

REGULAR CALENDAR

April 27, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Municipal and County Government to which was referred SB 400-FN,

AN ACT relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Richard Lascelles

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee:	Municipal and County Government
Bill Number:	SB 400-FN
Title:	relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.
Date:	April 27, 2022
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2022-1848h

STATEMENT OF INTENT

The majority of the Municipal and County Government committee agree with the sponsors of the bill of the need for the state to address the housing crisis that currently exists in New Hampshire. The intent of the bill is to encourage municipalities to put into place procedures and incentives for the development of housing that is affordable to a greater percentage of the workforce. In addition, the bill as amended limits the authority of town health officers and adopts school district budget caps.

Vote 10-8.

Rep. Richard Lascelles
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Municipal and County Government

SB 400-FN, relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard Lascelles for the **Majority** of Municipal and County Government. The majority of the Municipal and County Government committee agree with the sponsors of the bill of the need for the state to address the housing crisis that currently exists in New Hampshire. The intent of the bill is to encourage municipalities to put into place procedures and incentives for the development of housing that is affordable to a greater percentage of the workforce. In addition, the bill as amended limits the authority of town health officers and adopts school district budget caps. **Vote 10-8.**

Original: House Clerk

Cc: Committee Bill File

REGULAR CALENDAR

April 27, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Municipal and County Government to which was referred SB 400-FN,

AN ACT relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Ivy Vann

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Municipal and County Government
Bill Number:	SB 400-FN
Title:	relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.
Date:	April 27, 2022
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The minority supported the original bill as it arrived in committee but opposes this bill as amended. The bill was intended to provide a set of tools allowing local jurisdictions to increase the supply of workforce housing by streamlining application processes, providing training for our volunteer planning and zoning boards, and requiring that workforce housing be afforded the same incentives as housing for the elderly. The bill as amended first directly damages the bill and decreases the likelihood of new workforce housing by adding a clause which states that no jurisdiction can be required to allow workforce housing where municipal water and sewer is not already present. This means that towns which have no water and sewer can outright deny all applications for workforce housing of any kind: and that towns which have water and sewer can deny applications even when the developer is willing to extend water and sewer. The amended bill also includes several sections which have nothing to do with housing of any kind. We see clauses restricting the work of public health officers, something that has been extensively debated in several other bills and has no place in a bill about creating more workforce housing. We also see clauses having to do with tax caps for school districts. Again, this is non-germane to this bill. We are deeply regretful that a bill which had a great deal of public support and which was intended to address our housing crisis, something that we know is an enormous problem for the citizens and businesses of New Hampshire, has been so adulterated as to render it insupportable.

Rep. Ivy Vann
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Municipal and County Government

SB 400-FN, relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development. **INEXPEDIENT TO LEGISLATE.**

Rep. Ivy Vann for the **Minority** of Municipal and County Government. The minority supported the original bill as it arrived in committee but opposes this bill as amended. The bill was intended to provide a set of tools allowing local jurisdictions to increase the supply of workforce housing by streamlining application processes, providing training for our volunteer planning and zoning boards, and requiring that workforce housing be afforded the same incentives as housing for the elderly. The bill as amended first directly damages the bill and decreases the likelihood of new workforce housing by adding a clause which states that no jurisdiction can be required to allow workforce housing where municipal water and sewer is not already present. This means that towns which have no water and sewer can outright deny all applications for workforce housing of any kind: and that towns which have water and sewer can deny applications even when the developer is willing to extend water and sewer. The amended bill also includes several sections which have nothing to do with housing of any kind. We see clauses restricting the work of public health officers, something that has been extensively debated in several other bills and has no place in a bill about creating more workforce housing. We also see clauses having to do with tax caps for school districts. Again, this is non-germane to this bill. We are deeply regretful that a bill which had a great deal of public support and which was intended to address our housing crisis, something that we know is an enormous problem for the citizens and businesses of New Hampshire, has been so adulterated as to render it insupportable.

Original: House Clerk

Cc: Committee Bill File

Amendment to SB 400-FN

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

2

3 AN ACT relative to training and procedures for zoning and planning boards; relative to
4 financial investments and incentives for affordable housing development; limiting
5 the authority for city council bylaws and ordinances and limiting the authority of
6 town health officers; and relative to the adoption of school district budget caps.
7

8 Amend the bill by replacing all after section 3 with the following:

9

10 4 Planning and Zoning; Administrative and Enforcement Procedures; Issuance of Decision.

11 Amend RSA 676:3, I to read as follows:

12 I. The local land use board shall issue a final written decision which either approves or
13 disapproves an application for a local permit and make a copy of the decision available to the
14 applicant. ***The decision shall include specific written findings of fact that support the***
15 ***decision. Failure of the board to make specific written findings of fact supporting a***
16 ***disapproval shall be grounds for automatic reversal and remand by the superior court***
17 ***upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15,***
18 ***unless the court determines that there are other factors warranting the disapproval.*** If the
19 application is not approved, the board shall provide the applicant with written reasons for the
20 disapproval. If the application is approved with conditions, the board shall include in the written
21 decision a detailed description of all conditions necessary to obtain final approval.

22 5 New Paragraph; Powers of Zoning Board of Adjustment. Amend RSA 674:33 by inserting after
23 paragraph VII the following new paragraph:

24 VIII. Upon receipt of any application for action pursuant to this section, the zoning board of
25 adjustment shall begin formal consideration and shall approve or disapprove such application within
26 90 days of the date of receipt, provided that the applicant may waive this requirement and consent to
27 such extension as may be mutually agreeable. If a zoning board of adjustment determines that it
28 lacks sufficient information to make a final decision on an application and the applicant does not
29 consent to an extension, the board may, in its discretion, deny the application without prejudice, in
30 which case the applicant may submit a new application for the same or substantially similar request
31 for relief.

32 6 Workforce Housing; Definition. Amend RSA 674:58, IV to read as follows:

Amendment to SB 400-FN

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1 IV. "Workforce housing" means housing which is intended for sale and which is affordable to
2 a household with an income of no more than 100 percent of the median income for a 4-person
3 household for the metropolitan area or county in which the housing is located as published annually
4 by the United States Department of Housing and Urban Development. "Workforce housing" also
5 means rental housing which is affordable to a household with an income of no more than 60 percent
6 of the median income for a 3-person household for the metropolitan area or county in which the
7 housing is located as published annually by the United States Department of Housing and Urban
8 Development. Housing developments that exclude minor children from more than 20 percent of the
9 units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, **or are**
10 **subject to age restrictions**, shall not constitute workforce housing for the purposes of this
11 subdivision.

12 7 Workforce Housing Opportunities; Water and Sewer Systems. Amend RSA 674:59, IV to read
13 as follows:

14 IV. Paragraph I shall not be construed to require municipalities to allow workforce housing
15 that does not meet reasonable standards or conditions of approval related to environmental
16 protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.
17 **Paragraph I shall also not be construed to require municipalities to allow workforce**
18 **housing in any location not already served by both water and sewer systems owned or**
19 **operated by a political subdivision, public utility, or other public water or sewer utility.**

20 8 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(c) to read as follows:

21 (c)(1) The board shall, at the next regular meeting or within 30 days following the
22 delivery of the application, for which notice can be given in accordance with the requirements of
23 subparagraph (b), determine if a submitted application is complete according to the board's
24 regulation and shall vote upon its acceptance. Upon determination by the board that a submitted
25 application is incomplete according to the board's regulations, the board shall notify the applicant of
26 the determination in accordance with RSA 676:3, which shall describe the information, procedure, or
27 other requirement necessary for the application to be complete. Upon determination by the board
28 that a submitted application is complete according to the board's regulations, the board shall begin
29 formal consideration and shall act to approve, conditionally approve as provided in subparagraph (i),
30 or disapprove within 65 days, subject to extension or waiver as provided in subparagraph (f). In the
31 case of a determination by the board that the application is a development of regional impact
32 requiring notice in accordance with RSA 36:57, III, the board shall have an additional 30 days to act
33 to approve, conditionally approve, as provided in subparagraph (i), or disapprove. ~~Upon failure of~~
34 ~~the board to approve, conditionally approve, or disapprove the application, the selectmen or city~~
35 ~~council shall, upon request of the applicant, immediately issue an order directing the board to act on~~
36 ~~the application within 30 days.] **If the board determines that it lacks sufficient information to**
37 **make a final decision on an application and the applicant does not consent to an extension**~~

1 *pursuant to subparagraph (f), the board may, in its discretion, deny the application*
2 *without prejudice, in which case the applicant may resubmit the same or a substantially*
3 *similar application.* If the planning board does not act on the application within that ~~[30-day]~~ *65-*
4 *day* time period, then ~~[within 40 days of the issuance of the order,]~~ the selectmen or city council
5 shall certify on the applicant's application that the plat is approved pursuant to this paragraph~~;~~
6 ~~unless within those 40 days the selectmen or city council has identified in writing some specific~~
7 ~~subdivision regulation or zoning or other ordinance provision with which the application does not~~
8 ~~comply].~~ Such a certification, citing this paragraph, shall constitute final approval for all purposes
9 including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

10 (2) Failure of the selectmen or city council to ~~[issue an order to the planning board~~
11 ~~under subparagraph (1), or to]~~ certify approval of the plat upon the planning board's failure to
12 ~~[comply with the order,]~~ *act within the required time period* shall constitute grounds for the
13 superior court, upon petition of the applicant, to issue an order approving the application ~~[if the~~
14 ~~court determines that the proposal complies with existing subdivision regulations and zoning or~~
15 ~~other ordinances].~~ *The superior court shall act upon such a petition within 30 days.* If the
16 court determines that the failure of the selectmen or the city council to act was not justified, the
17 court may order the municipality to pay the applicant's reasonable costs, including attorney's fees,
18 incurred in securing such order.

19 9 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(f) to read as follows:

20 (f) ~~[The planning board may apply to the selectmen or city council for an extension not to~~
21 ~~exceed an additional 90 days before acting to approve or disapprove an application.]~~ The applicant
22 may waive the requirement for planning board action within the time periods specified in
23 subparagraph (c) and consent to such extension as may be mutually agreeable.

24 10 Planning and Zoning; Rehearing and Appeal Procedures; Court Review. Amend RSA 677:15,
25 IV-V to read as follows:

26 IV. ~~[The court shall give any hearing under this section priority on the court calendar.]~~
27 *Whenever an appeal to the superior court is initiated under this section, the court shall*
28 *give the appeal priority on its calendar. Within 10 days of the certified record being filed*
29 *with the court, the court shall schedule a hearing to be held within 90 days unless extended*
30 *by agreement of all parties or by motion. The appellant shall file an opening brief 60 days*
31 *before the hearing. The appellee shall file a response brief 30 days before the hearing. The*
32 *appellant may file a reply brief 15 days before the hearing. The court shall issue a decision*
33 *within 60 days after the hearing, unless the court has received an extension from the chief*
34 *justice of the superior court.*

35 V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up
36 for review when there is an error of law or when the court is persuaded by the balance of
37 probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed

1 against the municipality unless it shall appear to the court that the planning board acted in bad
2 faith or with malice in making the decision appealed from.

3 ***VI. Whenever an appeal to the supreme court is initiated after superior court***
4 ***review, the supreme court shall give the appeal priority on its calendar and shall issue a***
5 ***final decision within 90 days of the date upon which oral argument has been conducted.***

6 11 Planning and Zoning; Rehearing and Appeal Procedures; Priority. RSA 677:5 is repealed and
7 reenacted to read as follows:

8 677:5 Priority. Whenever an appeal to the superior court is initiated under RSA 677:4, the court
9 shall give the appeal priority on its calendar. Within 10 days of the certified record being filed with
10 the court, the court shall schedule a hearing to be held within 90 days unless extended by agreement
11 of all parties or by motion. The appellant shall file an opening brief 60 days before the hearing. The
12 appellee shall file a response brief 30 days before the hearing. The appellant may file a reply brief
13 15 days before the hearing. The court shall issue a decision within 60 days after the hearing, unless
14 the court has received an extension from the chief justice of the superior court.

15 12 New Subdivision; Fee Shifting and Posting of Bond. Amend RSA 677 by inserting after
16 section 19 the following new subdivision:

17 **Fee Shifting and Posting of Bond**

18 677:20 Fee Shifting and Posting of Bond.

19 I. Whenever an appeal to the superior court is initiated under this chapter, the court may in
20 its discretion require the person or persons appealing to file a bond with sufficient surety for such a
21 sum as shall be fixed by the court to indemnify and save harmless the person or persons in whose
22 favor the decision was rendered from damages and costs which he or she may sustain in case the
23 decision being appealed is affirmed.

24 II. In any appeal initiated under this chapter the court may, subject to the provisions of this
25 paragraph or any other provision of law, award attorney's fees and costs to the prevailing party.
26 Costs and attorney's fees shall not be allowed against a local land use board unless it shall appear to
27 the court that the board, in making the decision from which the appeal arose, acted with gross
28 negligence, in bad faith, or with malice. Costs and attorney's fees shall not be allowed against the
29 party appealing from the decision of a local land use board unless it shall appear to the court that
30 said party acted in bad faith or with malice in appealing to court.

31 13 Municipal Economic Development and Revitalization Districts; Definition of Public Use.
32 Amend RSA 162-K:2, IX-a to read as follows:

33 IX-a. "Public use" means:

34 (a)(1) The possession, occupation, and enjoyment of real property by the general public
35 or governmental entities[;].

36 (2) The acquisition of any interest in real property necessary to the function of a
37 public or private utility or common carrier either through deed of sale or lease[;].

1 (3) The acquisition of real property to remove structures beyond repair, public
2 nuisances, structures unfit for human habitation or use, and abandoned property when such
3 structures or property constitute a menace to health and safety[~~;-and~~] .

4 (4) Private use that occupies an incidental area within a public use; provided, that
5 no real property shall be condemned solely for the purpose of facilitating such incidental private use.

6 (5) ***The acquisition of real property to construct housing units which meet***
7 ***the definition of workforce housing contained in RSA 674:58, IV, whether or not such***
8 ***construction results from private development or private commercial enterprise. The***
9 ***municipality shall not acquire property for this purpose through the powers of eminent***
10 ***domain.***

11 (b) Except as provided in subparagraphs (a)(2), [~~and~~] (4), ***and (5)*** of this paragraph,
12 public use shall not include the public benefits resulting from private economic development and
13 private commercial enterprise, including increased tax revenues and increased employment
14 opportunities.

15 14 Municipal Economic Development and Revitalization Districts; District Establishment and
16 Development Programs; Authority to Acquire, Construct, and Promote Residential Development and
17 Housing Stock. Amend RSA 162-K:6, III(h) and (i) to read as follows:

18 (h) Lease all or portions of basements, ground and second floors of the public buildings
19 constructed in the district; [~~and~~]

20 (i) Negotiate the sale or lease of property for private development if the development is
21 consistent with the development program for the district[-] ; ***and***

22 (j) ***Acquire, construct, reconstruct, improve, alter, extend, operate, maintain or***
23 ***promote residential developments aimed at increasing the available housing stock within***
24 ***the municipality.***

25 15 Community Revitalization Tax Relief; Duration of Tax Relief Period. Amend RSA 79-E:5, II
26 to read as follows:

27 II. The governing body may, in its discretion, add up to an additional [2] 4 years of tax relief
28 for a project that results in new residential units and up to [4] ***an additional 8*** years for a project
29 that includes [~~affordable~~] housing ***that meets the definition of workforce housing in RSA***
30 ***674:58, IV, and up to additional 8 years for a project that includes residential units located***
31 ***on the second story or higher of a building.***

32 16 Powers of City Councils; Bylaws and Ordinances; Limitations Added. Amend RSA 47:17, XV
33 to read as follows:

34 XV. Miscellaneous. Relative to the grade of streets, and the grade and width of sidewalks;
35 to the laying out and regulating public squares and walks, commons, and other public grounds,
36 public lights, and lamps; to trees planted for shade, ornament, convenience, or use, and the fruit of
37 the same; to trespasses committed on public buildings and other public property, and in private

Amendment to SB 400-FN

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1 yards and gardens; in relation to cemeteries, public burial grounds, the burial of the dead, and the
2 returning and keeping records thereof, and bills of mortality, and the duties of physicians, sextons
3 and others in relation thereto; relative to public wells, cisterns, pumps, conduits, and reservoirs; the
4 places of military parade and rendezvous, and the marching of military companies with music in the
5 streets of the city; relative to precautions against fire; relative to oaths and bonds of city officers, and
6 penalties upon those elected to such offices refusing to serve; and relative to licensing and regulating
7 butchers, petty grocers, or hucksters, peddlers, hawkers, and common victualers; dealers in and
8 keepers of shops for the purchase, sale or barter of junk, old metals or second-hand articles, and
9 pawnbrokers; under such limitations and restrictions as to them shall appear necessary. They may
10 make any other bylaws and regulations [~~which may seem for the well-being of the city~~] **for the**
11 **abatement of nuisances that interfere with the use or enjoyment of property**; but no bylaw or
12 ordinance shall be repugnant to the constitution or laws of the state; and such bylaws and
13 ordinances shall take effect and be in force from the time therein limited without the sanction or
14 confirmation of any other authority whatever.

15 17 Local Health Officers; Regulations on Public Health. Amend RSA 147:1, I to read as follows:

16 I. The health officers of towns may make regulations for the prevention and removal of
17 nuisances[~~, and such other regulations relating to the public health as in their judgment the health~~
18 ~~and safety of the people require~~] **such as garbage, insects, unsanitary living conditions, septic,**
19 **rodents, and safe drinking water inspections**, which shall take effect when approved by the
20 selectmen, recorded by the town clerk, and published in some newspaper printed in the town, or
21 when copies thereof have been posted in 2 or more public places in the town.

22 18 New Sections; Municipal Budget Law; School District Budget Caps. Amend RSA 32 by
23 inserting after section 5-c the following new sections:

24 32:5-d School District Budget Cap. Upon adoption under RSA 32:5-e, the following shall apply:

25 I. In a school district that has adopted this section, the total amount raised and
26 appropriated for the fiscal year, as shown on the budget certified by the school board or the budget
27 committee and posted with the warrant for the annual meeting pursuant to RSA 32:5, shall not
28 exceed a specified dollar amount times the average daily membership of the school district as of
29 October 1 of the year immediately preceding the proposed budget year as reported to the department
30 of revenue administration plus an amount for an annual increase for inflation.

