306

MOTION: (Please check one box)

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

Moved by Rep. Givinski Seconded by Rep. Cohen Vote: 21/0

MOTION: (Please check one box)

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

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

MOTION: (Please check one box)

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

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

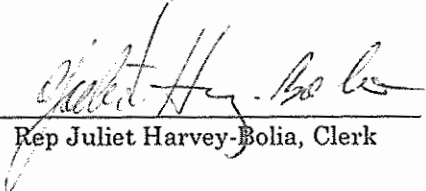
MOTION: (Please check one box)

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

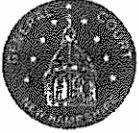
Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: _____ YES _____ NO

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

Respectfully submitted:  Rep Juliet Harvey-Bolia, Clerk

OFFICE OF THE HOUSE CLERK



Roll Call Committee Registers
Report

2021 SESSION

Resources, Recreation and Development

Bill #: 534 Motion: ITL AM #: _____ Exec Session Date: 03/03/21

	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
<i>Dutzy, Sherry</i> <u>Members</u>	✓		
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:	21	0	

Hearing Minutes

Tardif, Rob, Admin. For Subsurface Systems for the DES, made suggestions to the bill.
Hearing Closed: 11:56AM.

Chair Renzullo asked for motion regarding requesting a fiscal note for HB 235
Motion made by Rep. Kelley, seconded by Rep. Smith.

A roll call vote was called. The vote was as follows:

	<u>Yes</u>	<u>No</u>
Rep. Renzullo,		X
Rep. Gunski,	X	
Rep. Gould	X	
Rep. Horgan	X	
Rep. Harb	X	
Rep. Creighton	X	
Rep. Dodge	X	
Rep. Harvey-Bolia	X	
Rep. Healey	X	
Rep. Mayville	X	
Rep. Post	X	
Rep. Smith	X	
Rep. Spang	X	
Rep. Grassie	X	
Rep. Gottling	X	
Rep. Cohen	X	
Rep. Connors.	X	
Rep. Vail	X	
Rep. Kelley	X	
Rep. Moran	X	

One nay and 19 yays: Motion passed.

12:08 - recess.

At 1:01PM , Rep Renzullo opened the hearing on HB 447, relative to scuba equipment.
Rep. Harb introduced the bill and spoke in favor of the bill.

Rep. Layon, Erica

Swain, Brad

Coyle, David

Hearing Closed: 1:40 PM

At 2:00 PM , Rep Renzullo opened the hearing on HB 534, relative to municipal control of certain frozen water bodies.

Rep. Walz, Mary Beth introduced the bill and spoke in favor of the bill.

Captain Eastman, with Fish and Game Commission, spoke against.

Crystall, Sandra spoke in opposition.

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

Labrie, Brian, NH Snowmobile Association, spoke against.

Johnson, II, Robert, NH Farm Bureau Federation, spoke against.

??Mullin, Joseph, Congressional Sportsmen's Foundation, spoke against.

Captain Tim Dunleavey, of NH Marine Patrol, spoke against.

Timmins, Michael spoke against.

Laflamme, David stated that he has witnessed racing on frozen water bodies.

Hearing Closed 2:44 PM

Rep. Renzullo stated that the following hearing must end at by 4:00 PM due to technical work being done in the room.

At 3:01PM , Rep Renzullo opened the hearing on HB 571, repealing the prohibition against OHRV travel on Hoit Road Marsh.

Rep. Walsh introduced the bill and spoke in favor.

Captain Eastman, with Fish and Game Commission, spoke in favor

Lane, Julie spoke in opposition.

Flanagan, Hon Jack spoke in favor.

Stever, James, spoke against.

Timmins, Michael spoke in favor.

Sommers, Eric, spoke in opposition.

Mesick, John, spoke in favor.

Pegg, Suzanne spoke in opposition.

Rep. Natalie Wells supports this bill.

Levesque, Thomas, Merrimack Valley Trail Riders, New England Trail Riders spoke in favor.