31 II. The annual increase for inflation shall be either a fixed percentage, including zero, or an
32 inflation index published by the U.S. Bureau of Labor Statistics.

33 III. The legislative body may override the budget cap by the usual procedures applicable to
34 annual school meetings of the legislative body, provided that when a proposed appropriation will
35 cause the total amount raised and appropriated to exceed the budget cap or the total amount already
36 raised and appropriated has exceeded the budget cap, voting on the appropriation question shall be
37 by ballot, but the question shall not be placed on the official ballot used to elect officers, except in the

Amendment to SB 400-FN

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1 case of a legislative body that uses an official ballot form of meeting under RSA 40:13 or under a
2 charter adopted pursuant to RSA 49-D. If a 3/5 majority, or the supermajority as determined under
3 a charter pursuant to RSA 49-D, of those voting on the question vote "yes," the appropriation is
4 approved. Only votes in the affirmative or negative shall be included in the calculation of the 3/5
5 majority or the supermajority as determined under a charter pursuant to RSA 49-D.

6 IV.(a) For warrant articles proposing bonds, notes, or other multi-year expenditures, only
7 the first-year estimated costs shall be used in counting appropriations for the budget cap.

8 (b) When using the official ballot form of meeting under RSA 40:13, if the warrant
9 article for the operating budget results in appropriations exceeding the budget cap and receives less
10 than 3/5 majority "yes" vote, the adopted operating budget shall be reduced by appropriations
11 already raised to remain compliant with the budget cap.

12 (c)(1) School districts that have adopted the school administrative unit (SAU) alternative
13 budget procedure under RSA 194-C:9-b shall place the warrant article for the SAU budget at the
14 beginning of school district warrant, immediately after any warrant articles proposing bonds or
15 notes.

16 (2) For school districts using a traditional meeting and when the outcome of the SAU
17 budget vote is pending on balloting from the other school districts, the higher of the school district's
18 assigned portion of the proposed SAU budget or the school district's assigned portion of the adjusted
19 SAU budget shall be assumed as raised and appropriated for the purpose of determining when the
20 override provisions under paragraph III apply.

21 32:5-e Adoption of School District Budget Cap.

22 I. The provisions of RSA 32:5-d may be adopted by any school district in the state whose
23 legislative body raises and appropriates funds through an annual meeting. A 3/5 majority of those
24 voting on the question shall be required to adopt the provisions of RSA 32:5-d. Only votes in the
25 affirmative or negative shall be included in the calculation of the 3/5 majority.

26 II. The question shall be placed on the warrant of the annual or special meeting by the
27 school board or by petition under the procedures set out in RSA 197:2 or 197:6.

28 III. A public hearing shall be held by the school board on the question at least 15 days, but
29 not more than 30 days, before the question is to be voted on. In multi-town school districts, a public
30 hearing shall be held in each town embraced by the district, none of which shall be held on the same
31 day. Notice of the hearing shall be posted in at least 2 public places in the district and at least 2
32 public places in each town of multi-town districts, and published in a newspaper of general
33 circulation at least 7 days prior to the date of the hearing.

34 IV. The wording of the question shall be: "Shall we adopt the provisions of RSA 32:5-d, and
35 implement a budget cap whereby the school board (or budget committee) shall not submit a
36 recommended budget that is higher than ___ dollars times the average daily membership of the
37 school district as of October 1 of the year immediately preceding the proposed budget year plus a ___

Amendment to SB 400-FN

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1 annual increase for inflation. Requires a 3/5ths majority of the school district." Alternatively, if an
2 inflation index is used, the wording of the question shall be: "Shall we adopt the provisions of RSA
3 32:5-d, and implement a budget cap whereby the school board (or budget committee) shall not
4 submit a recommended budget that is higher than ___ dollars times the average daily membership of
5 the school district as of October 1 of the year immediately preceding the proposed budget year plus
6 an annual increase for inflation using (the index) published by the U.S. Bureau of Labor Statistics as
7 of January 1. Requires a 3/5ths majority of the school district."

8 V. Voting on the question shall be by ballot, but the question shall not be placed on the
9 official ballot used to elect officers, except in the case of a legislative body that uses an official ballot
10 form of meeting under RSA 40:13 or under a charter adopted pursuant to RSA 49-D. Polls shall
11 remain open and ballots shall be accepted by the moderator for a period of not less than one hour
12 following the completion of discussion on the question. If a 3/5 majority of those voting on the
13 question vote "yes," RSA 32:5-d shall apply within the school district beginning with the following
14 fiscal year and for all subsequent years until it is rescinded as provided in paragraph VI.

15 VI. Any school district which has adopted RSA 32:5-d may consider rescinding its action in
16 the manner described in paragraphs I through V. The wording of the question shall be: "Shall we
17 rescind the provisions of RSA 32:5-d, known as the school district budget cap, as adopted by the
18 (school district) on (date of adoption), so that there will no longer be a school district budget cap limit
19 on the amount raised and appropriated?" A 3/5 majority of those voting on the question shall be
20 required to rescind the provisions of this section, except in the case of repeal by charter enactment
21 under RSA 49-D. Only votes in the affirmative or negative shall be included in the calculation of the
22 3/5 majority.

23 19 Effective Date.

24 I. Sections 8, 10, and 11 of this act shall take effect January 1, 2023.

25 II. The remainder of this act shall take effect 60 days after its passage.

2022-1848h

AMENDED ANALYSIS

This bill:

I. Makes changes to the training and procedures for zoning and planning boards offered by the office of planning and development.

II. Creates incentives and establishes requirements for workforce housing and affordable housing development.

III. Limits the general authority of city councils to make bylaws and ordinances to the abatement of nuisances that interfere with the use or enjoyment of property.

IV. Limits the authority of local health officers in making bylaws or ordinances relating to public health matters.

V. Establishes the requirements for and procedure for the adoption of a school district budget cap.

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on SB 400-FN

BILL TITLE: relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.

DATE: April 27, 2022

LOB ROOM: 305 - 307

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. J. MacDonald Seconded by Rep. Tripp AM Vote: 10-8

Amendment # 2022-1848h

Moved by Rep. Lascelles Seconded by Rep. Tripp Vote: 10-8

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John MacDonald, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on SB 400-FN

BILL TITLE: relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.

DATE: 4/27/12

LOB ROOM: 305 - 307

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of 2022-1848H Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. MacDonald Seconded by Rep. Tripp Vote: 10-8

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of 2012-1848H Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. Lascelles Seconded by Rep. Tripp Vote: 10-8

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: Rep. VAW Motion _____

Respectfully submitted: [Signature]
Rep John MacDonald, Clerk



2022 SESSION

Municipal and County Government

Bill #: SB400 FN Motion: GTP - Amend 2022-1848 H AM #: _____ Exec Session Date: 4/27/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Dolan, Tom Chairman	10		
Piemonte, Tony Vice Chairman	1		
MacDonald, John T. Clerk	2		
Tripp, Richard P.	3		
Guthrie, Joseph A.	4		
Lascelles, Richard W.	5		
McBride, Everett P. <i>Rep. Menwen</i>	6		
Melvin, Charles R.	7		
Ayer, Paul F. <i>Rep. Moffett</i>	8		
Pauer, Diane	9		
Maggiore, Jim V.		1	
Treleaven, Susan GS			
Gilman, Julie D.		2	
Stavis, Laurel		3	
Mangipudi, Latha D.		4	
Vann, Ivy C.		5	
Klee, Patricia S.		6	
Gallager, Eric B.		7	
Rung, Rosemarie		8	
TOTAL VOTE:	10	8	



2022 SESSION

Municipal and County Government

Bill #: SB400-FN Motion: Adopt Amendment 2022-1848H AM #: _____ Exec Session Date: 4/27/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Dolan, Tom Chairman	10		
Piemonte, Tony Vice Chairman	1		
MacDonald, John T. Clerk	2		
Tripp, Richard P.	3		
Guthrie, Joseph A.	4		
Lascelles, Richard W.	5		
McBride, Everett P. <i>Rep. Mennen</i>	6		
Melvin, Charles R.	7		
Ayer, Paul F. <i>Rep. Moffett</i>	8		
Pauer, Diane	9		
Maggiore, Jim V.		1	
Treleaven, Susan GS			
Gilman, Julie D.		2	
Stavis, Laurel		3	
Mangipudi, Latha D.		4	
Vann, Ivy C.		5	
Klee, Patricia S.		6	
Gallagher, Eric B.		7	
Rung, Rosemarie		8	
TOTAL VOTE:	10	8	

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON SB 400-FN

BILL TITLE: relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.

DATE: April 7, 2022

LOB ROOM: 301 - 303 **Time Public Hearing Called to Order:** 5:23 p.m.

Time Adjourned: 7:05 p.m.

Committee Members: Reps. Dolan, Piemonte, J. MacDonald, Tripp, Guthrie, Lascelles, Melvin, Ayer, Pauer, Maggiore, Treleaven, Gilman, Stavis, Vann, Gallagher and Rung

Bill Sponsors:

Sen. Bradley

Sen. Whitley

Sen. D'Allesandro

Sen. Watters

Sen. Perkins Kwoka

Sen. Rosenwald

Sen. Avard

Sen. Cavanaugh

Sen. Sherman

Sen. Prentiss

Sen. Soucy

Sen. Kahn

Rep. DiLorenzo

Rep. Umberger

Rep. Alexander Jr.

Rep. Sweeney

Rep. Porter

TESTIMONY

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

Carole Alfano for Senator Jeb Bradley - Prime sponsor of the bill. Introduced the bill for the Senator. Review of bill contents. Senator Bradley says this is a great bill.

Senator Rebecca Perkins Kwoka - Co-sponsor of the bill. Supports the bill. Bi-partisan bill. Community tool box. There is nothing that is mandatory, it is all volunteer.

Rep. Guthrie: Scoring system, no citizens to qualify. We do business in a good manor. Does this mean we can't qualify? ANS: The intent of the program is to do something additional. Not intended to pit towns against each other.

Rep. Stavis: Is this bill related to 632 and 586? ANS: Many similarities to both bills. It is enabling legislation. It is a policy decision to shift the costs for the exemption.

Rep. Maggiore: Meets work force housing, then it remains as work force housing? ANS: Not just building, but also retaining work force housing forward.

Rep. Piemonte: Line 17 - 21, what would be the max amount of years for tax relief? ANS: I will refer that answer.

Natch Greyes, NH Municipal Association - Neutral on the bill.

***Ben Frost, NH Housing** - Supports the bill. Letter from Robert B. Dapice. Most of the purchases are from New Hampshire. The number of houses on the market is under 1,000 for the entire state.

Rep. Dolan: We worked together on Senator Clark's Commission, is this from that? ANS: I think this is different than that commission.

Rep. Guthrie: Concerning the scoring process? ANS: JLCAR Process for scoring system. Insure it will be fair. Local option - municipalities decide if they want to do this. There is a shift in taxation. Estimates of local impact. Any municipalities should do this so they can present it to the voter. There is an existing process for the adoption of this bill. Tapping into the existing statutes. Decisions made by the select board. How long would it be work force housing? The selectboard would have to find a public benefit tax relief. Can go up to twice the amount of tax relief for being work force housing. This is all discretionary for the local government. New housing brings a flood of new children in the schools. It is a lot lower than people believe. Most of the school costs are capital costs,

***Dan McGuire, Granite State Taxpayers** - I am in favor of somethings in this bill A couple of different bills that are pasted together.

Sara Holland, NH Realtors - Supports the bill. \$395,000 2020 single family home. All time low on houses for sale. Inventory started well before COVID. A healthy housing outlook is a variety of houses. SB 400 represents a chance for affordable housing.

***Elissa Margolin, Housing Action NH** - Supports the bill. Three submitted documents.

David Juvet, BIA - Supports the bill. Lack of workforce housing. Refute - It takes away local control. The community can choose if they want to use the bill.

***Joseph Garruba** - Opposes the bill. The bill contains things that will limit the authority of the planning board. Page 1, Line 25, the voters of the town will over ride the local zoning benefits. Linking workforce housing to senior housing Automatic reversal for non compliant technicalities. Time deadlines in bill are a problem. Un-elected board members distributing money. Re-submittal of documents. Changes the time lines and procedures that are well established. ITL recommendation from this committee.

***Regina Barnes** - Opposes the bill. I am completely opposed to this. Hampton development 91% is developed. Didn't need any state interference offering money from the state, this is a bribe. Please vote against this bill. Who should vote to control this board?

Rep. Joe Guthrie - Opposes the bill. I couldn't vote for a omnibus bill. This is an omnibus bill. Three different bills within the committee. Three separate issues in the bill.

Respectfully submitted,

Rep. John MacDonald
Clerk

House Remote Testify

Municipal and County Government Committee Testify List for Bill SB400 on 2022-04-07

Support: 103 Oppose: 8 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Cavanaugh, Senator Kevin	Manchester, NH kevin.cavanaugh@leg.state.nh.us	An Elected Official	Myself	Support	No	No	3/29/2022 12:51 PM
Whitley, Becky	Hopkinton, NH jessica.bourque@leg.state.nh.us	An Elected Official	Senate District 15	Support	No	No	3/30/2022 9:33 AM
Watters, Senator David	Dover, NH david.watters@leg.state.nh.us	An Elected Official	Myself	Support	No	No	3/30/2022 2:36 PM
Perkins Kwoka, Senator Rebecca	Dover, NH Rebecca.PerkinsKwoka@leg.state.nh.us	An Elected Official	Myself	Support	No	No	3/30/2022 3:05 PM
Rosenwald, Cindy	Nashua, NH cindy.rosenwald@leg.state.nh.us	An Elected Official	SD 13	Support	No	No	4/1/2022 12:33 PM
Soucy, Donna	Manchester, NH donna.soucy@leg.state.nh.us	An Elected Official	SD 18	Support	No	No	4/1/2022 4:23 PM
Smith, Julie	Nashua, NH Cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	4/2/2022 1:11 PM
Burk-McCoy, Lisa	Exeter, NH lburkmccoy@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 10:57 AM
Mott-Smith, Wiltrud	Loudon, NH wmottsm@worldpath.net	A Member of the Public	Myself	Support	No	No	4/3/2022 11:31 AM
Nixon, Sherrill	Exeter, NH sherri.nixon1@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 12:03 PM
bory, lee	nashua, NH leebory@Juno.com	A Member of the Public	Myself	Support	No	No	4/3/2022 12:11 PM
Zaenglein, Barbara	AMHERST, NH bzaenglein@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 12:43 PM
Zaenglein, Eric	Amherst, NH henley11@comcast.net	A Member of the Public	Myself	Support	No	No	4/3/2022 12:43 PM

Levy, Mariam	Exeter, NH mariam.levy@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 1:23 PM
QUISUMBING-KING, Cora	Dover, NH coraq@comcast.net	A Member of the Public	Myself	Support	No	No	4/3/2022 2:11 PM
Morrison, Carol	W. Lebanon, NH carol.r.morrison917@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 2:27 PM
Moccia, Lianne	LEBANON, NH lianne.moccia@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 2:46 PM
RHOADES, CHARLES	Dover, NH chuckrhoades@comcast.net	A Member of the Public	Myself	Support	No	No	4/3/2022 3:51 PM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	No	4/3/2022 4:31 PM
Grossi, Anne	Bedford, NH adgrossi7982@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 4:52 PM
Pugh, Barbara	Amherst, NH barbara.pugh@comcast.net	A Member of the Public	Myself	Support	No	No	4/3/2022 5:58 PM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Oppose	No	No	4/3/2022 6:40 PM
Yen, Lidia	Pembroke, NH lyen@afsc.org	A Member of the Public	Myself	Support	No	No	4/3/2022 8:14 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 8:47 PM
Weber, Jill	Mont Vernon, NH jill@frajilfarms.com	A Member of the Public	Myself	Support	No	No	4/3/2022 9:13 PM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 9:35 PM
Nelson, Elizabeth	Derry, NH BethDavid@comcast.net	A Member of the Public	Myself	Support	No	No	4/3/2022 9:39 PM
Reed, Barbara	North Swanzey, NH BDRreed74@gmail.com	A Member of the Public	Myself	Support	No	No	4/3/2022 9:51 PM
Lincoln, Mary	Manchester, NH mary.lincoln52@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 5:13 AM
FRIEDRICH, ED	Loudon, NH erfriedrich@yahoo.com	A Member of the Public	Myself	Support	No	No	4/4/2022 8:30 AM
Ellermann, Maureen	Concord, NH ellermannf@aol.com	A Member of the Public	Myself	Support	No	No	4/4/2022 8:56 AM

Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Support	No	No	4/4/2022 9:00 AM
Devore, Gary	Pembroke, NH torin_asheron@yahoo.com	A Member of the Public	Myself	Support	No	No	4/4/2022 9:00 AM
Rettew, Annie	Concord, NH abrettew@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 9:32 AM
Cote, Lois	Manchester, NH lcote06@outlook.com	A Member of the Public	Myself	Support	No	No	4/4/2022 9:39 AM
Benham, Linda	Greenland, NH benhamblab@outlook.com	A Member of the Public	Myself	Support	No	No	4/4/2022 10:06 AM
Medeiros, Jesse	Plainfield, NH bgtrck458@gmail.com	A Member of the Public	Myself	Oppose	No	No	4/4/2022 10:09 AM
Blanchard, Sandra	Loudon, NH sandyblanchard3@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 12:06 PM
San Antonio, Donna	Brookfield, NH dsananto@lesley.edu	A Member of the Public	Myself	Support	No	No	4/4/2022 12:30 PM
Dickinson, Jeff	Concord, NH jdickinson@gsil.org	A Member of the Public	Granite State Independent Living	Support	No	No	4/4/2022 12:54 PM
Persechino, Sara	Contoocook, NH persechino.sara@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 1:24 PM
Vincent, Laura	Loudon, NH lvlauravincen5@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 1:31 PM
Hunt, Wendy	AMHERST, NH whunt@nashuachamber.com	A Member of the Public	Greater Nashua Chamber of Commerce members	Support	No	No	4/4/2022 1:32 PM
Verschueren, James	Dover, NH jd.verschueren@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 1:50 PM
Lynch, Chrisinda	Concord, NH emmelynch@comcast.net	A Member of the Public	Myself	Support	No	No	4/4/2022 2:15 PM
Torpey, Jeanne	Concord, NH jtorp51@comcast.net	A Member of the Public	Myself	Support	No	No	4/4/2022 2:54 PM
Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 3:19 PM
Jakubowski, Deborah	Loudon, NH Dendeb146@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 3:44 PM
Schaick, Erin	Concord, NH erin.schaick@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 4:19 PM

Thomas, Anne	Rindge, NH annethomasjazz@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 4:26 PM
Hershey, Jane	Rindge, NH janelhershey@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 4:26 PM
Merlone, Lynn	Rindge, NH prulone@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 4:26 PM
Martin, Patricia A	Rindge, NH pmartin2894@yahoo.com	A Member of the Public	Myself	Support	No	No	4/4/2022 4:26 PM
Meehan, Josh	Keene, NH Joshua.meehan@gmail.com	A Member of the Public	Myself	Support	No	No	4/4/2022 5:34 PM
Gould, Rep. Linda	Bedford, NH lgouldr@myfairpoint.net	An Elected Official	Myself	Oppose	No	No	4/4/2022 6:59 PM
Hamblet, Joan	PORTSMOUTH, NH joan.hamblet@leg.state.nh.us	A Member of the Public	Myself	Support	No	No	4/4/2022 9:43 PM
Mooney, Bridget	Wilton, NH bridget@moonchick.com	A Member of the Public	Myself	Support	No	No	4/4/2022 10:59 PM
Toomey, Dan	Nashua, NH toomey.ward5@gmail.com	An Elected Official	Myself	Support	No	No	4/4/2022 11:22 PM
Kudlik, Cindy	Grafton, NH CindyKudlik@protonmail.com	An Elected Official	Myself	Oppose	No	No	4/4/2022 11:47 PM
Foster, Joanne	PORTSMOUTH, NH jocfoster@outlook.com	A Member of the Public	Myself	Support	No	No	4/5/2022 7:39 AM
Foley, Mary Ellen	Manchester, NH mefrsm@comcast.net	A Member of the Public	Myself	Support	No	No	4/5/2022 8:46 AM
Hennessey, Erin	Senate District 1, NH peter.oneill@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/5/2022 9:14 AM
Dodge, Corinne	, Derry, NH corinnedodge@hotmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 10:12 AM
Sherman, Senator	SD 24, NH jennifer.horgan@leg.state.nh.us	An Elected Official	SD24	Support	No	No	4/5/2022 10:17 AM
Hampton, Doris	Canterbury, NH dandmhamp38@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 10:18 AM
Davis, Gregory	Salem, NH glospreys@comcast.net	A Member of the Public	Myself	Support	No	No	4/5/2022 11:02 AM
Spinney, Catherine M	Pelham, NH cspinney58@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 11:11 AM

Fudge, Kim Marie	NORTH CONWAY, NH kimfudge20@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 11:22 AM
Burr, Emily	Canterbury, NH revelyburr@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 11:54 AM
Lorentz, Carmen	Laconia, NH clorentz@lrcommunitydevelopers.org	A Member of the Public	Lakes Region Community Developers	Support	No	No	4/5/2022 12:16 PM
Sellarole, Jana	Walpole, NH jgsellarole@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 12:18 PM
Newick, Catharine	Canterbury, NH csnewick@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 1:38 PM
Berry, Jake	Concord, NH jberry@new-futures.org	A Lobbyist	New Futures	Support	No	No	4/5/2022 2:53 PM
Chase, Wendy	Rollinsford, NH wendy.chase@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/5/2022 2:55 PM
Cahill, Michael	Newmarket, NH michael.cahill@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/5/2022 3:07 PM
Schmidt, Jan	Nashua, NH tesha4@gmail.com	An Elected Official	Nashua	Support	No	No	4/5/2022 3:09 PM
Meuse, David	Portsmouth, NH David.Meuse@leg.state.nh.us	An Elected Official	Rockingham 29	Support	No	No	4/5/2022 4:26 PM
Baucom, Pam	Walpole, NH ptubridybaucom@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 5:46 PM
Almy, Susan	Lebanon, NH susan.almy@comcast.net	An Elected Official	Myself	Support	No	No	4/5/2022 6:18 PM
Smith, Susan	Dover, NH susan.h.smith2@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 6:46 PM
Eades, Rachel	Northwood, NH rachel.p.eades@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 6:58 PM
Strayer, Frances	Sandwich, NH fdstrayer@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 9:08 PM
Dontonville, Roger	Enfield, NH rdontonville@gmail.com	An Elected Official	Myself	Support	No	No	4/5/2022 10:02 PM
perencevich, ruth	concord, NH rperence@comcast.net	A Member of the Public	Myself	Support	No	No	4/5/2022 10:18 PM
Stinson, Benjamin	Concord, NH benrkstinson@gmail.com	A Member of the Public	Myself	Support	No	No	4/5/2022 11:45 PM

Greenwood, Nancy	Concord, NH nancgreenwood@yahoo.com	A Member of the Public	Myself	Support	No	No	4/6/2022 7:47 AM
Corson, Kathy	Exeter - NH, NH kathykcorson@gmail.com	A Member of the Public	Myself	Support	No	No	4/6/2022 9:17 AM
Fogarty, Maggie	Concord, NH mfogarty@afsc.org	A Lobbyist	American Friends Service Committee - NH Program	Support	No	No	4/6/2022 9:25 AM
Bradley, Jeb	SD3, NH jeb.bradley@leg.state.nh.us	An Elected Official	SD3	Support	No	No	4/6/2022 9:34 AM
Tononi McNamara, Tiffany	Rochester, NH tiffany@plannh.org	A Member of the Public	Myself and Plan NH's Membership	Support	No	No	4/6/2022 10:40 AM
Holtz, Anthony	Dover, NH awave28@live.com	A Member of the Public	Myself	Support	No	No	4/6/2022 10:58 AM
Rich, Cecilia	Somersworth, NH cecilia.rich@leg.state.nh.us	An Elected Official	Myself	Support	No	No	4/6/2022 1:02 PM
McKone, Felicia	Merrimack, NH feliciamckone@comcast.net	A Member of the Public	Myself	Support	No	No	4/6/2022 1:05 PM
Jean, Bill	Bedford, NH bjean@fulcrum-nh.com	A Member of the Public	Myself	Support	No	No	4/6/2022 1:35 PM
Dening, Jennifer	Nashua, NH jendening@gmail.com	A Member of the Public	Myself	Support	No	No	4/6/2022 2:29 PM
DesMarais, Edith	Wolfeboro, NH desmarpe@metrocast.net	A Member of the Public	Myself	Support	No	No	4/6/2022 3:02 PM
Moran, Madonna	Manchester, NH madonnamoran@comcast.net	A Member of the Public	Myself	Support	No	No	4/6/2022 3:52 PM
See, Alvin	Loudon, NH absee@4liberty.net	A Member of the Public	Myself	Oppose	No	No	4/6/2022 8:09 PM
Holt, David	Somersworth, NH davholt@aol.com	A Member of the Public	Myself	Support	No	No	4/6/2022 9:20 PM
Lindpaintner, Lyn	Concord, NH lynlin@bluewin.ch	A Member of the Public	Myself	Support	No	No	4/6/2022 9:40 PM
Istel, Claudia	Acworth, NH cistel79@gmail.com	A Member of the Public	Myself	Support	No	No	4/6/2022 11:43 PM
Taylor, Nick	Manchester, NH director@seacoastwhc.org	A Member of the Public	Workforce Housing Coalition of the Greater Seacoast	Support	No	No	4/7/2022 8:52 AM
Homola, Susan	Hollis, NH susan.homola@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	4/7/2022 9:24 AM

Nichols, Rad	Durham, NH rad.nichols@me.com	A Member of the Public	Myself	Support	No	No	4/7/2022 9:40 AM
Dearborn, Lindsay	Lebanon, NH lindsaydear@me.com	A Member of the Public	Myself	Support	No	No	4/7/2022 10:09 AM
Sorens, Jason	Amherst, NH jsorens@anselm.edu	A Member of the Public	Center for Ethics in Society at Saint Anselm College	Support	No	No	4/7/2022 10:20 AM
Sinclair-pappas, Barbara	Chichester, NH bespappas@gmail.com	A Member of the Public	Myself	Support	No	No	4/7/2022 11:18 AM
DeRosa, Tom	Bedford, NH tom@bfreshconsulting.com	A Lobbyist	New Hampshire Planners Association	Support	No	No	4/7/2022 11:23 AM
Stewart, Will	Manchester, NH will@stayworkplay.org	A Lobbyist	Stay Work Play NH	Support	No	No	4/7/2022 1:01 PM
Chadwick, Ray	Bedford, NH rfchadwick@juno.com	A Member of the Public	Myself	Oppose	No	No	4/7/2022 1:40 PM
Reap, Joshua	Manchester, NH josh@abcnhvt.org	A Lobbyist	Associated Builders & Contractors	Support	No	No	4/7/2022 3:58 PM

the planning board when the application may simply need additional time to clarify certain components, but not necessarily need to resubmit and restart the process, which can be laborious and costly for applicants. For this reason, keeping the flexibility for a planning board to apply for an extension through the selectboard or city council would be beneficial to this bill.

Here in Rockingham County, the housing crisis is increasingly evident in our communities. Rockingham County has historically low rental vacancy rates and housing inventory on the market. In February 2022, Rockingham County saw the highest median home sale price across the state at \$550,000 for a single-family home. Statewide vacancy rates continue to be below 1%. The NH Housing Champion Certification Program would be an opportunity for communities who are actively working towards housing solutions and interested in learning about the next action steps they can take to address housing challenges in their community and accelerate projects in the current pipeline.

Thank you for your consideration of this measure. If we can provide any further information, please contact me at 603-778-0885 or troache@therpc.org.

Sincerely,



Tim Roache
Executive Director

CC: Richard McDermott, RPC Chair

April 15, 2022

The Honorable Tom Dolan, Chair
House Municipal and County Government Committee
Legislative Office Building Room 301
33 North State Street
Concord, NH 03301

RE: SB400 relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.

Dear Chairman Dolan and Members of the Committee,

On behalf of the Rockingham Planning Commission, I would like to submit comment to the members of the House Municipal and County Government Committee on SB400 relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.

Many of the voluntary provisions of this bill would benefit the land use boards in our region, which is made of 27 of the 36 communities in Rockingham County. Free, voluntary training programs provided by the Office of Planning & Development and the establishment of the New Hampshire Housing Champion Certification Program would benefit many, if not all our communities.

Training programs offered by the Office of Planning & Development for land use boards are an opportunity for many of our smaller communities, who may not have the staff capacity to track updated policy changes and best practices, to stay up to date. Trainings will be especially beneficial if recorded and inventoried online for those members whose schedules may not allow in-person attendance. While many of the proposed modifications to planning board administration and procedures are helpful for clarification of applicant procedures, timelines, and issuance of decisions, the removal of the provision that allows planning boards to apply to the selectmen or city council for an extension before acting to approve or disapprove an application removes flexibility for the planning board to use their discretion on the needs of an application.

It is common that applicants are willing to consent to an extension or understand the need to resubmit an application with more information, but some applicants are less willing to work with

Conclusion

SB400 is a seriously flawed bill. It is nearly identical to the 2021 HB586, which seems to be brought back word for word. The language was written prior to the pandemic. As we have seen, there have been significant forces leading to development in New Hampshire as a result of the pandemic. Southern New Hampshire is currently experiencing a building boom. Development throughout the state has intensified. This development naturally leads to more housing in all price ranges as residents trade up. The wording of this bill is not adapted to the current situation we face in New Hampshire, and it does not represent the New Hampshire principle of participatory local government.

As I have pointed out, the above SB400 reduces the authority of local planning Boards, zoning boards, and select boards. In every case, the changes are beneficial to developers at the expense of local residents, abutters, and municipal officials. New Hampshire's strength is the participatory nature of local residents who work to better their towns. Removing local authority will disincentivize involvement and will serve to homogenize towns throughout the state. This can only be considered a negative. Weakening local governments will irrevocably change New Hampshire government for the worse.

Placing authority in unelected boards and agencies at the state level is the opposite of representative government and will only serve to promote corruption and abuse. It is important that tax distribution concerns remain the authority of the state legislature.

SB400 codifies the redistribution of taxation from rural to urban communities because urban or urbanizing ones will most likely get the "Housing Champion" designation. This type of wealth redistribution is not just and will serve to promote a division between cities and rural towns

Please consider the efforts of local residents to shape their own towns, this model has worked well for New Hampshire for many years. Please vote against this inappropriate, holdover omnibus housing bill and, thereby, protect New Hampshire and its residents.

20. An unelected board without dominated by special interest Amend RSA 12-O

SB400 Proposed Language

V. There is hereby established the New Hampshire housing champion certification program advisory board. The advisory board shall review and approve proposed rules, and any amendments thereto, used by the office of planning and development to administer the housing champion certification program and shall advise the office regarding ongoing program administration.

The advisory board shall consist of:

- (a) One member of the senate, appointed by the senate president.
- (b) Two members of the house of representatives, at least one of whom shall be a member of the municipal and county government committee, appointed by the speaker of the house of representatives.
- (c) The commissioner of the department of business and economic affairs, or designee.
- (d) The executive director of the business finance authority, or designee.
- (e) The executive director of the New Hampshire housing finance authority, or designee.
- (f) The executive director of the community development finance authority, or designee.
- (g) The executive director of the state commission for human rights, or designee.
- (h) One member appointed by each of the following entities:
 - (1) The New Hampshire Municipal Association.
 - (2) The New Hampshire Association of Regional Planning Commissions.
 - (3) Housing Action New Hampshire.
 - (4) Clean Energy New Hampshire.
 - (5) The Home Builders and Remodelers Association of New Hampshire.
 - (6) The New Hampshire Association of Realtors.
 - (7) The New Hampshire Planners Association.
 - (8) Plan New Hampshire

Analysis

Here the bill initiates a completely unelected board greatly insulated from the voters of the state. Do you think this will be a fair way to distribute your tax dollars? The authority to make decisions related to the distribution of taxes should reside in the elected state legislature. Why would you consider voting this authority to the likes of Home Builders associations, Realtors and New Hampshire Housing Finance Authority? Here again, I can only describe this as the legalization of crony capitalism. Do you want your voting record to show that you support this? Please vote against this bill to protect fair government in New Hampshire.

19. Training required in order to obtain certification: Amend RSA 12-O

SB400 Proposed Language

III. Qualifications to receive the New Hampshire housing champion certification shall include, but are not limited to:

...

(c) Training of planning board and zoning board of adjustment members using training materials and programs, including online materials and programs, provided by the office of planning and development pursuant to RSA 673:3-a; or training materials and programs, including online materials and programs, provided by the New Hampshire Municipal Association, that cover the processes, procedures, regulations, and statutes related to the board on which the member serves; or any other training materials and programs, including online materials and programs, approved by the office of planning and development, that cover the processes, procedures, regulations, and statutes related to the board on which the member serves.

Analysis

Requiring training from the Office of Planning and Development or New Hampshire Municipal Association in order to access state funding is inappropriate. Requiring training of land-use board members will further serve to concentrate undue power and influence in the OPD, since housing champion status will favor lax regulation of high-density development. This will be a blow to the integrity and autonomy of state and local governments. Please vote against this bill in order to preserve the integrity of and authority of government and to prevent the conflict-of-interest it would promote.

18. Complying with the law is not enough to get access to state funds: Amend RSA 12-O

SB400 Proposed Language

III. Qualifications to receive the New Hampshire housing champion certification shall include, but are not limited to:

(a) Adoption of such land use regulations and ordinances which the office of strategic initiatives determines to be necessary to promote the development of workforce housing, as that term is defined in RSA 674:58, and other types of housing necessary for the economic development of the state. In this paragraph, "land use regulations and ordinances" shall include, but are not limited to, innovative land use controls described in RSA 674:21.

Analysis

Here again, the bill grants the office of Planning and Development the power to determine a municipality's access to its justly deserved tax revenue. The language even allows the Office of Planning and Development to determine that a municipality must go above and beyond the requirements of the Workforce Housing law in order to receive preferential treatment and tax breaks. What justifies giving this authority to the Office of Planning and Development? Why not clearly spell out the requirement in the bill? Allowing the requirements to be open-ended like this will allow the "goal posts" to be changed perpetually in the future. In addition, it will be set by the unelected members of the Office of Planning and Development. Do you think that is good legislation? Should not the power to distribute taxes be exercised only by elected officials accountable to the voters? This is a fundamental principle of our government. Please vote against this bill to protect the fundamental tenets of our state government.

16. Office of Planning and Development to develop a certification program: Amend RSA 12-0

SB400 Proposed Language

16 New Subdivision; New Hampshire Housing Champion Certification. Amend RSA 12-O by inserting after section 64 the following new subdivision:

New Hampshire Housing Champion Certification 12-O:65 New Hampshire Housing Champion Certification.

I. The office of planning and development shall develop a New Hampshire housing champion certification program for all qualifying municipalities. The office of planning and development shall adopt rules to establish qualifications and procedures for a municipality to earn the New Hampshire housing champion certification. The procedure for a municipality to earn the New Hampshire housing champion certification shall be based on a scoring system.

Analysis

Why would such authority be delegated to unelected bureaucrats? The legislature's role is to write the laws. Allowing unelected officials at Office of Planning and Development to decide on how millions of dollars of tax breaks will be apportioned is irresponsible. Why should the legislature delegate its authority? This proposal is primed for corruption. If the legislature feels such a system is necessary, it should propose and enact one as a statute. In that way, at least the process would be conducted by elected officials accountable to the people. Please vote against this bill, if only to preserve your own authority as elected state representatives. It is your duty to determine the distribution of taxation, not the unelected Office of Planning and Development.