Hearing Closed 4:03 PM

Meeting adjourned 4:03 PM

Testimony

Karen Karwocki

From: JOHN MESICK <j_mesick@msn.com>
Sent: Thursday, February 11, 2021 11:34 AM
To: ~House Resources Recreation and Development
Subject: Fw: HB2021-534

I would like to amend my submitted testimony with one more point.

As others testified, prior to the OHRV ban at Hoit Road Marsh State WMA, the Concord Police Department investigated complaints and found them to be without merit. Last year, when the Hoit Road Marsh amendment was before this committee, one of those investigating officers reached out to the Ice Riders to express his sympathy. He stated he wished he could testify in support, but that he could not for fear of reprisal from Jim Bouley.

From: JOHN MESICK
Sent: Thursday, February 11, 2021 8:57 AM
To: HouseResourcesRecreationandDevelopment@leg.state.nh.us
<HouseResourcesRecreationandDevelopment@leg.state.nh.us>
Subject: HB2021-534

I initially had reservations about sending this. I dislike making strongly negative statements. After hearing yesterday's testimony, I think you need to be aware of this issue.

Thank you,
John Mesick

Sent from [Mail](#) for Windows 10

Opposition Testimony of John Mesick

HB2021-534 Municipal Control of State Owned Water Bodies

I agree that in principal local issues should be worked out locally, but sometimes citizens are denied due process.

As this committee may remember, last year it had before it an amendment for OHRV use at the Hoit Road Marsh State Wildlife Management Area. This was in response to a 2019 ban that originated with Jim Bouley. There is some controversy if he was acting in his role as the Mayor of Concord, or as a registered State House lobbyist with the firm Dennehy & Bouley.

In 2019 when the ban was discovered, both Mayor Bouley and his accomplice Dan Feltes were served with information requests under the State's Right to Know Law. The only response from Mayor Bouley was an acknowledgment of receipt. Senator Feltes responded that the matter and its correspondence were confidential. The Right to Know Law seems plainly written. It gives examples of what is confidential, such as negotiations for labor contracts. It also clearly states you cannot deem something confidential because it is embarrassing or illegal.

When Jim Bouley began to feel the heat of sunlight, he waged a disinformation campaign about the OHRV users. He made false statements to the Concord Monitor. He made false statements to the Concord City Council that he attempted to mediate between the Ice Riders and Fish & Game; when in fact he had not contacted either party. He recruited party operatives to make false statements.

Last year a group of Concord residents attempted to plead their case for the OHRV amendment before the Concord City Council, and ask the Council to send a message of support to this committee. We registered with the City Clerk to get on the agenda for their next meeting. The Clerk told us to submit written testimony in advance. She further told us that we would not be able to address the council; but that we should be in attendance at the Council meeting to answer questions from the Councilors. We got on the published agenda.

As about a dozen Concord residents entered the Council Chamber, we were confronted by Mayor Bouley. He told us that he controls the City Council and their agenda. There would be no discussion of Hoit Road Marsh, no questions from the Councilors, and that we cannot say or do anything.

I would also like to point out that Dan Feltes is also the gate keeper at the Concord Ethics Committee. He was appointed to the committee by Jim Bouley. Feltes has squashed every single ethics complaint about Mayor Bouley. The committee hasn't met since 2013.

The City of Concord, and several other NH municipalities, are controlled by a single political party machine, with the minority party powerless. At the state level, there will always be a minority party to provide a check against corruption and malfeasance. The fact that this committee is considering HB2021-571 is proof of this. Control of State property must remain with the State to guarantee equal access by all residents without favoritism or the influence of campaign contributions.

Karen Karwocki

From: Joseph Mullin <jmullin@congressionalsportsmen.org>
Sent: Thursday, February 11, 2021 10:31 AM
To: ~House Resources Recreation and Development
Subject: House Bill 534-Letter of Opposition
Attachments: CSF Testimony-HB 534-Oppose.pdf

Honorable Members of the House Resources, Recreation, and Development Committee:

I want to thank you for affording me the time to testify during yesterday's hearing on House Bill 534. Attached is a letter of opposition from the Congressional Sportsmen's Foundation.