17. What preferential treatment will be afforded for urbanizing? Amend RSA 12-0

SB400 Proposed Language

II. The New Hampshire housing champion certification program shall be voluntary. Each municipality shall have the option, in its sole discretion, to apply to the office of planning and development to receive the New Hampshire housing champion certification. In exchange for housing champion certification, a municipality shall receive preferential access to state resources including, but not limited to, discretionary state infrastructure funds, as available.

Analysis

Why should the Office of Planning and Development be put in charge of determining preferential access to state resources? How could this be fair to rural towns that choose not to urbanize? The language of this bill sets up a resource allocation battle between rural towns and cities. Is that what you wish to promote? Shouldn't all of the state have equal access to state resources? Please vote against this bill to preserve unity of the state's rural towns and cities.

15. Extending the duration of tax breaks to private developers: Amend RSA 79-E:5, II

SB400 Proposed Language

II. The governing body may, in its discretion, add up to an additional [2] 4 years of tax relief for a project that results in new residential units and up to [4] **an additional 8 years** for a project that includes [affordable] housing **that meets the definition of workforce housing in RSA 674:58, IV, and up to additional 8 years for a project that includes residential units located on the second story or higher of a building**

Analysis

Here again the bill provides more tax breaks to urbanize towns by adding high-density housing. Historic towns deserve preservation, not urbanization. Allowing the duration of tax breaks to be extended increases redistribution of taxation in a way that unfairly promotes urbanization in New Hampshire. Why should a project creating new residential units be exempt from taxes due to renovation? Why should this cost be permitted to be borne by long time existing residents for periods of up to eight years? There is no cause to promote urbanization. Housing projects should pay their fair share of taxes. They certainly bring more costs for school services and public safety. What would justify such a lucrative tax break for developers? Justice must be a consideration. It seems the language of SB400 here again discards justice in favor of subsidies to developers. Please vote this bill as inexpedient to legislate in order to defend small towns in New Hampshire!

14. Defining "Public Use" as private land development: Amend RSA 162-K:2, IX

SB400 Proposed Language

IX-a. "Public use" means:

- (a)(1) The possession, occupation, and enjoyment of real property by the general public or governmental entities[;] .
 - (2) The acquisition of any interest in real property necessary to the function of a public or private utility or common carrier either through deed of sale or lease[;] .
 - (3) The acquisition of real property to remove structures beyond repair, public nuisances, structures unfit for human habitation or use, and abandoned property when such structures or property constitute a menace to health and safety[; and] .
 - (4) Private use that occupies an incidental area within a public use; provided, that no real property shall be condemned solely for the purpose of facilitating such incidental private use.
 - (5) The acquisition of real property to construct housing units which meet the definition of workforce housing contained in RSA 674:58, IV, whether or not such construction results from private development or private commercial enterprise. The municipality shall not acquire property for this purpose through the powers of eminent domain.**
- (b) Except as provided in subparagraphs (a)(2), ~~(a)(4)~~ (4), and (5) of this paragraph, public use shall not include the public benefits resulting from private economic development and private commercial enterprise, including increased tax revenues and increased employment opportunities.

14 Municipal Economic Development and Revitalization Districts; District Establishment and Development Programs; Authority to Acquire, Construct, and Promote Residential Development and Housing Stock. Amend RSA 162-K:6, III(h) and (i) to read as follows:

- (h) Lease all or portions of basements, ground and second floors of the public buildings constructed in the district; ~~(i)~~
- (i) Negotiate the sale or lease of property for private development if the development is consistent with the development program for the district[.] ; and
- (j) Acquire, construct, reconstruct, improve, alter, extend, operate, maintain or promote residential developments aimed at increasing the available housing stock within the municipality.**

Analysis

Item (5) redefines the construction of **private houses as public use!!!** I have avoided hyperbole in responding to each change of SB400, but the term crony capitalism seems to fit this well. Will you allow this to become the law of the land? Do you think tax breaks should be provided to private developers? How will the administration of this redistribution of taxes be fairly controlled? Has anyone justified why such drastic changes are needed. I cannot understand how the state tax breaks for private developers can be fair to residents of towns and municipalities, who have paid taxes. Please vote against this bill to prevent state government from underwriting redistribution of wealth to private developers of high-density housing!

12. Imposing Costs on Abutters to Access the Judicial System: Amend RSA 677

SB400 Proposed Language

12 New Subdivision; Fee Shifting and Posting of Bond. Amend RSA 677 by inserting after section 19 the following new subdivision:

Fee Shifting and Posting of Bond

677:20 Fee Shifting and Posting of Bond.

I. Whenever an appeal to the superior court is initiated under this chapter, the court may in its discretion require the person or persons appealing to file a bond with sufficient surety for such a sum as shall be fixed by the court to indemnify and save harmless the person or persons in whose favor the decision was rendered from damages and costs which he or she may sustain in case the decision being appealed is affirmed.

Analysis

A bond would be required to access justice in the courts. The spoils of development will always provide sufficient profits to provide for such a bond. However, abutters and town residents cannot easily afford such costs and cannot count on density bonuses to defray costs of fighting a development. Do you think it is right to force an abutter to put up a bond just to appeal a decision that may have been wrongly decided? What problem is this trying to solve? This seems to be a means that will allow moneyed-development interests preferential treatment over middle-class abutters. As residents, we are all abutters. Do you think this is fair? Do you want to degrade your own access to the court system? Please vote against this bill. You might be an abutter whose access to the courts is diminished by it.

13. Different Standard of Justice for Developers verses Planning Boards: Amend RSA 677

SB400 Proposed Language

II. In any appeal initiated under this chapter the court may, subject to the provisions of this paragraph or any other provision of law, award attorney's fees and costs to the prevailing party. Costs and attorney's fees shall not be allowed against a local land use board unless it shall appear to the court that the board, in making the decision from which the appeal arose, acted with gross negligence, in bad faith, or with malice.

Costs and attorney's fees shall not be allowed against the party appealing from the decision of a local land use board unless it shall appear to the court that said party acted in bad faith or with malice in appealing to court.

Analysis

This language applies a different standard of justice to developers than to planning boards. Notice that developers are free of the consideration of **gross negligence**. It seems that the intent of this language is to provide a lever that lawyers will use against planning boards. Here again, why would you consider reducing the authority of your local planning board? Have you seen problems with their decisions? Have you seen them issuing decisions that are grossly negligent? Please act to defend local zoning authority and vote no on this bill.

11. Directing the Superior and Supreme Courts Calendar: Amend RSA 677:15, IV-V

SB400 Proposed Language

10 Planning and Zoning; Rehearing and Appeal Procedures; Court Review. Amend RSA 677:15,

IV-V to read as follows:

IV. ~~[The court shall give any hearing under this section priority on the court calendar.]~~

Whenever an appeal to the superior court is initiated under this section, the court shall give the appeal priority on its calendar. Within 10 days of the certified record being filed with the court, the court shall schedule a hearing to be held within 90 days unless extended by agreement of all parties or by motion. The appellant shall file an opening brief 60 days before the hearing. The appellee shall file a response brief 30 days before the hearing. The appellant may file a reply brief 15 days before the hearing. The court shall issue a decision within 60 days after the hearing, unless the court has received an extension from the chief justice of the superior court.

V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court is persuaded by the balance of probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed against the municipality unless it shall appear to the court that the planning board acted in bad faith or with malice in making the decision appealed from.

VI. Whenever an appeal to the supreme court is initiated after superior court review, the supreme court shall give the appeal priority on its calendar and shall issue a final decision within 90 days of the date upon which oral argument has been conducted.

677:5 Priority. ~~[Any hearing by the superior court upon an appeal under RSA 677:4 shall be given priority on the court calendar.]~~Whenever an appeal to the superior court is initiated under RSA 677:4, the court shall give the appeal priority on its calendar. Within 10 days of the certified record being filed with the court, the court shall schedule a hearing to be held within 90 days unless extended by agreement of all parties or by motion. The appellant shall file an opening brief 60 days before the hearing. The appellee shall file a response brief 30 days before the hearing. The appellant may file a reply brief 15 days before the hearing. The court shall issue a decision within 60 days after the hearing, unless the court has received an extension from the chief justice of the superior court.

Analysis

Why should developers have an expedited path through the courts? There are many important cases to be heard. Housing development is low on the list of priorities, compared to crime and other matters, and I hold that the latter should have higher priority. I hope members of the state legislature can see that dictating the court's schedule is unwise at least. Please vote no on SB400.

10. Removing the Courts Ability to Uphold Local Zoning Ordinance: Amend RSA 676:4, I(c)

SB400 Proposed Language

(2) Failure of the selectmen or city council to ~~[issue an order to the planning board under subparagraph (1); or to]~~ certify approval of the plat upon the planning board's failure to ~~[comply with the order;]~~ ***act within the required time period*** shall constitute grounds for the superior court, upon petition of the applicant, to issue an order approving the application ~~[if the court determines that the proposal complies with existing subdivision regulations and zoning or other ordinances]~~. ***The superior court shall act upon such a petition within 30 days.*** If the court determines that the failure of the selectmen or the city council to act was not justified, the court may order the municipality to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.

Analysis

Removing the court's authority to review compliance with zoning ordinances that town residents have enacted, shows blatant disregard for the democratic process. Why prevent the court from confirming or denying a proposal that meets an ordinance that voters have approved? Please vote against this bill to protect the power of local citizens to pass local zoning ordinances within all of our towns.

water systems. It is reasonable and fair to allow the planning board enough time to review and adjudicate these applications accordingly. Developers claim this cost and uncertainty is a burden, but it is justified to allow local planning boards to make informed and carefully considered decisions. If this bill becomes law, the quality of local planning board decisions will be compromised. How could a strict time limit result in better decisions?

These strict time limits for planning boards and select boards, as discussed previously regarding the ZBA, may be unconstitutional under the equal protections clause of the U.S. constitution. All development applications are unique in size, scope and land being developed; more complex or less complex projects should receive commensurate attention. This is not the case if the same time period for review and approval is allotted for each.

As with ZBA time restraints, the new provision for planning boards and select boards will allow developers to bring the same project back to planning boards repeatedly. This is an unreasonable encumbrance on the abutters and town residents, who will be burdened with fighting developments multiple times. This provision is also sure to bog down local planning board agendas with repeat cases. Again, we see a benefit to developers at the expense of town residents and another blow to local zoning board authority. Please do not allow this bill to become law.

Currently, once an application is heard and denied at the planning board, it cannot be brought up again, based on the New Hampshire Supreme Court decision in Fisher vs City of Dover. The language of SB400 will allow developers to resubmit the same project back to the planning board after a denial. This is an unreasonable drain on abutters and town residents who must resort to fighting the same development multiple times. This provision is also sure to overload local planning board agendas with repeat cases. Again, this presents a significant benefit to developers at the expense of town residents and local zoning boards. Please do not allow this bill to become law.

9. Imposing Time Limits on Planning Board Procedures: Amend RSA 676:4, I(c)

SB400 Proposed Language

8 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(c) to read as follows:

(c)(1) The board shall, at the next regular meeting or within 30 days following the delivery of the application, for which notice can be given in accordance with the requirements of subparagraph (b), determine if a submitted application is complete according to the board's regulation and shall vote upon its acceptance. Upon determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determination in accordance with RSA 676:3, which shall describe the information, procedure, or other requirement necessary for the application to be complete. Upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin formal consideration and shall act to approve, conditionally approve as provided in subparagraph (i), or disapprove within 65 days, subject to extension or waiver as provided in subparagraph (f). ~~[Upon failure of the board to approve, conditionally approve, or disapprove the application, the selectmen or city council shall, upon request of the applicant, immediately issue an order directing the board to act on the application within 30 days.]~~ *If the board determines that it lacks sufficient information to make a final decision on an application, the board may, in its discretion, deny the application without prejudice, in which case the applicant may resubmit the same or a substantially similar application.* If the planning board does not act on the application within that ~~[30-day]~~ *65-day* time period, then ~~[within 40 days of the issuance of the order,]~~ the selectmen or city council shall certify on the applicant's application that the plat is approved pursuant to this paragraph~~[-unless within those 40 days the selectmen or city council has identified in writing some specific subdivision regulation or zoning or other ordinance provision with which the application does not comply]~~. Such a certification, citing this paragraph, shall constitute final approval for all purposes including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

(2) Failure of the selectmen or city council to ~~[issue an order to the planning board under subparagraph (1), or to]~~ certify approval of the plat upon the planning board's failure to ~~[comply with the order,]~~ *act within the required time period* shall constitute grounds for the superior court, upon petition of the applicant, to issue an order approving the application ~~[if the court determines that the proposal complies with existing subdivision regulations and zoning or other ordinances]~~. *The superior court shall act upon such a petition within 30 days.* If the court determines that the failure of the selectmen or the city council to act was not justified, the court may order the municipality to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.

9 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(f) to read as follows:

(f) ~~[The planning board may apply to the selectmen or city council for an extension not to exceed an additional 90 days before acting to approve or disapprove an application.]~~ The applicant may waive the

Analysis

As with ZBA restrictions, this section of the bill removes the ability of planning boards and select boards to extend the duration of development proposal review. Once again, the strict time deadlines are not appropriate or fair. The size and scope of development proposals varies widely. As previously stated, applications for large residential developments are often much more complicated than applications for a few homes. As such, they commensurately require more time and have larger impacts on the municipalities they are sited in. They include complicated engineering challenges, such as roads and bridges, as well as storm

8. Definition of Workforce Housing: Amend RSA 674:58, IV

SB400 Proposed language

IV. "Workforce housing" means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.

"Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, **or are subject to age restrictions**, shall not constitute workforce housing for the purposes of this subdivision.

Analysis

New housing, which may be sold at higher prices, causes availability of housing at all price ranges as residents trade up. The state certainly does not need to provide **new** housing at these price-protected levels. Southern New Hampshire is currently experiencing a building boom, and there is no reason to incentivize housing at one-hundred percent of the median income. Please vote against this bill. The state's role is not to pit one generation against another in the housing market.

7. Add a Time Limit to Zoning Board Actions: Amend RSA 674:33

SB400 Proposed Language

6 New Paragraph; Powers of Zoning Board of Adjustment. Amend RSA 674:33 by inserting after paragraph VII the following new paragraph:

VIII. Upon receipt of any application for action pursuant to this section, the zoning board of adjustment shall begin formal consideration and shall approve or disapprove such application within 90 days of the date of receipt, provided that the applicant may waive this requirement and consent to such extension as may be mutually agreeable. If a zoning board of adjustment determines that it lacks sufficient information to make a final decision on an application, the board may, in its discretion, deny the application without prejudice, in which case the applicant may submit a new application for the same or substantially similar request for relief.

Analysis

Here the bill imposes a new time deadline on a ZBA where none existed before. Strict time deadlines are not appropriate or fair, since the size and scope of development proposals varies widely. Ninety days might be reasonable for an application to develop a single house lot, but frequently applications are presented for fifty or more units at a time. These applications often include complicated engineering challenges, such as roads, bridges, and storm water systems. A zoning board should have a sufficient period to thoroughly review and adjudicate applications. Developers may claim that this cost and uncertainty is a burden, but local zoning boards must have time to make informed and careful decisions. If this bill becomes law, the quality of local zoning board decisions will predictably suffer. How could rushing decisions at zoning boards result in better decisions? Who would such a change benefit? It seems developers would benefit at the expense of current residents.

Strict time limits may be unconstitutional under the equal protections clause of the U.S. Constitution. All development applications are unique in size, scope, and characteristics of the land to be developed. Why should the developer of one hundred units receive only ninety days of scrutiny of their application when the developer of one unit receives the same? At a minimum, these time limits should be based on the number of housing units produced, since a one hundred-unit development involves a much more intense engineering review in view of its greater impact on the town.

6. Providing for Automatic Reversal of Land Use Boards: Amend RSA 676:3, I

SB400 Proposed Language

5 Planning and Zoning; Administrative and Enforcement Procedures; Issuance of Decision. Amend RSA 676:3, I to read as follows:

I. The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. *The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.* If the application is not approved, the board shall provide the applicant with written reasons

Analysis

This section provides for the reversal of local planning decisions at the Housing Appeals Board or Superior Court. This bill would allow local denials to be overturned on the subjective determination of process technicalities. Why would members of the legislature support **automatic reversal** of local land-use boards for subjective technicalities? Lastly, because of the active, citizen participation that New Hampshire has traditionally fostered, we must preserve local authority over land-use boards in our own towns. Reducing the authority of local land-use boards cannot serve the interests of those they represent. Therefore, I request that each member vote against this bill

4. Requiring the Production of Workforce Housing: Amend RSA 674:21, IV(a)

SB400 Proposed Language

(a) "Inclusionary zoning" means land use control regulations which *require a property owner to produce, as part of a development which meets certain characteristics, housing units which are affordable to persons or families of low and moderate income* or provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses,

Analysis

This is a **fundamental** change. Here the definition of Inclusionary zoning is being amended to allow regulations which **require** a property owner to produce low-income housing. In my opinion, this is one of the most consequential of the proposed changes. Local ordinances based on this clause would likely be unconstitutional, since requiring a land owner to produce price-controlled housing represents forcible taking of land. How could this be justified? Here again I am asking elected officials to vote against this bill. It is not reasonable to endorse the language as written, in that it could result in a serious violation of the rights of land owners.

5. Requiring That Zoning Ordinances Enable the Planning Board to Waive Local Requirements: Amend RSA 674:21, IV(a)

SB400 Proposed Language

growth control exemptions, and a streamlined application process. *Inclusionary zoning ordinances shall include standards that do not reduce the economic viability of developments in comparison to developments that do not require housing affordability. Such ordinances shall also enable the planning board to waive or modify in individual cases any standards that are demonstrated by an applicant to render a development economically infeasible.*

Analysis

This section forces towns to provide for waivers of their local zoning ordinances. Why would representatives of towns in this state consider degrading local zoning authority? If passed, local planning board waivers are much easier to obtain than Zoning Board Variances, which must meet a higher legal bar. When it comes to inclusionary zoning (high-density development), planning boards would be at a large disadvantage to deny these applications. The reason is that planning boards would no longer be legally supported in denying claims for noncompliance with town-wide standards. Examples are the requirements for underground utilities or rural buffer zones, which many towns have chosen to enact to protect their natural environment or rural character. Other such local ordinances may require 100-foot wetland buffers. Consider a requirement for sidewalks or underground storm water drains. Any developer could claim these are financial burdens to meet. Why should the state weaken the authority of local planning boards to manage land development, which is the very purpose of those boards? Do members of the state legislature feel that the state is in a better position to decide these matters from Concord? Please do not allow developers to control the requirements of development, forcing homogenization of the entire state. The preservation of local planning board authority is vitally important, and as such, I recommend that you vote against this bill.

3. Allowing Workforce Housing the Same Density Benefits as Housing for Older Persons: Amend RSA 674:21, II

SB400 Proposed Language

3 New Paragraph; Local Land Use Planning and Regulatory Powers; Zoning. Amend RSA 674:17 by inserting after paragraph III the following new paragraph:

IV. If a municipality allows an increased density, reduced lot size, expedited approval, or other dimensional or procedural incentive under this section for the development of housing for older persons, as defined and regulated pursuant to RSA 354-A:15, VIII, it shall allow the same incentive for the development of workforce housing as defined in RSA 674:58, IV. Beginning July 1, 2023, incentives established for housing for older persons shall be deemed applicable to workforce housing development, regardless of whether a local land use ordinance or regulation specifically provides for their application to workforce housing development.

Analysis

This section overrides local zoning ordinances, which usually allow Housing for Older Persons at much greater density than single family homes. Town residents allow this exception because of reduced demands on a number of town resources, including water and schools. Town residents carefully considered the fiscal and environmental impacts of allowing retirement homes at these high densities when they voted to include retirement communities in their ordinances. Workforce housing developments are much more demanding and must be addressed separately as they are now. Municipal budgets are based on the expected demands of Housing for Older Persons. It is understood that most local taxes are allotted to schools. Retirement communities do not increase those costs nearly as much as workforce housing developments. This bill seeks to override town restrictions and impose tremendous costs on town residents. The result will likely be huge budget gaps and the unreasonable loss of local authority. For these reasons, I strongly urge that you vote against this bill.

2. Fixing the Fees Associated with Development: Amend RSA 673:16

SB400 Proposed Language

2 New Paragraph; Local Land Use Boards; Staff; Finances. Amend RSA 673:16 by inserting after paragraph II the following new paragraph:

III. Any fee which a city or town imposes on an applicant pursuant to this title shall be published in a location accessible to the public during normal business hours. Any fee not published in accordance with this paragraph at the time an applicant submits an application shall be considered waived for purposes of that application. A city or town may comply with the requirements of this section by publicly posting a list of fees at the city or town hall or by publishing a list of fees on the city or town's Internet website.

Analysis

I believe that this section is an unreasonable addition. How would special engineering reports be addressed? It is not possible to have a set fee because each property and parcel is unique. The true scope of necessary studies and reports only becomes apparent after the process has been reviewed and discussed by the public. For a large, complex development, this can take many months. In addition, engineering studies and reports vary widely in scope and cost, depending on each project. What is the intent of this paragraph? What problem is it trying to solve? It may be that developers are concerned about the uncertainty of costs. However, those uncertainties are necessary to ensure that all projects receive the correct amount of attention, in other words commensurate with their scope and unique to the land that is to be developed.

1. Training: Amend RSA 673:3-a

SB400 Proposed Language

1 Local Land Use Boards; Training. RSA 673:3-a is repealed and reenacted to read as follows:

673:3-a Training. ~~[Within the first year of assuming office a new]~~ Any member of a zoning board of adjustment or planning board may complete training offered by the office of planning and development or another organization that provides similar training covering the processes, procedures, regulations, and statutes related to the board on which the member serves. ~~[The office of planning and development may provide this training, which may be designed in a variety of formats including but not limited to web-based distance learning, traditional classroom style, or self-study...]~~ The office of planning and development shall develop standard self-training materials and corresponding tests for zoning boards of adjustment and planning boards, which shall be provided to members free of charge. The office of planning and development may provide other types of training, designed in a variety of formats including, but not limited to, web-based, distance learning, or traditional classroom style. For purposes of this section, the term "member" includes regular and alternate members of zoning boards of adjustment and planning boards.

Analysis

The training aspect of this bill distracts from the many other more significant problems it presents. Training of local officials is already available and is not costly. Consider the following points related to training:

- a. How will the training be reviewed to ensure that the rights of citizens and municipalities are not being underplayed in favor of development interests like the New Hampshire Housing Finance Authority? I completed the current OSI training for planning board members, and I found a bias in the information presented in favor of development and urbanization.
- b. What is the reason to develop tests? The tests are not mandatory. It seems that the likely beneficiary of this provision is developer's land-use lawyers who will use a board's lack of testing as an argument to overturn denials of large development projects.
- c. Have any of you taken a test after you were elected to be a state representative? What purpose would such a test serve? Testing will certainly discourage volunteerism. The legislature should be promoting local municipal volunteers, this bill will do the opposite.

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Twenty Important Reasons to Vote Against SB400:

By Joseph Garruba

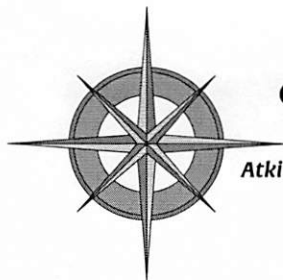
Jm002@garruba.com

603-685-3394

April 4, 2022

Purpose

I am writing this review as a concerned resident and contributor to local government. I have spent the last five years immersed in local planning matters and zoning cases, and I trained with the Office of Strategic Initiatives for Planning Board members. Additionally, I have presented many arguments at local Zoning Board of Appeals (ZBA) and at Planning Board meetings. As an outgrowth of these experiences, I recognize the disadvantage that local residents have when opposing well-funded, legally represented developers at local boards. I am not an expert by profession, but my experience provides important insight into Bill SB400. I have reviewed the proposed language of this bill and find significant problems with many of the provisions. Note the twenty specific, problematic items that I have pointed out with marked-up language and my own explanation of the problems related to the specific change. I cannot overemphasize the problems that this bill presents to local town boards and residents. Please review each item below and carefully consider your vote on this bill.



**Greater Derry Londonderry
Chamber of Commerce**

*Atkinson • Auburn • Chester • Derry • Hampstead
Londonderry • Sandown • Windham*

April 7, 2022

Dear Representatives,

On behalf of the 400 member businesses of the Greater Derry Londonderry Chamber of Commerce, thank you for your time today in review of SB400. The Chamber encompasses businesses from Atkinson, Auburn, Chester, Derry, Hampstead, Londonderry, Sandown and Windham. We ask you to support Senate Bill 400 as amended by the Senate as it creates opportunity for the affordable housing needed in our state.

New Hampshire's housing market was challenging before 2020 and has grown even tighter. As a Chamber, one of the most common challenges we hear from all industries is the shortage of adequate workforce. In some cases, employers extend an offer to someone relocating but the potential hire is unable to locate housing in the region. Others are losing longtime employees when they move out of the area after rent increases beyond what they can afford. Several realtors and developers, such as 603 Birch Realty, speak often of the challenges to build as well as shortage of adequate supply for current demand. We know that length of time for approval process and inconsistent requirements for new development creates barriers to workforce housing projects. The last few years include several instances where workforce housing projects changed into other models after lengthy application processes and resistance deemed them unprofitable. SB400 provides clarity for developers as well as creating the same opportunities to benefit from a workforce housing project as from an age-restricted one.

The Chamber asks you to consider the challenges our state faces from its shortage of reasonable cost housing. There is a way to increase affordable housing in the state while maintaining New Hampshire's essence. Streamlining the application process and incentivizing municipalities to look for affordable housing opportunities allows New Hampshire to compete on the national scale to attract and retain workers. In closing, we ask that you support SB400 to allow further economic growth in our state. Thank you for your consideration of our position.

Regards,

Ashley Haseltine
President

Greater Derry Londonderry Chamber of Commerce
29 West Broadway | Derry New Hampshire 03038
(603) 432-8205 | www.GDLChamber.org

(b) Adoption of financial tools that incentivize the development of workforce housing, including the adoption of the community revitalization tax relief incentive program under RSA 79-E and establishment of municipal economic development and revitalization districts under RSA 162-K.

(c) Training of planning board and zoning board of adjustment members using training materials and programs, including online materials and programs, provided by the office of strategic initiatives pursuant to RSA 673:3-a; or training materials and programs, including online materials and programs, provided by the New Hampshire Municipal Association, that cover the processes, procedures, regulations, and statutes related to the board on which the member serves; or any other training materials and programs, including online materials and programs, approved by the office of strategic initiatives, that cover the processes, procedures, regulations, and statutes related to the board on which the member serves.

(d) Adoption of energy efficient residential building standards, pursuant to RSA 674:51, or adoption of an energy efficiency and clean energy district, pursuant to RSA 53-F.

For those towns and municipalities that have established master plans with an emphasis on maintaining rural character while also seeking to adapt certain areas for workforce housing, such as Hollis has done, this carrot and stick approach to fostering higher density and redevelopment seems to miss the mark. While there is ample evidence that rehabilitating areas of high-density communities such as Manchester, Concord and Nashua would be well-served by this potential approach to 'redevelopment', the language seems to be an overreach in smaller communities. Hollis has been a pioneer in the adoption of energy efficiency for example, but is not well suited for high-density housing due to the inherent restrictions associated with aquifer protection, wildlife corridor protection, and the regional traffic management requirements. Our protection of natural resources and historical artifacts, our dedication to maintaining rural character, our concern about regional wastewater management, and our recent approval of workforce housing development in a suitable area of our community are testament to exemplary oversight by our competent members of the various Boards charged with oversight of land use. Please be sure that SB400 does not pass the House of Representatives this year.

Sincerely,



David Petry



Mark Le Doux

ZBA appeals would present an undue burden on the judiciary, specifically tasked with the administration of the principles of fairness espoused in the State Constitution, especially when considering this caseload is spread over a two year period.

Of further concern is the following proposed language in the statute under consideration:

Failure of the selectmen or city council to ~~issue an order to the planning board under subparagraph (1), or to~~ certify approval of the plat upon the planning board's failure to ~~comply with the order,~~ act within the required time period shall constitute grounds for the superior court, upon petition of the applicant, to issue an order approving the application [if the court determines that the proposal complies with existing subdivision regulations and zoning or other ordinances]. The superior court shall act upon such a petition within 30 days. If the court determines that the failure of the selectmen or the city council to act was not justified, the court may order the municipality to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.

Reading this paragraph, there seems to be a judicial over-reach present. If a complicated submission falls the requirements established by the municipality for being considered complete, there is always an opportunity afforded the applicant to remedy the proposals to seek compliance, seek waivers of certain local ordinances (e.g. cut and fill provisions), or withdraw the deficient application and resubmit a remedied plan. If a matter is deemed upon further reflection by the planning board to remain deficient, the applicant still retains the right to seek legal redress in Superior Court or at the Housing Appeals board. The aforementioned paragraph suggests that if, for whatever reason, the planning board is not able to meet or render a ruling in a timely manner (presumably within 65 days from submission), there is an automatic remedy for the applicant to plead before Superior Court, and that should the Court deem that the 'failure to act by the Selectmen or the City Council was unjustified' itself a question of fact, the Court may order the municipality to pay reasonable costs, etc., incurred in securing such order.

Finally, the establishment of the New Hampshire Housing Champion Certification apparently seeks to establish a scoring system for a municipality to 'volunteer' for this status, allowing for an apparent advantage to municipalities as evidenced by the following statement in the proposed law:

In exchange for housing champion certification, a municipality shall receive preferential access to state resources including, but not limited to, discretionary state infrastructure funds, as available.

How is this consistent with equal protection under the law?

The qualifications for achieving this status are listed as follows:

(a) Adoption of such land-use regulations and ordinances which the office of strategic initiatives determines to be necessary to promote the development of workforce housing, as that term is defined in RSA 674:58, and other types of housing necessary for the economic development of the state. In this paragraph, "land-use regulations and ordinances" shall include, but are not limited to, innovative land use controls described in RSA 674:21.

April 6, 2022

House Municipal and County Government Committee
State Capitol
Concord, New Hampshire 03303

Dear Members of the Committee,

We have been involved as Ex Officio members of the Hollis Planning Board for several years, and are well-versed in the requirements for even-handed evaluations of plans submitted for consideration by private landowners for the development of various residential and commercial enterprises.

The proposals embodied in SB400 are an affront to self-governance, a principle enshrined in the Constitution of the State of New Hampshire. For example, the requirement for 'educating' or providing tests for the members of the Planning Board or Zoning Board of Adjustment, which are appointed or elected citizens from each community suggests that regular citizens from all walks of life are incompetent to discharge their statutory obligations under current RSA requirements.

The current structure allows for remedies for landowners who believe that the Planning Board did not follow current laws or local regulations, namely through appeal to the ZBA, Housing Appeals Board, or to Superior Courts, which are the final arbiter of the legality of their decision-making processes and outcomes.

The bias of the proposed law seems to inculcate the stated ambition of making more municipalities receptive to workforce housing, which may not be entirely suitable for the panorama of smaller communities in the state of New Hampshire. To suggest that all towns need to administer workforce housing in the same manner as Housing for older persons apparently fails to take into consideration the burden associated with presumed increased requirements for safety personnel, e.g., fire, police, ambulance, and DPW employees, not to mention the potential economic impacts on public education infrastructure.

The fiscal analysis of the proposed changes has the following language as well which gives pause for concern. The Judicial Branch has indicated over the period of 2019 to 2020 it has received 25-30 planning board appeals and 27-45 zoning board appeals.

There are a number of existing laws, in addition to Constitutional requirements, that require expedited review or have deadlines by which a decision is required. Adding additional cases with compressed time frames may necessitate additional resources to fulfill these requirements. Changes implemented effective 60 days after passage rather than the traditional January 1st of the following year pursuant to RSA 14:9-a will affect the Branch's ability to make changes collectively from all legislation. This may result in duplicative efforts and expenditures for the training of judges and staff, updating databases, modifying forms, and changes to the e-filing system. The overall impact on expenditures is indeterminable.

In a state with over 1.3 million residents, it seems implausible to suggest that 30 planning board appeals and 45

to remove the ability of City Council and Select Boards to identify non-compliance with local ordinances and regulations. This reduces local oversight and only serves the interests of developers. This language also allows the same developer to resubmit a denied application multiple times, thus grinding down local opposition to project and putting a financial burden on the local community and residential abutters who may oppose the proposed project.

6. The bill requires any residential abutter to get a bond in order to appeal to a superior court. This is one of the more concerning parts of this bill. Requiring a bond will push the appeal process out of reach for many individuals, and will certainly eliminate the right to justice for lower income and fixed-income residents. This unfairly provides an advantage to large developers with deep pockets who have a clear financial advantage over lower income residents.

7. The bill states that the Office of Strategic Initiative will have the authority to determine whatever Housing ordinances and regulations it deems necessary to promote Workforce Housing development, even to the point of withholding tax breaks to those municipalities which have legally compliant ordinances. In addition, the New Hampshire Housing Champion Certification Program Advisory Board contains more special interest groups than legislative oversight, and this bill gives these groups the ability to use tax breaks to induce benefits for their causes, without any oversight to the taxpayer or the legislation. This is egregious, and it makes this process vulnerable to corruption and lack of transparency.

While I understand that finding a solution to Workforce Housing is an Executive Branch priority, we must not enable a bill that enables and codifies citizen disenfranchisement, provides the infrastructure for special interest malfeasance, and has the ability to introduce corruption into the Workforce Housing effort. If Workforce Housing is the main priority of this bill, then SB400 can be amended to address these most concerning issues while removing the potential for state-level bullying of local municipalities and lack of governmental accountability. I am happy to provide the House floor amendment I drafted last session upon request.

Respectfully,

//signed//

Susan Homola
State Representative
District 27, Hillsborough Co
Hollis, New Hampshire

Rep Homola Testimony on SB400
House Municipal and County Government Committee
7 Apr 2022

Dear House Municipal and County Government Committee members,

The purpose of this letter is to provide written testimony regarding SB400. Due to a work commitment, I am unable to attend the hearing in person.

I am opposed to SB400 for the following reasons:

1. This bill language is a replica of HB586, which was tabled last House session because it was deemed to need more work, (as cited by Rep Barbara Griffin). Prior to the motion to table the bill, I was prepared to introduce a floor amendment to rectify some of the most problematic parts of the bill.
2. The bill states that if towns offer incentives (increased density, reduced lot size, expedited approval, or other dimensional or procedural incentives) for senior housing, then it shall offer these incentives for Workforce Housing. Many towns have prioritized senior housing and their voters have approved these developments on smaller lot sizes. For towns dependent on well water, smaller lots sizes increase water demand, and senior housing has been incentivized under the assumption there would be 1-2 residents per lot, thus mitigating the demand on water resources. Workforce Housing will not be limited to 1-2 people, and the demand on ground water is greater. If family housing development requirements are automatically linked to senior housing development requirements, this will create a burden on water demand. Towns must have the flexibility to study these issues carefully without binding language that only serves to rush housing development.
3. The bill states that if the Land Use Board fails to provide specific written findings of fact with regard to developers' application disapprovals, it shall be grounds for an **automatic reversal** of the board decision. The bill also includes a provision for remand by a superior court upon appeal, which is an appropriate next action in the case that findings of fact are not included with a disapproval. However, the automatic reversal of the land board decision is an inappropriate and overreaching response to a potential technical problem in a proposal that might result in a disapproval decision.
4. The bill imposes a new time constraint on local zoning boards and does not currently provide any limitation on the number of units that an application may have to receive the benefit of zoning board consideration within a 90-day period. Projects involving many units are often complex and require additional technical review time.
5. This bill changes the procedures and timelines currently used by planning boards, City Councils, and Select Boards to consider a development application. These procedures are well-established and understood protocols. What the bill language does is remove any local authority speed bumps the developer might face in the approval process, and serves

SB400 - House Committee hearing 4.7.22

Regina Barnes - testimony opposing

What is wrong with SB400:

- SB 400 and the current Housing Appeals Board is NOT about local zoning which is voted on by the people of each local government
- SB 400 grants unelected boards in Concord authority to override locally elected boards at the municipal level
- SB 400 is the dangerous partnership between government and private business because it gives developers our tax dollars to build low income/high density housing and then rewards them with 10 years of tax-free status, putting the extra burden of new services needed on the single family homeowners
- SB400 aligns with the basic goals of Obama/Biden AFFH (Affirmatively Furthering Fair Housing Act)
- SB 400 is an attack on single-family home ownership under the guise of 'equality', regionalism is communism and something out of the Bolshevik era
- SB 400 will cause housing prices for SF homes to go UP not down
- SB 400 is the mark of the 'new feudalism'
- SB 400 is an expedited path for developers in the court process
- SB 400 provides additional levers for attorneys to use against planning boards
- SB 400 will amend the legal definition of "public use", item 5 of this section redefines the construction of private houses as public use
- SB 400 grants more authority to unelected concord bureaucrats
- SB 400 in conjunction with the already unconstitutional Housing Appeals Board will cause the demise of what is left of state / municipal sovereignty
- SB 400 grants authority to the Office of Planning and Development to determine preferential access to state resources. How is this fair to rural towns that choose not to urbanize? Shouldn't all of the state have equal access to state resources? Please vote against this bill to preserve the unity of the state's rural towns and cities.