Thank you,

Joseph Mullin | Assistant Manager, Northeastern States (CT, MA, ME, NH, RI)
Congressional Sportsmen's Foundation
110 North Carolina Avenue, SE | Washington, D.C. 20003
Office: 202-543-6850 x20
Cell: 202-253-6883
www.congressionalsportsmen.org



To: House Resources, Recreation, and Development Committee
107 N. Main Street
Legislative Office Building, Room 305
Concord, NH 03301

Re: HB 534 – An Act Relative to Municipal Control of Certain
Frozen Water Bodies.

Position: Oppose

Date: February 10, 2021

Honorable Members of the House Resources, Recreation, and Development Committee:

My name is Joseph Mullin and I am the Assistant Manager, Northeastern States for the Congressional Sportsmen's Foundation (CSF). I respectfully urge you to oppose House Bill 534 (HB 534) – legislation that has the potential to significantly curb the use and enjoyment of frozen public waters by sportsmen and outdoor enthusiasts, while simultaneously burdening enforcement officers and the public at large with the unrealistic task of knowing each municipality's regulations.

For more than 80 years, sportsmen and women have been the primary funders of state-level conservation efforts in this state and are thus an important constituency that provides benefits for all New Hampshire residents. In 2020 alone, New Hampshire's sportsmen and women generated around \$18 million dollars for conservation through revenue derived from license sales and excise taxes on sporting-related goods in the unique "user-pays, public-benefits" structure known as the American System of Conservation Funding (ASCF). The funds collected through this program are the lifeblood of state fish and wildlife agencies (including the New Hampshire Fish and Game Department) – the primary managers of our nation's fish and wildlife resources. These critical conservation dollars fund a variety of efforts including: enhanced fish and wildlife habitat and populations, recreational access to public and private lands, shooting ranges and boat access facilities, wetlands protection and its associated water filtration and flood retention functions, and improved soil and water conservation – all which benefit the public at large, not just sportsmen and women.

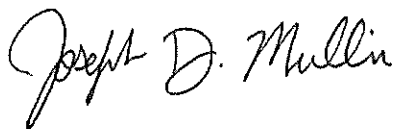
Ice fishing is a time-honored tradition enjoyed by sportsmen and women throughout the Granite State. By purchasing the necessary licenses and equipment, these anglers are contributing valuable, much-needed dollars to the ASCF. In 2020, New Hampshire saw 156,000 paid fishing license

holders who spent a total of \$6 million on licenses, with many of these individuals taking part in ice fishing. HB 534 has the ability to upend some of this funding by granting municipalities the authority to regulate the time, place, and manner of use of frozen public waters of 100 acres or less – something that may result in the prevention of ice fishing, as well as the use by other recreational pursuits, such as off-highway vehicles. Should a municipality opt to close its frozen public waters to such opportunities, it will undoubtedly have detrimental effects on the New Hampshire Fish and Game Department's (NHFG Department) bottom line.

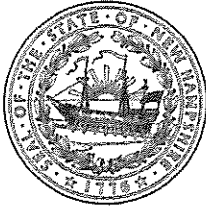
Additionally, HB 534 poses a conundrum of enforcement issues for the NHFG Department and local authorities. Creating a patchwork of municipal regulations that are inconsistent as one crosses a county line, and then calling on NHFG Department's Law Enforcement Division to enforce such variations is unduly burdensome and unnecessarily time-consuming. HB 534 would result in a confusing miscellany of local regulations that change at the whim of a local governing body. As can be surmised, HB 534 presents the real opportunity to implement a system of disorganization and raises significant enforcement concerns.

For these reasons, I urge the House Resources, Recreation, and Development Committee to oppose HB 534. Should you require any additional information on this, or any other sportsmen-related topic, please feel free to contact me at any time.

Sincerely,

A handwritten signature in cursive script that reads "Joseph D. Mullin". The signature is written in dark ink and is positioned below the word "Sincerely,".