The Senate failed by passing this bill onto the House, let us hope that the house will kill it on arrival.

Thank you

The question is, who controls the housing developers, the municipality or the state appointed board.



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

SB400

CHRISTOPHER T. SUNUNU
Governor

April 7, 2022

Dear Members of the House Municipal and County Government Committee,

The data is clear that in order to support New Hampshire's booming economy, we need additional housing. The workforce demands in our state require communities to increase housing stock to support our plethora of well-paying jobs.

The Housing Task Force created policy recommendations, known as the Community Toolbox Bill or Senate Bill 400. This bill is a culmination of incentives for communities to help increase New Hampshire's housing supply to meet the needs of our growing state. This bill aims to reduce burdensome regulations and expand flexibility for our municipalities and property developers. By adding more tools to the box, we are expanding our economic and community development opportunities while also enhancing our state's ability to be the best place in the nation to Live, Work, and Play.

For the benefit of New Hampshire's economy, families, and communities, we must address our housing crisis with the right tools and sense of urgency. Thank you for your serious consideration on this important matter.

Attached is my previously letter of support to the NH Senate outlining additional details and merits of this proposed legislation, and I hope this committee will join me in supporting SB 400.

Sincerely,

Christopher T. Sununu
Governor



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

January 20, 2022

Dear Members of Election Law and Municipal Affairs Committee,

New Hampshire is booming! Newly released data from the U.S. Census Bureau finds New Hampshire as the fastest growing state in the Northeast. I have always said that to keep our state growing, and our otherwise strong economy moving forward, we must address our housing shortage by making affordable housing readily available.

The Josiah Bartlett Center for Public Policy published a report in October 2021 titled *Residential Land-Use Regulations in New Hampshire: Causes and Consequences*. According to the report, "Widely available measures show that New Hampshire is one of the most restrictive states in the country for residential development."¹ Further, data from the New Hampshire Department of Employment Security illustrates a stark correlation between rental housing supply and the percentage of millennials in a community – a key demographic to solving the state's workforce challenges. Businesses and families across the Granite State are calling on policy makers to take the necessary steps to increase the housing supply so we can grow our workforce and sustain our vibrant economy.

That is why I convened a Housing Task Force that created this package of policy recommendations. Known as the *Community Toolbox Bill*, SB 400 is a package of incentives and requirements intended to help New Hampshire increase our housing supply.

Reintroduced for the 2022 session, the proposal reflects prior amendments and preserves local control. SB 400 will enable communities to use economic development tools for housing development and improve project review timelines. This includes incentives to cities and towns that relax local regulation, which aligns with the number one policy recommendation from the Bartlett Center Report to, "relax minimum lot size, setbacks, single-family only, minimum parking, and maximum height requirements."

In addition, the bill advances more robust – but still voluntary – training for local planning and zoning officials and provides recognition for those communities that have stepped up to the plate through a new Housing Champion program.

For the benefit of New Hampshire's economy, families, and communities, we must address our housing crisis with the right tools and a sense of urgency. Thank you for your serious consideration.

I hope this committee will join me in supporting SB 400.

Sincerely,


Christopher T. Sununu
Governor

¹Residential Land-Use Regulations in New Hampshire: Causes and Consequences; The Josiah Bartlett Center for Public Policy & Center for Ethics in Society at Saint Anselm College. <https://bartlett.org/wp-content/uploads/Residential-Land-Use-Regulations-in-New-Hampshire-Report.pdf>

elected to administer. The result is an unpredictable process, inconsistent decisions, and unnecessary appeals that are costly to both applicants and municipalities.

SB 400 seeks to address this problem and create a more consistent and transparent process for housing development. This will be done by establishing resources and improving the training opportunities for local board members. The bill also improves the local regulatory process by requiring planning boards and zoning boards to make written findings of fact in support of their decisions, by requiring transparency in all development-related fees, and by establishing clear deadlines for board action on applications. SB 400 enables municipalities, if they wish, to require the construction of affordable housing as part of a larger market-rate development, and it clarifies the definition of workforce housing. It also improves the court review process by establishing a deadline for court appeals of local land use board decisions, and by allowing the courts to require bonds to discourage frivolous appeals.

Additionally, SB 400 will help to foster housing solutions by providing a series of financial incentives for workforce housing development that would benefit both municipalities and developers. This includes expansion of the tax increment finance district statute to include housing development, and enhancement of the community revitalization tax relief incentive regarding the creation of new housing units. SB 400 also establishes the "Housing Champion" certification, a voluntary program for municipalities that would give them preferential access to discretionary state funding.

SB 400 provides a strong package of incentives and requirements to help address the state's housing shortage. We respectfully urge your committee to recommend SB 400 "ought to pass."

Thank you for the opportunity to provide testimony to your committee. The staff of New Hampshire Housing will be happy to provide any additional information that your committee may require.

Sincerely,

DocuSigned by:

Rob Dapice

063E62B70C38437..

Robert B. Dapice

Executive Director/CEO

cc: Committee members



SB 400

Rob Dapice
Executive Director/CEO
rdapice@nhhfa.org

April 7, 2022

The Honorable Tom Dolan, Chair
House Municipal and County Government Committee
Legislative Office Building, Room 301
Concord, NH 03301

Subject: SB 400-FN

Dear Chairman Dolan:

I am writing to express the strong support of New Hampshire Housing for SB 400. This legislation is based on the recommendations of the housing task force created in 2019 by Governor Sununu. These recommendations formed the basis of HB 1629 and HB 1632 in the 2020 session. Both bills received strong bi-partisan support in House committees and were passed by the House before stalling because of the state of emergency. Those bills were combined last year in HB 586, which also received a strong committee recommendation before being tabled by the House without action. Amendments recommended by House committees in 2020 have been incorporated into this year's legislation. An amendment was made this year by the Senate to accommodate the timelines and workflow of the judicial system.

New Hampshire's housing market is increasingly unable to meet the needs of our citizens to find adequate housing in the communities where they want to live and work. The supply of housing is simply not keeping pace with demand, and this is making housing more expensive and difficult to obtain. Our statewide rental vacancy rate is a critically low 0.9%, far below the 5% we consider to indicate a balanced market. The cost of renting a 2-bedroom apartment has increased 23% in the past 5 years. Renter incomes have increased at a far slower rate, making it extremely difficult for workers to move to New Hampshire for jobs. This is a significant factor in the state's workforce crisis.

For homebuyers, the median price to purchase a home was about \$389,500 in February 2022, representing a 37% increase from February 2020. Very few new homes are being built and the inventory of homes for sale is critically low, with homes typically selling in less than one month. New Hampshire needs between 15,000 and 20,000 homes to rent or buy just to meet current demand. This is slowing New Hampshire's economic growth as workers look elsewhere for employment because of our high housing costs. The problem will get worse if we continue to prevent the market from meeting the rising demand.

This lack of housing supply is partly a reflection of the difficulty faced by property owners and developers in some communities as they put forth proposals to create new housing. In many communities, particularly in smaller ones without professional planning staff, local land use board members lack formal training and knowledge of the laws they have been appointed or

GRANITE STATE TAXPAYERS

Municipal and County Government

SB 400

April 7, 2022

between 2015 and 2019, New Hampshire had an average of 8300 more people each year move into the state than leave it. More recent news reports say New Hampshire is in the country's top five net in-migration states. The facts say zoning has not impeded net in-migration.

Demographic patterns are caused by the intersection of complex forces. Zoning is likely to have very little to do with them.

There is no imperative to substitute State mandates for local decisions about their community and, in the process, grow the size and cost of state government to do it.

Granite State Taxpayers recommends a vote AGAINST SB 400.

Thank you for your attention and your work on behalf of the citizens of New Hampshire.

Ray Chadwick, Chairman
Granite State Taxpayers
Bedford, NH 03110
1 (603) 566-9129
www.GraniteStateTaxpayers.org



SB 400

Municipal and County Government

SB 400

April 7, 2022

House Municipal and County Government Committee Members

Granite State Taxpayers is New Hampshire's oldest state-wide Taxpayer advocacy group, founded in 1990 by the late Governor Mel Thomson and the late NH Senator George Lovejoy. We advocate on behalf of Taxpayers for limited government that works efficiently within its constitutional authority, for local control and for free market solutions.

Granite State Taxpayers Opposes SB 400

This bill makes changes to the training and procedures for zoning and planning boards, creates incentives and establishes requirements for workforce housing and affordable housing development, revises the time frames for planning board consideration of applications, and establishes the New Hampshire housing champion certification program.

SB 400 in effect creates the precedents and sets objectives for state control of the management and outcomes of zoning and development decisions that are currently the responsibility of cities and towns in New Hampshire.

Granite State Taxpayers opposes this proposal for three primary reasons:

1. Since its inception, zoning has been almost entirely a local issue. Local communities know best what they want for the character of their communities. This proposal assumes someone in State government knows better than local citizens and their elected officials, an assumption that has proven incorrect in many different issues. There is no reason to expect otherwise here.
2. Passage of SB 400 would evidence a determination that the State knows better than local communities about what their character, zoning and development should be. Should the local communities not fall "in line" the obvious future next step would be to mandate what the State knows. This has happened in neighboring states. Over decades, voluntary programs have not worked (i.e.: the state requirements have not been voluntarily implemented), resulting in increasing attempts to override local zoning. Massachusetts' new TOD zoning law is the latest example of this. There is no reason to expect voluntary programs to have different results in New Hampshire. Mandatory programs will be next once the Legislature has decided that the State knows better than local communities.
3. While the study this proposal is based on shows a correlation between the cost of housing and the level of regulation, it does not and cannot provide evidence of actual causation. The report cites Grantham as a town that does not unduly increase the cost of housing by zoning regulation. The median price of house listings in Grantham today is \$497,000. The statewide median number is \$400,000. Grantham's median housing prices are 20% higher than the median housing price statewide. Since the study admits zoning is not the cause, it must be something else.

As another example, the study asserts that overly restrictive zoning makes the state less attractive to people looking to migrate here. The problem with this hypothesis is that New Hampshire has been a net in-migration state every year from 2015 forward. UNH reports that

NH Bankers ASSOCIATION

Additionally, our members are very concerned with how the lack of affordable housing impacts their current and future customers and ultimately the overall impact the shortage has on the New Hampshire economy. If there is no place for employees and future employees to live, how can businesses continue to grow?

NH Bankers view SB 400 as a way to help address New Hampshire's current affordable housing crisis by encouraging municipalities to welcome these types of developments and would ask the Committee to please join us in supporting this effort.

Please feel free to email either of us at kmerrill@nhbankers.com or rhale@nhbankers.com with any questions you may have.

Sincerely,



Kristy Merrill, President



Ryan Hale, VP Government Relations

April 6, 2022

House Municipal and County Government Committee
107 North Main Street
Concord, NH 03301

Dear Chairman Dolan and Honorable Members of the House Municipal and County Government Committee:

NH Bankers Association represent 38 member banks who employ roughly 6,000 employees. We are writing to you today in support of SB 400, relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development. SB 400 enhances the availability of workforce and available housing which is vitally important to the New Hampshire economy.

Over the past few years, the lack of affordable housing has been a significant issue that the State of New Hampshire and the Legislature has grappled with. The lack of affordable housing has impacted not only the price of homes but the cost of rental units. Low inventory, low interest rates and demand has driven prices of homes to near record levels. According to the New Hampshire Association of Realtors' December 2021 Monthly Report, the median sale price in New Hampshire for the year was \$395,000, up from \$335,000 in 2020: a 17.9% increase.

One of the main drivers of this increase has been and is lack of inventory. The New Hampshire Housing Finance Authority's (NHHFA) December 2021 Housing Market Snapshot reported there were only 4,483 listings last November, compared to 6,322 the previous November. That's a 29% decrease. This trend has undoubtedly priced many buyers out of the market, driving them to remain in rental units or make the decision to simply not relocate to the state.

In addition to rising home prices, the price of rental units has also jumped due to lack of supply. In the NHHFA's July Residential Rental Cost Survey Report, they stated that the statewide vacancy rate for a 2-bedroom unit was at .6%, while the median rent for that same unit was \$1,498. Since 2016 the median rent has increased by 24% according to the report.

This isn't just a housing issue this a workforce issue. Attracting out-of-state employees to relocate to New Hampshire is becoming increasingly more difficult given the challenges in our housing and rental market. To illustrate this point, a member bank recently shared with us they made an offer to a potential new hire who was living in Washington DC. Since they could not secure a place to live, they turned the offer down and decided to stay in DC.



SB 400 – The Community Toolbox Bill

Overview

- SB 400 will help the New Hampshire communities that are ready to respond to local market demand for more housing.
- SB 400 provides a foundation of enabling policies, economic incentives, improved timelines, and a more transparent local review process.
- SB 400 allows for more tools and improves the predictability of process to help address housing supply shortages.

What the Bill Does

- Allows for Voluntary Training for Community Volunteers
- Enables Communities to Provide Economic Incentives to Build More Affordable Supply
- Updates Reasonable Timelines for Review
- Improves the Viability of Workforce Housing Projects
- Discloses Application Fees and Improves Documentation of Local Decisions
- Enables Inclusionary Zoning
- Launches a Housing Champion Communities Program

Addressing Myths and Misconceptions

- Increased training for planning and zoning board volunteers is VOLUNTARY (not required)
- Participation in the Housing Champion Certification Program is VOLUNTARY (not required)
- Adopting any type of inclusionary zoning ordinance is VOLUNTARY (not required)
- Municipalities can only use economic development tools to encourage approved projects and may NOT use tools for eminent domain/takings.

fact. It also clarifies the existing workforce housing law (RSA 674:58 – 61) so that communities understand that “housing for older persons” does not satisfy the need to provide housing for our state’s vital workforce.

Policies = Carrots/Not Sticks

Overall, we ask the Committee to consider that SB 400 is mostly a package of enabling statutes and incentives to build housing. Opening up current economic development tools like 79-D and TIF districts to include housing development is an important step so *Yes In My Backyard Communities* can access these tools (if they choose to) to help shape their communities. The proposed Housing Champion Certification is another clear example of a program that will celebrate and recognize the communities that are contributing to the economic well-being of our state and hold them up as an example to others.

Balances Interests

I will conclude my testimony to share that every effort has been made within SB 400 to balance interests. The proposal before you balances local control with the need to have a reasonable process for project proposals. It includes safeguards to make sure that new tools for housing, like TIF, could not be used for eminent domain. It enhances the availability of planning and zoning board training without making it mandatory.

It is worth noting that SB 400’s proposals have already received strong bipartisan support from your committee. Introduced as two bills in 2020, HB 1629 received Municipal and County Government’s OTP/A recommendation 16-2, and HB 1632 an OTP/A recommendation 20-0. Although these bills did not advance due to 2020’s truncated session, the proposals were endorsed again by your committee in 2021, voting HB 586 OTP 15-3 before it was tabled in a close vote in the House. All of the prior amendments are now incorporated in SB 400. In addition, as I mentioned earlier, concerns articulated on the House floor are also addressed in SB 400, noting that municipalities may not use the economic development tools for eminent domain/takings.

We urge this Committee to reward this spirit of compromise by advancing this bill with an *ought to pass* recommendation.

Thank you for the opportunity to testify.

Elissa Margolin
Director
elissa@housingactionnh.org



Testimony of Elissa Margolin, Director
in SUPPORT of
SB 400
Before the
House Municipal and County Government Committee
April 7, 2022, 4:00 pm

Mr. Chairman and Members of the Committee:

My name is Elissa Margolin and I serve as director of Housing Action NH. Housing Action NH is a statewide coalition of 80 organizations united around affordable housing policy and ending homelessness in New Hampshire. Our members include those who develop, manage, own and finance affordable housing, public housing agencies, supportive housing agencies and homeless service providers. They are key partners in the work to address the housing crisis in New Hampshire.

Housing Action NH enthusiastically supports SB 400. The bill represents the work of a large group of diverse stakeholders and reflects compromise and common-sense proposals to try and implement some much-needed tools we need to address the state's housing crisis.

A Community Toolbox Bill

This proposal has taken on the name: "The Community Toolbox Bill." Indeed, this seems like an appropriate description of what this package aims to achieve. SB 400 will give additional economic development tools and a reasonable framework so that communities can respond to the market demand for housing.

The housing shortage is creating a vulnerability within an otherwise strong economy. Young professionals are leaving, workforce shortages are undermining businesses, and homelessness is increasing. The legislature took a positive step forward with support for the state's Affordable Housing Fund. SB 400 provides a reasonable complimentary policy to that state investment.