Joseph Mullin
Assistant Manager, Northeastern States | Congressional Sportsmen's Foundation
110 North Carolina Ave., SE | Washington, DC 20003
Jmullin@congressionalsportsmen.org | 202-253-6883



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of PARKS and RECREATION
172 Pembroke Road Concord, New Hampshire 03301
Phone: (603) 271-3556 Fax: (603) 271-3553
Web: www.nhstateparks.org

February 10, 2021

The Honorable Andrew Renzullo
and the Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 534 relative to municipal control of certain frozen water bodies.

Dear Chair Renzullo and Members of the Committee,

Please accept this testimony on behalf of the Department of Natural and Cultural Resources, Division of Parks and Recreation ("Division") regarding HB 534. **The Division opposes this legislation.**

HB 534 would authorize the municipality to regulate the use of frozen public waters of 100 acres or less within their boundaries. This contradicts RSA 271:20, I, which states "*All natural bodies of fresh water situated entirely in the state having an area of 10 acres or more are state-owned public waters, and are held in trust by the state for public use;*". HB 534 would take the authority to manage these water bodies 100 acres or less for public use, away from the state.

Lands held by our agency around public waters are also managed for public use. That both the lake and abutting land are managed by the state for public use has served the state and our visitors well. Our Division is responsible for the snowmobile trail system in the state along with Fish and Game and the local clubs. While our primary snowmobile trails generally do not cross public waters, snowmobile trails do lead to public waters for riding and the trails provide access for ice fishermen. We are concerned that this access could be lost over time.

Lastly, we assume that HB 534 refers to the public waters defined under RSA 271:20, as being 10 acres or more. However, if the intent is to regulate all waters, this would raise even greater concern regarding the management of state lands and private lands.

Thank you for the opportunity to submit testimony on HB 534. Please let me know if we can provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip A. Bryce".

Philip A. Bryce, Director

Cc: Sarah L. Stewart, Commissioner

February 9, 2021

The Honorable Andrew Renzullo
Chair, House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

Re: HB 534 - Relative to municipal control of certain frozen water bodies.

Dear Chairman Renzullo and Members of the Committee:

I am providing the following text-version of my testimony regarding HB 534 relative to municipal control of certain frozen water bodies.

I have lived in Bow for almost 22 years. I live walking distance from Turee Pond, a 47-acre natural lake with a Fish and Game boat access. Turee Pond is used by kayakers and small boats as there are limits on horsepower and speed when the pond has open water.

In the winter, a frozen Turee Pond hosts snowmobile trails that cross from town-owned conservation land to trails across the pond. I have spent much time snowshoeing, cross-country skiing or just walking the frozen pond, especially the shoreline, appreciating the wildlife (or its signs) and the unique vegetation of the adjacent bog and fen habitat, characteristics that contributed to it being designated a prime wetland under local and state laws. In addition to the use of the pond by snowmobiles, numerous people enjoy skating and ice fishing there. During a recent visit to the pond, quite a number of those individuals ice fishing were young adults. The relatively quiet experience of enjoying the pond's winter tranquility is appreciated by all ages.

In the winter of 2018-2019, Turee Pond became a location of motor bike racing activities. This created a loud and to some, obtrusive, situation on numerous weekend days. This disturbed the enjoyable nature of the typical, quiet winter activities on the pond. Some people who were ice fishing, left when the outdoor ambience was disturbed by the racing vehicles. The noise could be heard more than a half mile away. Unlike the usual snowmobile trail-directed activities, there was continuous noise for the afternoon.

This motorbike activity occurred multiple times in 2019. In the winter of 2019-2020, the pond was not solidly frozen to support the motorbike racing activity.

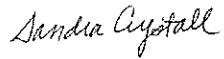
A sunny Sunday recently found people ice fishing, ice skating, playing hockey, grilling hotdogs, and snowmobiling family members around. I spoke with some people fishing and recreating on Turee Pond. Several acknowledged that the noise of the motorbike racing activities sets up conflicts. One person said that he fishes at Turee Pond because a pond closer to him, Turkey Pond, is used for racing due to its long straight path.