Reasonable Improvements: Efficiency and Transparency

The current framework is clearly not working. New Hampshire's rental market has less than a 1% vacancy rate (a balanced market should be 5% - 7%) and the latest data suggest that the Granite State is short by 20,000 units.

SB 400 creates a more reasonable and transparent process for housing project proposal such as the publication of application fees, timelines for ZBA and planning board decisions; and documented findings of

9. **Elimination of Deadline Extension for Large Projects** This section eliminates the ability of a Planning Board to extend its decision timeline. This process is needed to properly review large projects which often involve thick engineering and technical reports as well as traffic and wildlife studies. Here again, this section actually rescinds a process for municipalities to oppose development projects. It is not voluntary.
10. **Strict Deadlines on the Supreme and Superior Court for Planning Board Decisions** This section imposes deadlines on actions by the Superior court and Supreme court relative to Planning Board decisions. It will result in scheduling land use appeals ahead of other cases in the court systems such as criminal prosecutions. The deadlines will force quick decisions rather than prioritizing correct or just ones. None of the imposed deadlines are voluntary on the part of municipalities or the judiciary.
11. **Strict Deadlines on the Superior Court for Zoning Board or Local Legislative Body Decisions** This section imposes deadlines on actions by the Superior court and Supreme court relative to Zoning Board and Legislative body decisions. It will result in scheduling land use appeals ahead of other cases in the court systems such as criminal prosecutions. The deadlines will force quick decisions rather than prioritizing correct or just ones. None of the imposed deadlines are voluntary on the part of municipalities or the judiciary.
12. **Courts May Require a Bond to be Posted by Abutters** This section allows the courts to require that an abutter challenging a development approval post a bond in order to challenge that case in Superior Court. This will serve to keep low middle class residents from accessing justice at Superior Court. It is not clear what problem this section intends to solve. Posting of a bond would not be voluntary for abutters challenging a project.
13. **Allow Municipalities to Acquire Property to Construct Means Tested Housing** This section changes the definition of “public use” to allow a municipality to acquire property for the construction of low income housing as part of a “development district” under RSA 162. RSA-162 must be adopted by a municipality so this section is voluntary for municipalities.
14. **Allow Municipalities to Construct Operate or Maintain Residential Developments** This section allows a municipality to construct operate or maintain residential developments as part of a “development district” under RSA 162. This allows a municipality to build and run low income housing. RSA-162 must be adopted by a municipality so this section is voluntary for municipalities.
15. **Allows the Extension of Tax Free period for Workforce Housing Projects** This section would allow additional years of tax relief for housing projects with RSA 79-E authorization. Means Tested Housing would be eligible for up to 8 years of tax relief and a possible extension for 8 additional years for 2nd story housing. RSA-79-E must be adopted by a municipality so this section is voluntary for municipalities.
16. **Housing Advisory Board of Lobbyists and Special Interest** Section 16 creates the Housing Champion Certification program which would provide preferential access to state funds. The bill does not explain what the qualifications are but rather grants that authority to the Office of Planning and development to establish them. The rules would be approved by an advisory board consisting of New Hampshire Housing Finance Authority, the Home Builders and Remodelers Association, the New Hampshire Association of Realtors and other special interests. Application for Housing Champion Certification is a voluntary choice of municipalities so technically this may be considered voluntary. However, withholding state funding from municipalities without certification makes that questionable.
17. **Effective Date** Sections 8,10 and 11 will take effect Jan 1 2023. All other sections to take effect 60 days after passage

SB 400-FN Summary By Section

- 1. Testing for Land Use Boards.** Section one authorizes the Office of Planning and Development to develop **tests** for Planning and Zoning Board members. These **tests** are technically voluntary but a board's lack of testing will likely be used by land use developer's attorneys to challenge its decisions. In essence, the testing will not truly be voluntary since not taking the test will weaken the finality of a board's decisions.
- 2. Requirement to Publish All Fees** All fees are required to be published prior to a municipalities knowledge of the specifics of a given application. Planning projects often need the input from independent experts such as roadway engineers, lawyers and septic engineers. I observed one project where the input of a Hydro-Geologist was needed. How could a municipality know all of the individual fees for all developments when we know each parcel is unique. Access to independent experts is critical to good decisions and in my experience this power is not being abused. This section is not voluntary for municipalities and only serves to assist developers at the expense of correct decisions.
- 3. Overriding Local Zoning Ordinance** SB 400-FN states that even if a municipality voted to allow density increases for retirement communities, "...it shall allow the same incentive for the development of workforce housing..." Beginning July 1 2023, regardless of the ordinance approved by voters for retirement communities, SB 400-FN will declare that those ordinances now apply density bonuses to workforce housing regardless of intent of local voters. Here **SB 400-FN directly overrides the will of voters**, this is certainly not voluntary.
- 4. Municipalities Permitted to Require Low Income Housing** This section allows a municipality to require a property owner to produce housing affordable to low income residents. This is an obvious imposition on individual property rights. This section allows a municipality to take value from owners by forcing construction of price controlled housing. It may be voluntary for the municipality, but certainly not for land owners.
- 5. Automatic Reversal and Remand.** This section provides for Superior Court automatic reversal and remand in the event of a process technicality. Such a reversal could be done without regard for the merits of the case and would serve to weaken the finality of local Planning and Zoning Board's authority. No part of this section is enabling or voluntary for the municipality.
- 6. Fixed Time Limit on Zoning Board Decisions Regardless of Complexity.** SB 400-FN imposes a 90 day time limit on Zoning Board decisions. This limit does not address the complexity of the project or address or provide for sufficient time to consider complex matters with the circumspection that they deserve. No part of this section is voluntary for municipalities
- 7. Exclusion of 55 and Over Communities From the Definition of Workforce Housing** The Bill excludes 55 and over communities from being considered as workforce housing. The Social Security retirement age for those born after 1960 is 67. It seems that many residents of these developments will still be part of the workforce. Nothing in this section is enabling or voluntary for municipalities.
- 8. Elimination of the Process for Extension of Planning Board Deliberation** This section eliminates the process for extending the review of complex projects. It eliminates the process for the Select Board to identify regulations or ordinances which a proposed project violates. The opposition claims that this process is not used often, however such a process is a valuable way for a municipality to oppose a non-compliant project. This section actually rescinds a process for municipalities to oppose development projects. It is not voluntary

Joseph Garruba
28 Winchester Dr.
Hollis NH 03049
April 16, 2022

To Members of the House Municipal and County Government Committee

Re: SB-400-FN the "Omnibus Housing Bill"

I am hopeful that I can share the research I have done on SB 400-FN. Over the last several years I have been intimately involved in planning and zoning decisions in my town and have studied New Hampshire planning and zoning RSA while actively observing the effects of our statutes on the outcome of many development projects.

I am writing to briefly describe the sections of SB 400-FN, the omnibus housing bill from the perspective of a town resident and volunteer. As I listened to the lobbyists and special interest groups testify in favor of the bill, they always touted it as a **voluntary** tool for municipalities. Most sections of this bill are actually impositions on the authority of local individuals and municipalities. I will explain each section briefly and identify which sections are actually voluntary for municipalities and residents. I hope the committee will work to protect the individual rights and local control of our cities and towns.

SB 400-FN actually originated in 2019. At the time it was two bills, HB 1629 and HB 1632. Even supporters of the bills referred to them as the "carrot" and the "stick" In 2020, the suspension of legislative activity prevented a strong and vocal campaign against the detrimental overreaches which were included. In 2021 both bills were combined as HB 586, that bill was tabled by the full house after many legislators learned of the damage the bill would do to local control. Although SB 400-FN includes a minor clarification restricting the use of eminent domain, this addresses only one objection of many to the sections of HB 586. In essence SB 400-FN is nearly word for word the same as HB 586.

I want to take this opportunity to request that the committee not consider adopting any amendments which include restrictions on local authority. Sections one through twelve are restrictions on local authority or changes which specifically favor development at the expense of residents. Although sections thirteen through sixteen have many problems, a case can be made that they are voluntary for municipalities. Please do not allow amendments that do not remove the non-voluntary restrictions on local authority.

I hope the section by section summary on the following two pages is helpful to you as committee members in providing a sense of the language of the bill.

Regards,

Joseph Garruba

information to make a decision it may deny the application without prejudice, allowing the applicant to reapply at a later date, subject to payment of new application fees. (see also §9 below)

9. **Additional Time for Planning Board Decisions:** Allows for the applicant to waive the planning board's 65-day decision clock. (see also §8 above)
10. **Planning Board "Rocket Docket":** modifies the existing court docket priority for planning board appeals by providing scheduling guidance to the courts. This is language that was provided by the Judicial Branch.
11. **ZBA "Rocket Docket":** modifies the existing court docket priority for ZBA appeals by providing scheduling guidance to the courts. This is language that was provided by the Judicial Branch.
12. **Court Costs and Bonds:** codifies the existing authority of the courts to require a bond to be posted by anyone challenging the decision of a local land use board; also codifies the existing authority of the courts to require payment of attorney's fees and costs to the prevailing party (except not to require such payment by a municipality).
13. **TIF Districts and Housing:** expressly forbids municipalities from using TIF eminent domain power for housing development.
14. **TIF Districts and Housing:** enables municipalities voluntarily to use tax increment finance districts to support the development of housing (without eminent domain).
15. **RSA 79-E and Housing:** enables municipalities voluntarily to increase the existing statutory maximum tax relief for rehabilitation work that produces workforce housing from 4 years to 8 years; enables an additional tax relief period of up to 8 years for upper-story residential redevelopment.
16. **Housing Champion Communities:** establishes the voluntary certification program for municipalities to be recognized as "housing champions." Establishes an advisory committee to guide the work of the Office of Planning and Development as it administers the program.
17. **Effective Dates:** three sections that impact the operations of the courts will take effect on January 1, 2023, as requested by the Judicial Branch; the remainder of the bill will take effect 60 days after passage.

Section-by-Section Summary of SB 400-FN

1. **Voluntary training for land use boards:** augments the existing voluntary training statute, providing for greater training opportunities for local land use board members.
2. **Fees to be published:** requires the publication of any fee that an applicant may be required to pay as part of an application to a local land use board; publication may be on the town's website.
3. **Elderly housing incentives to apply to workforce housing:** for any community that provides incentives for the development of elderly housing (such as density bonuses), it must also provide the same incentives for the development of workforce housing (as defined in the workforce housing statute).
4. **Inclusionary Zoning:** the current statute (RSA 674:21) allows municipalities to provide incentives to developers to create workforce housing. This would allow municipalities to require developers to include affordable housing as part of a residential development, *provided* the requirement wouldn't reduce the profitability of the development.
5. **Findings of Fact:** requires local land use boards to include written findings of fact when they make a decision. This helps an applicant know why a decision was made, and helps a reviewing court understand the board's decision. Failure of a board to make findings will be reason for a reviewing court to reverse and remand, giving the board a chance to fix its error.
6. **Timing for ZBA Decisions:** requires a ZBA to make a decision within 90 days of receiving an appeal. If the applicant refuses to allow a longer time and the ZBA lacks sufficient information, the ZBA may deny the application without prejudice, allowing the applicant to submit a new application at a later date, subject to payment of new application fees.
7. **Workforce Housing Definition:** adds to existing language to clearly state that age-restricted housing does not qualify as workforce housing.
8. **Timing for Planning Board Decisions:** the existing 65-day timeline for the planning board to make a decision on an application is not changed. This modifies how a planning board may take longer by replacing a process that has apparently never been used in 40 years (involving intervention by the selectmen or city council). Instead, the new language incorporates the practice currently used by many planning boards of asking the applicant for an extension of time beyond 65 days. If the applicant refuses and the planning board lacks sufficient



MEMORANDUM

To: Rep. Tom Dolan, Chair
Members of the House Municipal and County Government Committee

From: Ben Frost, Deputy Executive Director, NH Housing 

Date: April 15, 2022

Subject: SB 400-FN, the "Community Toolbox" bill

Chair Dolan:

At the conclusion of your committee's public hearing on SB 400-FN, you asked me to provide committee members with a summary of the bill's provisions. Below is a section-by-section summary of the entire bill.

SB 400 is a carefully constructed bill that provides enabling language for municipalities to adopt tools to help encourage the development of housing, and also establishes reasonable obligations regarding local board processes.

The bill originates in the recommendations of the 2019 Housing Task Force formed by Governor Sununu. Legislation was originally introduced in 2020 as HB 1629 and HB 1632 and amendments were recommended to address concerns raised by the NH Municipal Association. When Covid struck HB 1629 had been passed by the House and had been introduced in the Senate; HB 1632 had been passed by the House and had been referred to the House Ways & Means Committee, which had made a *unanimous* recommendation of ought to pass with amendment. Both bills were tabled because of the pandemic.

In 2021, the bills were combined as HB 586. The Municipal and County Government Committee voted 15-3 ought to pass, but the bill was tabled by the House because of concerns over the use of eminent domain.

SB 400-FN incorporates all amendments from 2020 and 2021, and squarely resolves the issue of eminent domain.

I hope the following review is helpful to the members of your committee.

2022-1493h

AMENDED ANALYSIS

This bill makes changes to the training and procedures for zoning and planning boards offered by the office of planning and development. This bill creates incentives and establishes requirements for workforce housing and affordable housing development.

UNAPPROVED

Amendment to SB 400-FN

- Page 5 -

1 13 Municipal Economic Development and Revitalization Districts; District Establishment and
2 Development Programs; Authority to Acquire, Construct, and Promote Residential Development and
3 Housing Stock. Amend RSA 162-K:6, III(h) and (i) to read as follows:

4 (h) Lease all or portions of basements, ground and second floors of the public buildings
5 constructed in the district; ~~and~~

6 (i) Negotiate the sale or lease of property for private development if the development is
7 consistent with the development program for the district[-] ; *and*

8 (j) *Acquire, construct, reconstruct, improve, alter, extend, operate, maintain or*
9 *promote residential developments aimed at increasing the available housing stock within*
10 *the municipality.*

11 14 Community Revitalization Tax Relief; Duration of Tax Relief Period. Amend RSA 79-E:5, II
12 to read as follows:

13 II. The governing body may, in its discretion, add up to an additional [2] 4 years of tax relief
14 for a project that results in new residential units and up to [4] *an additional 8* years for a project
15 that includes [affordable] housing *that meets the definition of workforce housing in RSA*
16 *674:58, IV, and up to additional 8 years for a project that includes residential units located*
17 *on the second story or higher of a building.*

18 15 Effective Date.

19 I. Sections 7, 9, and 10 of this act shall take effect January 1, 2023.

20 II. The remainder of this act shall take effect 60 days after its passage.

1 11 New Subdivision; Fee Shifting and Posting of Bond. Amend RSA 677 by inserting after
2 section 19 the following new subdivision:

3 Fee Shifting and Posting of Bond

4 677:20 Fee Shifting and Posting of Bond.

5 I. Whenever an appeal to the superior court is initiated under this chapter, the court may in
6 its discretion require the person or persons appealing to file a bond with sufficient surety for such a
7 sum as shall be fixed by the court to indemnify and save harmless the person or persons in whose
8 favor the decision was rendered from damages and costs which he or she may sustain in case the
9 decision being appealed is affirmed.

10 II. In any appeal initiated under this chapter the court may, subject to the provisions of this
11 paragraph or any other provision of law, award attorney's fees and costs to the prevailing party.
12 Costs and attorney's fees shall not be allowed against a local land use board unless it shall appear to
13 the court that the board, in making the decision from which the appeal arose, acted with gross
14 negligence, in bad faith, or with malice. Costs and attorney's fees shall not be allowed against the
15 party appealing from the decision of a local land use board unless it shall appear to the court that
16 said party acted in bad faith or with malice in appealing to court.

17 12 Municipal Economic Development and Revitalization Districts; Definition of Public Use.
18 Amend RSA 162-K:2, IX-a to read as follows:

19 IX-a. "Public use" means:

20 (a)(1) The possession, occupation, and enjoyment of real property by the general public
21 or governmental entities[;].

22 (2) The acquisition of any interest in real property necessary to the function of a
23 public or private utility or common carrier either through deed of sale or lease[;].

24 (3) The acquisition of real property to remove structures beyond repair, public
25 nuisances, structures unfit for human habitation or use, and abandoned property when such
26 structures or property constitute a menace to health and safety[; and].

27 (4) Private use that occupies an incidental area within a public use; provided, that
28 no real property shall be condemned solely for the purpose of facilitating such incidental private use.

29 (5) *The acquisition of real property to construct housing units which meet*
30 *the definition of workforce housing contained in RSA 674:58, IV, whether or not such*
31 *construction results from private development or private commercial enterprise. The*
32 *municipality shall not acquire property for this purpose through the powers of eminent*
33 *domain.*

34 (b) Except as provided in subparagraphs (a)(2), [and] (4), *and (5)* of this paragraph,
35 public use shall not include the public benefits resulting from private economic development and
36 private commercial enterprise, including increased tax revenues and increased employment
37 opportunities.

Amendment to SB 400-FN

- Page 3 -

1 court determines that the failure of the selectmen or the city council to act was not justified, the
2 court may order the municipality to pay the applicant's reasonable costs, including attorney's fees,
3 incurred in securing such order.

4 8 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(f) to read as follows:

5 (f) ~~[The planning board may apply to the selectmen or city council for an extension not to~~
6 ~~exceed an additional 90 days before acting to approve or disapprove an application.]~~ The applicant
7 may waive the requirement for planning board action within the time periods specified in
8 subparagraph (c) and consent to such extension as may be mutually agreeable.

9 9 Planning and Zoning; Rehearing and Appeal Procedures; Court Review. Amend RSA 677:15,
10 IV-V to read as follows:

11 IV. ~~[The court shall give any hearing under this section priority on the court calendar.]~~
12 ***Whenever an appeal to the superior court is initiated under this section, the court shall***
13 ***give the appeal priority on its calendar. Within 10 days of the certified record being filed***
14 ***with the court, the court shall schedule a hearing to be held within 90 days unless extended***
15 ***by agreement of all parties or by motion. The appellant shall file an opening brief 60 days***
16 ***before the hearing. The appellee shall file a response brief 30 days before the hearing. The***
17 ***appellant may file a reply brief 15 days before the hearing. The court shall issue a decision***
18 ***within 60 days after the hearing, unless the court has received an extension from the chief***
19 ***justice of the superior court.***

20 V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up
21 for review when there is an error of law or when the court is persuaded by the balance of
22 probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed
23 against the municipality unless it shall appear to the court that the planning board acted in bad
24 faith or with malice in making the decision appealed from.