My interest in this bill is to provide a means to share the use of the frozen ponds and smaller lakes -- with some predictability by **regulating the time, place, and manner of use**. Providing authorization to a municipality to regulate noise-creating activities on a pond is consistent with municipal regulation of land uses. There is an opportunity for input of residents who may be most affected as well as those who

prefer the described racing or other activities -- and as with land use regulation, often there are compromises, something I am familiar with as a member of my town's planning board for many years.

Each community is different, and this bill will provide municipalities with choice. I encourage you to support HB 534. Thank you very much.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Crystall".

Sandra Crystall

1 Shore View Dr.
Bow NH 03304

Archived: Thursday, April 22, 2021 1:44:56 PM
From: mike timmins
Sent: Tuesday, February 9, 2021 10:17:48 AM
To: ~House Resources Recreation and Development
Subject: HB 534 Opposition relating to the public trust-
Importance: Normal
Attachments:
HB 534 opposition- Public Trust issues.pdf ;

My apologies.. I forgot to attach testimony in prior email

Sent from Mail for Windows 10

Dear Chairman Renzullo and members of the Committee

I am emailing today in opposition of HB-534 and attached is my full testimony.

The State holds in trust as sovereign for the citizens of NH all lakes and ponds greater than 10 acres in their natural state / and or if they own artificial impoundments in fee. The passage of this bill would be unconstitutional and has also been codified in case law. The testimony attached provides information regarding the legalities involved .

Thank you for the opportunity to provide written testimony on this bill presented before the committee on February 10th at 2pm.

Sincerely

Michael Timmins

Archived: Thursday, April 22, 2021 1:44:56 PM
From: Beauchesne, Suzanne
Sent: Monday, February 8, 2021 11:10:34 AM
To: ~House Resources Recreation and Development
Cc: Mary Beth Walz; Gary Woods; O'Donovan, Thomas
Subject: HB 534 - Letter of Testimony from NHDES
Importance: Normal
Attachments:
HB 534 LOT - Frozen Water Bodies 020821.pdf;

Dear Chairman Renzullo and Members of the Committee:

Attached is a letter of testimony from the NH Department of Environmental Services on HB 534 relative to municipal control of certain frozen water bodies. Should you have questions about this testimony, please feel free to contact either Tom O'Donovan, Water Division Director, at 603-271-0677 or Thomas.E.O'Donovan@des.nh.gov or Commissioner Bob Scott at 603-271-3449 or Robert.R.Scott@des.nh.gov. Thank you.

Stay Safe! Be Well!

Suzanne Beauchesne
Assistant to the Commissioner
NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03301
Phone: (603) 271-3449
Fax: (603) 271-2867
Suzanne.Beauchesne@des.nh.gov

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Archived: Thursday, April 22, 2021 1:44:56 PM
From: mike timmins
Sent: Tuesday, February 9, 2021 9:43:54 AM
To: ~House Resources Recreation and Development
Subject: HB-534 opposition testimony -
Importance: Normal

Dear Chairman Renzullo and Members of the Committee.

I am emailing today in opposition of HB-534 and attached is my full testimony.

The State holds in trust as sovereign for the citizens of NH all lakes and ponds greater than 10 acres in their natural state / and or if they own artificial impoundments in fee. The passage of this bill would be unconstitutional and has also been codified in case law. The testimony attached provides information regarding the legalities involved .

Thank you for the opportunity to provide written testimony on this bill presented before the committee on February 10th at 2pm.

Sincerely

Michael Timmins

Sent from [Mail](#) for Windows 10

The Honorable Andrew Renzullo
Chair, House Resources, Recreation & Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

Dear Chair Renzullo and Members of the Committee:

As a citizen of NH and an avid outdoorsman residing in Loudon NH, I would like to acknowledge and “oppose” House Bill 534 introduced by Representative Mary Beth Walz (primary sponsor) of Merrimack County as presented this 10th day of February 2021.

I am specifically here to talk on my opposition of HB 534 relating to Municipal control of frozen bodies of water .

As most of the committee members are aware, the State of NH holds in sovereign all lakes and ponds in NH 10 acres or more for the benefit of the citizens. (few minor exceptions- personally owned ponds that are manmade)

The Public Trust Doctrine:

The Public Trust Doctrine(which dates back to English Law) requires the sovereign, and in this case the State of New Hampshire , to hold in trust designated resources for the benefit of the people. This is a traditional right codified in case law even on a federal level. The State of NH cannot relinquish control to individual municipalities over state owned lakes and ponds in NH whether frozen or not. Public ponds are for the benefit of its citizens and more importantly a passage of this bill would be unconstitutional . This bill if passed would also take away any uniformity the State has in regulating currently existing laws and regulations

Several statutes provide that lakes of ten or more acres are public waters held in trust by the State for the public use. “Numerous statutes, grant the State the authority to regulate the use of these waters, and the adjacent shore land, for the

greatest “public” benefit, whether in their frozen state or not. The State is safeguarding the public waters in light of the fact that competing uses for the enjoyment of these waters, if not regulated for the benefit of all users, may diminish the value to be derived from them.”

As the steward of public waters, courts cases have determined that the State of NH safeguards the right to use and enjoy these waters by avoiding piecemeal on-water regulation. NHDES guidelines also provide that “only the federal ... and state ... government[s] have the authority to impose on-lake regulations” upon State-owned public waters. See RSA: 271:20 for further information.

RSA 271:20 State Water Jurisdiction- dates back to English Common law, Roman Law and the Magna Carta.

Just one of the many problems that would occur would be: As the bill is written, would allow the municipalities to put any restriction they want on the lakes/ ponds when frozen. Although I am presuming that this bill is targeting motorized vehicles. Some lakes and ponds have multiple municipal boundaries and the access may only be in one town or city. These towns and cities would have to be in agreement on restrictions imposed.

I am thankful for allowing me to submit written testimony and I encourage the Committee of Resources, Recreation and Development to vote in opposition of HB534 this 2021 legislative session.

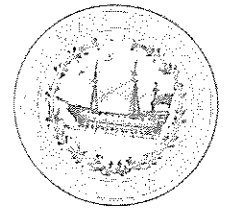
Sincerely

A handwritten signature in black ink, appearing to read "Michael Timmins", written over a horizontal dotted line.

Michael Timmins
Loudon, NH



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 8, 2021

The Honorable Andrew Renzullo
Chair, House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 534 – AN ACT relative to municipal control of certain frozen water bodies

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to comment on HB 534. This bill proposes to authorize local governing bodies to regulate activities on frozen waters. The New Hampshire Department of Environmental Services (NHDES) recognizes the issues being addressed, but opposes the language, as proposed, as being far too broad with significant potential for unintended consequences. Moreover, the proposed language in the bill is in conflict with the State's jurisdiction over all public waters in New Hampshire, which are freshwater bodies ten acres or larger in their natural state and are held in trust by the State for public use pursuant to RSA 271:20.

NHDES has analyzed the key ideas and concerns that provided the impetus for this bill. We understand that the concern was raised relative to activities on frozen waters. In particular, this bill addresses the issue of protecting small water bodies from usage by motor vehicles in the wintertime, as that activity may have detrimental impacts on local water quality. We do not presently have any data or information that document any existing water quality impacts from this type of activity.

As noted above, NHDES opposes the proposed bill as presently written. NHDES bases this opposition on the broad nature of the bill's language and its conflict with the State's jurisdiction and public trust responsibility for all public waters in the State. This has the potential to regulate activities well beyond the actions that have precipitated the creation of this legislation. In addition, there is already an extensive set of common law, as well as State regulations and statutes that stem from the State's public trust responsibility and govern the waters of New Hampshire; specifically, Title XVIII, Fish and Game; Title XXII Navigation, Harbors, Coastal Survey; and Title L, Water Management and Protection.

The Honorable Representative Renzullo
Chairman, House Resources, Recreation and Development Committee
February 8, 2021
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Thank you again for the opportunity to comment on HB 534. Should you have questions, or need additional information, please feel free to contact either Tom O'Donovan, Water Division Director, at 603-271-0677 or Thomas.E.ODonovan@des.nh.gov, or me at 603-271-3449 or Robert.R.Scott@des.nh.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott
Commissioner

cc: Sponsors of HB 534: Representatives Walz and Woods

The Honorable Andrew Renzullo
Chair, House Resources, Recreation & Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

Dear Chair Renzullo and Members of the Committee:

As a citizen of NH and an avid outdoorsman residing in Loudon NH, I would like to acknowledge and “oppose” House Bill 534 introduced by Representative Mary Beth Walz (primary sponsor) of Merrimack County as presented this 10th day of February 2021.

I am specifically here to talk on my opposition of HB 534 relating to Municipal control of frozen bodies of water .

As most of the committee members are aware, the State of NH holds in sovereign all lakes and ponds in NH 10 acres or more for the benefit of the citizens. (few minor exceptions- personally owned ponds that are manmade)

The Public Trust Doctrine:

The Public Trust Doctrine(which dates back to English Law) requires the sovereign, and in this case the State of New Hampshire , to hold in trust designated resources for the benefit of the people. This is a traditional right codified in case law even on a federal level. The State of NH cannot relinquish control to individual municipalities over state owned lakes and ponds in NH whether frozen or not. Public ponds are for the benefit of its citizens and more importantly a passage of this bill would be unconstitutional . This bill if passed would also take away any uniformity the State has in regulating currently existing laws and regulations

Several statutes provide that lakes of ten or more acres are public waters held in trust by the State for the public use. “Numerous statutes, grant the State the authority to regulate the use of these waters, and the adjacent shore land, for the

greatest “public” benefit, whether in their frozen state or not. The State is safeguarding the public waters in light of the fact that competing uses for the enjoyment of these waters, if not regulated for the benefit of all users, may diminish the value to be derived from them.”

As the steward of public waters, courts cases have determined that the State of NH safeguards the right to use and enjoy these waters by avoiding piecemeal on-water regulation. NHDES guidelines also provide that “only the federal ... and state ... government[s] have the authority to impose on-lake regulations” upon State-owned public waters. See RSA: 271:20 for further information.

RSA 271:20 State Water Jurisdiction- dates back to English Common law, Roman Law and the Magna Carta.

Just one of the many problems that would occur would be: As the bill is written, would allow the municipalities to put any restriction they want on the lakes/ ponds when frozen. Although I am presuming that this bill is targeting motorized vehicles. Some lakes and ponds have multiple municipal boundaries and the access may only be in one town or city. These towns and cities would have to be in agreement on restrictions imposed.

I am thankful for allowing me to submit written testimony and I encourage the Committee of Resources, Recreation and Development to vote in opposition of HB534 this 2021 legislative session.

Sincerely

A handwritten signature in black ink that reads "Michael Timmins". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Michael Timmins
Loudon, NH

Archived: Thursday, April 22, 2021 1:42:46 PM
From: Sales, Tracie
Sent: Monday, February 8, 2021 1:04:44 PM
To: ~House Resources Recreation and Development
Cc: Scott, Robert; O'Donovan, Thomas; Diers, Ted; Mary Beth Walz; Michele L. Tremblay (MLT@naturesource.net); 'Larry Spencer'
Subject: HB 534 - Rivers Management Advisory Committee Letter of Testimony
Importance: Normal
Attachments:
HB534 Frozen Water Bodies 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 534, relative to municipal control of certain frozen water bodies.

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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Voting Members:

Michele L. Tremblay

Chair
Conservation
Community

Larry T. Spencer

Vice Chair
Conservation
Commissions

Victoria Bunker

Historic/Archeological
Interests

Christopher Hodgdon

NH Fish & Game
Commission

Mark Lombardi

Granite State
Hydropower
Association

Frederick J. McNeill

Municipal Officer

Allan G. Palmer

Business & Industry
Association

Ruth Ward

Local River Management
Advisory Committees

Donald L. Ware

Public Water Suppliers

Stewart Yeaton

Agricultural Community

Vacant

Recreational Interests

Non-Voting Members:

Peter Bowman

NH Department of
Natural and Cultural
Resources

Jennifer Gilbert

NH Office of
Strategic Initiatives

Mark Hemmerlein

NH Department of
Transportation

Shawn Jasper

NH Department of
Agriculture,
Markets & Food

John Magee

NH Fish & Game
Department

Meghan Wells

NH Department of
Safety

Staff:

Tracie Sales

Program Manager

Vacant

Watershed Coordinator

Vacant

Program Assistant

N.H. Rivers Management and Protection Program

N.H. Rivers Management Advisory Committee

February 10, 2021

The Honorable Andrew Renzullo, Chair
House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 426 *An act relative to municipal control of certain frozen water bodies.*

Dear Chair Renzullo and Members of the Committee:

The Rivers Management Advisory Committee (RMAC) is writing to express its opposition to House Bill 534, which would give municipalities control over the use of frozen waterbodies of 100 acres or less within their boundaries.

The state has defined a public water body as any lake or pond greater than 10 acres, all coastal waters, and all rivers of fourth order and higher. This allows both New Hampshire residents and visitors the freedom to use these water bodies in any legal manner as long as they have access to the water body. If passed, this bill would effectively remove the public's free use of the state's smaller lakes and ponds during the winter months, appropriating the state's role in holding these ponds in trust for the public good. The RMAC feels that this sets a poor precedent of giving municipalities rights traditionally held by the state for the good of all. The State should consider defining the legal uses of certain or other frozen water bodies, as appropriate, instead of giving this regulatory power to municipalities.

The RMAC is a legislatively created body charged to work with the New Hampshire Department of Environmental Services (NHDES) to administer RSA 483, the Rivers Management and Protection Program. The Governor and Council appointed Committee is comprised of members from business, agriculture, hydroelectric, municipal government, water supply, conservation, recreation, fish and game, and historical interests. Among its other responsibilities, the RMAC is charged with reviewing legislation relevant to the Program and with advising the NHDES Commissioner on the merits of such legislation.

In conclusion, the RMAC opposes HB 534 as passage of this bill would remove the State of New Hampshire's role as protector of the public's riparian rights.

Should you have any questions regarding our testimony, please feel free to contact me at 603.796.2615 or MLT@naturesource.net.

Sincerely,



Michele L. Tremblay
RMAC Chair

The Honorable Andrew Renzullo
Chair, House Resources, Recreation and Development Committee
HB 534 February 10, 2021
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cc: Rep. Mary Beth Walz
RMAC Representatives
Robert R. Scott, Commissioner, NHDES
Tom O'Donovan, Director, Water Division, NHDES
Ted Diers, Administrator, Watershed Mgmt. Bur., NHDES
Tracie Sales, Rivers and Lakes Programs Manager, NHDES
Local River Management Advisory Committee Chairs

Bill as
Introduced

HB 534 - AS INTRODUCED

2021 SESSION

21-0763

08/11

HOUSE BILL

534

AN ACT

relative to municipal control of certain frozen water bodies.

SPONSORS:

Rep. Walz, Merr. 23; Rep. Woods, Merr. 23

COMMITTEE:

Resources, Recreation and Development

ANALYSIS

This bill allows municipalities to regulate the time place and manner of use of certain frozen public waters within their boundaries.

.....
Explanation:

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

Matter removed from current law appears [~~in brackets and struckthrough~~]

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

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to municipal control of certain frozen water bodies.

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

1 1 New Section; Municipal Control of Certain Frozen Public Waters. Amend RSA 271 by
2 inserting after section 20-b the following new section:

3 271:20-c Municipal Control of Certain Frozen Public Waters. The local governing body of a
4 municipality may regulate the time, place, and manner of use of frozen public waters of 100 acres or
5 less within their boundaries. Any regulation of a frozen body of water enacted by a governing body
6 of a municipality shall be clearly posted at the usual access points of such frozen body of water.

7 2 Effective Date. This act shall take effect upon its passage.