25 ***VI. Whenever an appeal to the supreme court is initiated after superior court***
26 ***review, the supreme court shall give the appeal priority on its calendar and shall issue a***
27 ***final decision within 90 days of the date upon which oral argument has been conducted.***

28 10 Planning and Zoning; Rehearing and Appeal Procedures; Priority. RSA 677:5 is repealed and
29 reenacted to read as follows:

30 677:5 Priority. Whenever an appeal to the superior court is initiated under RSA 677:4, the court
31 shall give the appeal priority on its calendar. Within 10 days of the certified record being filed with
32 the court, the court shall schedule a hearing to be held within 90 days unless extended by agreement
33 of all parties or by motion. The appellant shall file an opening brief 60 days before the hearing. The
34 appellee shall file a response brief 30 days before the hearing. The appellant may file a reply brief
35 15 days before the hearing. The court shall issue a decision within 60 days after the hearing, unless
36 the court has received an extension from the chief justice of the superior court.

Amendment to SB 400-FN

- Page 2 -

1 Development. Housing developments that exclude minor children from more than 20 percent of the
2 units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, *or are*
3 *subject to age restrictions*, shall not constitute workforce housing for the purposes of this
4 subdivision.

5 7 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(c) to read as follows:

6 (c)(1) The board shall, at the next regular meeting or within 30 days following the
7 delivery of the application, for which notice can be given in accordance with the requirements of
8 subparagraph (b), determine if a submitted application is complete according to the board's
9 regulation and shall vote upon its acceptance. Upon determination by the board that a submitted
10 application is incomplete according to the board's regulations, the board shall notify the applicant of
11 the determination in accordance with RSA 676:3, which shall describe the information, procedure, or
12 other requirement necessary for the application to be complete. Upon determination by the board
13 that a submitted application is complete according to the board's regulations, the board shall begin
14 formal consideration and shall act to approve, conditionally approve as provided in subparagraph (i),
15 or disapprove within 65 days, subject to extension or waiver as provided in subparagraph (f). In the
16 case of a determination by the board that the application is a development of regional impact
17 requiring notice in accordance with RSA 36:57, III, the board shall have an additional 30 days to act
18 to approve, conditionally approve, as provided in subparagraph (i), or disapprove. ~~Upon failure of~~
19 ~~the board to approve, conditionally approve, or disapprove the application, the selectmen or city~~
20 ~~council shall, upon request of the applicant, immediately issue an order directing the board to act on~~
21 ~~the application within 30 days.]~~ *If the board determines that it lacks sufficient information to*
22 *make a final decision on an application and the applicant does not consent to an extension*
23 *pursuant to subparagraph (f), the board may, in its discretion, deny the application*
24 *without prejudice, in which case the applicant may resubmit the same or a substantially*
25 *similar application.* If the planning board does not act on the application within that ~~[30-day]~~ *65-*
26 *day* time period, then ~~[within 40 days of the issuance of the order,]~~ the selectmen or city council
27 shall certify on the applicant's application that the plat is approved pursuant to this paragraph,
28 ~~unless within those 40 days the selectmen or city council has identified in writing some specific~~
29 ~~subdivision regulation or zoning or other ordinance provision with which the application does not~~
30 ~~comply].~~ Such a certification, citing this paragraph, shall constitute final approval for all purposes
31 including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

32 (2) Failure of the selectmen or city council to ~~[issue an order to the planning board~~
33 ~~under subparagraph (1), or to]~~ certify approval of the plat upon the planning board's failure to
34 ~~[comply with the order,]~~ *act within the required time period* shall constitute grounds for the
35 superior court, upon petition of the applicant, to issue an order approving the application ~~[if the~~
36 ~~court determines that the proposal complies with existing subdivision regulations and zoning or~~
37 ~~other ordinances].~~ *The superior court shall act upon such a petition within 30 days.* If the

Amendment to SB 400-FN

1 Amend the bill by replacing all after section 3 with the following:

2

3 4 Planning and Zoning; Administrative and Enforcement Procedures; Issuance of Decision.

4 Amend RSA 676:3, I to read as follows:

5 I. The local land use board shall issue a final written decision which either approves or
6 disapproves an application for a local permit and make a copy of the decision available to the
7 applicant. *The decision shall include specific written findings of fact that support the*
8 *decision. Failure of the board to make specific written findings of fact supporting a*
9 *disapproval shall be grounds for automatic reversal and remand by the superior court*
10 *upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15,*
11 *unless the court determines that there are other factors warranting the disapproval.* If the
12 application is not approved, the board shall provide the applicant with written reasons for the
13 disapproval. If the application is approved with conditions, the board shall include in the written
14 decision a detailed description of all conditions necessary to obtain final approval.

15 5 New Paragraph; Powers of Zoning Board of Adjustment. Amend RSA 674:33 by inserting after
16 paragraph VII the following new paragraph:

17 VIII. Upon receipt of any application for action pursuant to this section, the zoning board of
18 adjustment shall begin formal consideration and shall approve or disapprove such application within
19 90 days of the date of receipt, provided that the applicant may waive this requirement and consent to
20 such extension as may be mutually agreeable. If a zoning board of adjustment determines that it
21 lacks sufficient information to make a final decision on an application and the applicant does not
22 consent to an extension, the board may, in its discretion, deny the application without prejudice, in
23 which case the applicant may submit a new application for the same or substantially similar request
24 for relief:

25 6 Workforce Housing: Definition. Amend RSA 674:58, IV to read as follows:

26 IV. "Workforce housing" means housing which is intended for sale and which is affordable to
27 a household with an income of no more than 100 percent of the median income for a 4-person
28 household for the metropolitan area or county in which the housing is located as published annually
29 by the United States Department of Housing and Urban Development. "Workforce housing" also
30 means rental housing which is affordable to a household with an income of no more than 60 percent
31 of the median income for a 3-person household for the metropolitan area or county in which the
32 housing is located as published annually by the United States Department of Housing and Urban

Cell: (603) 856-5227

Begin forwarded message:

From: AskOLS <AskOLS@leg.state.nh.us>

Date: April 13, 2022 at 10:00:26 AM EDT

To: Joe Alexander <Joe.Alexander@leg.state.nh.us>

Subject: SB 400 - 2022-1493h, Joe Alexander

Attached please find a PDF of amendment 2022-1493h to SB 400 requested by Rep. Joe Alexander.

Please note that the amendment copy contains the "UNAPPROVED" watermark. Once OLS is notified that the amendment has been officially adopted by committee action, OLS will remove the watermark and release the amendment to the Clerk.

Sincerely,
Office of Legislative Services
State House, Rm 109
603-271-3435

Heather Goley

From: Joe Alexander
Sent: Thursday, April 14, 2022 10:00 AM
To: ~House Municipal and County Govt
Cc: Jason Osborne
Subject: Fwd: SB 400 - 2022-1493h, Joe Alexander
Attachments: SB 400 - 2022-1493h.pdf

Good Morning House Municipal and County Government,

Thank you for your serious consideration of SB 400. As a member of the Governor's 2019 housing task force and the current co-chair of the Housing Caucus, I can assure you that this bill represents hard work and compromise.

In order to address some of the concerns raised at your hearing, I ask that you consider the attached amendment. The amendment deletes section 4 (enabling inclusionary zoning) and section 16 (the housing champion program). Hopefully, without these proposals, the majority of the Committee can come together to support the bill (as amended).

I am available to chat further regarding the amendment or the underlying bill. Once again, I appreciate the time the committee has spent regarding this bill.

All the best,

-Joe

Representative Joe Alexander

Goffstown, NH

Heather Goley

From: Julie Ledoux <jbizzbuzz@gmail.com>
Sent: Wednesday, April 20, 2022 2:10 PM
To: ~House Municipal and County Govt
Subject: STOP SB 400. Do not interfere with/undermine our local zoning and planning control

To the Members of the House Municipal and County Government,

VOTE ITL on SB 400.

We do not want developers and their lobbyists taking local control from town citizens through legislation.

The citizens of our towns in New Hampshire have the right to determine local planning and zoning control. This must not be undermined by The State.

VOITE ITL on SB 400

Preserve our freedom to regulate our own Senior Housing and development.
Preserve us from automatic reversal of local land-use board decisions

We do not want unreasonable 90-day etc., time constraints put on our planning and zoning board.

Developers should not be able to repeatedly re-submit denied applications, creating substantial financial burdens for towns and abutters defending property concerns.

We do not want our local select boards and town boards to have their role in local planning removed by SB 400.

SB400 will significantly limit local authority relating to development projects and reduces the authority of local land-use boards as well as the Board of Selectmen.

Julie and Mark Le Doux
Hollis, NH

Heather Goley

From: Jim Avallon <jimavallon@aol.com>
Sent: Tuesday, April 19, 2022 3:45 PM
To: ~House Municipal and County Govt
Subject: Do Not Support SB400

Dear House Municipal and County Government Committee,

Please do NOT support SB400! This is a gross attempt by the State to take over local land-use. The citizens of a town or city know best on how to control the land in their community. They live there day in and day out. If the citizens want to promote senior housing they should be able to without the constraints of having to offer what you call "Workforce" housing (sounds a bit like a term the Chinese Communist Party would use). This is hurting opportunities for seniors--senior type housing should not be linked to another type of housing like "Workforce".

However, what upsets me the most is the ability of the Housing Appeals Board to automatically reverse a planning and/or zoning Board's decision. This is the job of lawyers. There are tons of lawyers in NH and I'm sure developers can make good use of them.

I am not against affordable housing which is what this bill is trying to promote but taking over local land use authority is not the way to do it. You have to find another way. This bill reminds me a little of 40B in MA where the developers learned the ropes and extorted the town if the town did not agree with their proposal. They continually threaten to go to the State if the town or city does not approve their project. I have several friends who live in single family zoned neighborhoods who now live next to a dense condo or housing project because of 40B. It is not fair. They bought into this neighborhood with the understanding of the way things were, including the zoning.

Please do not support SB400!

Thank You,

Jim Avallon
North Hampton, NH

Heather Goley

From: Sue LaPointe <suelap16@gmail.com>
Sent: Saturday, April 16, 2022 10:18 PM
To: ~House Municipal and County Govt
Subject: Kill SB 400 - Vote it ITL

Good evening,

Please kill SB 400 (Vote Inexpedient to Legislate). The bill contains several provisions which reduce the authority of local land-use boards as well as the Board of Selectmen. This bill is supported by development lobbyists and special interest groups, who are expected to continue to push for passage. Local Planning and Zoning Boards are in the best position to determine the specifics of their community. This bill improperly inhibits the boards and unreasonably links two separate and distinct types of housing. It is important that local land-use decisions are made by town residents who have a vested interest in the decisions.

SB400 would allow the same developer to resubmit a denied application. Present case law known as the Fisher doctrine holds that the denial of a local project is final. SB400 would allow resubmittals if the case were dismissed without prejudice. This process would put a financial burden on the local community and residential abutters who would now have to oppose the same project multiple times to prevent its approval. It is important to protect the finality of local land use board decisions by opposing this bill

The development lobby is using the levers of government and our tax dollars to force the construction of high-density housing throughout the state. Please Kill SB 400. Land use decisions should be made by voters in each town, not by rich lobbyists.

Respectfully submitted,

Susan LaPointe
French Road
Epping, NH 03042



Virus-free. www.avast.com

Heather Goley

From: michele joyce <mjdigspigs@yahoo.com>
Sent: Saturday, April 16, 2022 6:23 PM
To: ~House Municipal and County Govt
Subject: SB400

I've read Governor Sununu's letter about this and could
I voted for Sununu and have regretted it ever since.
He says "workforce" over and over again.
Not residents, not community, not homeless NH people
It's "workforce".
With what's going on on our Southern border that scares
NO on SB400.
Thank you for your attention to this critical matter and

Heather Goley

From: susan.almy@comcast.net
Sent: Saturday, April 16, 2022 1:24 PM
To: ~House Municipal and County Govt
Subject: Pass SB400 Monday please!

The housing shortage affects our poorest and our workers at most income levels - new workers in high tech and graduate-level medical jobs, as well as the plumbers and electricians and carpenters without which we cannot build and maintain our housing, the people who work in our restaurants and hair salons and as bank tellers, musicians and landscapers - all of whom the high tech and financial people we are trying to attract to grow our economy expect so that they can have the quality of life they desire in our state. And most of the people worst affected are our neighbors and our children. This bill is not a major solution, but it increases the possibility that we can build our way out of this crisis, without sacrificing what local communities love about their own quality of life. Please vote to pass it.

Rep Susan Almy, Lebanon

Heather Goley

From: Ashley <ashskidmore@charter.net>
Sent: Thursday, April 14, 2022 2:30 PM
To: ~House Municipal and County Govt
Subject: Opposed to SB400

House Municipal and County Government Committee Members:

We are opposed to SB400 and we ask the Committee to ITL this bill.

SB400 is entitled -- "relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development".

It narrowly passed in the NH Senate 13-11 in a partisan matter with all ten democrats and just 3 republicans voting to pass it. It is supported by development lobbyists and special interest groups.

Earlier this month Joseph Garruba testified to your committee and detailed how flawed this bill is, and that it is nearly identical to the wording of 2021 HB586. We urge you to remember his testimony, and read his Twenty Important Reasons to Vote Against SB400, which can be found online here in pdf: https://www.holliswatch.com/files/ugd/6e5f12_a519a756cffc4f39af1888026b9270c8.pdf

As Joseph states in conclusion on his last page, the wording of this bill is not current to our actual situation, nor does it represent our principles of local government. This bill reduces authorities of local planning, zoning, and select boards - that alone is a show stopper, and may very well result in towns challenging the law in court at the expense of us taxpayers.

Thank you.

Clarence A. Skidmore
Brookline NH

Heather Goley

From: Janet Carp <jmcarp@swbell.net>
Sent: Thursday, April 14, 2022 12:08 PM
To: ~House Municipal and County Govt
Subject: SB400

NO on OTP!!!

Janet Carp
Eaton, NH

Sent from my iPad

Heather Goley

From: ABARE, Kimberly - NEDC (US) <KAbare@nedc.com>
Sent: Wednesday, April 13, 2022 2:00 PM
To: ~House Municipal and County Govt
Cc: ABARE, Kimberly - NEDC (US)
Subject: SB400 - AGAINST!

Importance: High

To Committee Members of Municipal and County Government:

Please vote AGAINST SB400. Allowing the State to overreach into the Towns and Cities of NH to take responsibility of zoning is full government overreach.

#LIMITEDGOVERNMENT #GOVERNMENTOVERREACH #STATECONTROL

Thank you.

Kimberly Abare
978.580.9100

K I M B E R L Y L . A B A R E

e: kabare@nedc.com BEST WAY: Cell/Text: 978-580-9100 t: 978.686.6332 www.NEDC.com
NEDC SEALING SOLUTIONS | 96 MILK STREET | METHUEN, MA 01844-4620



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“Of the four wars in my lifetime, none came about because the U.S. was too strong.” -Ronald Reagan

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Heather Goley

From: Stephen Clough <sclough153@comcast.net>
Sent: Wednesday, April 13, 2022 12:34 PM
To: ~House Municipal and County Govt
Subject: Please KILL SB400

Ladies and Gentlemen,

I have not only read about the pro's and con's to SB400 but have heard verbal testimony as well. I want to strongly urge you to vote NO to advance/pass this Bill. I am a member of several boards within the Town of Bedford and, though I am sending this email voicing my concern as a private citizen, I see this Bill as an usurpation of my right(s) as both a citizen and as a functioning board member. This bill has been defeated in the House at least two other times and for good reason. Please kill this Bill, nothing good can come of it as it reduces the power of the voters and the persons they voted to address local control of their community, and increases the power (and the wealth) of local developers and real estate magnates.

Kind regards,

Dr. Stephen R. Clough
5 Hunters Road
Bedford, NH 03110

Heather Goley

From: Linda McGrath <bigisland@icloud.com>
Sent: Wednesday, April 13, 2022 9:52 AM
To: ~House Municipal and County Govt
Subject: Please oppose SB400

Please do not allow crony developers to tell our towns what is BEST for us....

We elected our town officials to do their homework and do what is best for the people of our town....crony developers have no place here.

Linda McGrath
Hampton, NH

**Joe Garruba–
Testimony on SB400 at the House Municipal
Committee
(10 minutes)**

<https://www.holliswatch.com/b>

Heather Goley

From: K Sheffert <k_shef@yahoo.com>
Sent: Wednesday, April 13, 2022 12:34 AM
To: ~House Municipal and County Govt
Subject: no on SB400

Dear Municipal and County members

Local control is best closer to the people.

No on SB 400

Thanks
Ken Sheffert
Hampton, NH

Heather Goley

From: eboe@aol.com
Sent: Tuesday, April 12, 2022 11:30 PM
To: ~House Municipal and County Govt
Subject: SB400

Kill this bill

Ed Boerner
Merrimack NH

Heather Goley

From: Sally Porter <sapdep90@gmail.com>
Sent: Tuesday, April 12, 2022 9:48 PM
To: ~House Municipal and County Govt
Subject: SB400

I'm asking that SB400 be rejected and killed. It destroys local control and diminishes what makes New Hampshire special.

Thank you
Sally Porter
Meredith, NH

Heather Goley

From: Julie Laughner <julielaughner@comcast.net>
Sent: Tuesday, April 12, 2022 9:06 PM
To: ~House Municipal and County Govt
Subject: Vote ITL on SB400

Hello,

Please vote against SB400. One of the problems with this state is there are so many rules that there is very little local control left. This would make local control even weaker. It would give towns loss of freedom to regular senior housing independently, and add an unreasonable time restraint for local planning and zoning boards. Please protect our town and its residents.

Thank you for your time,
Julie Laughner
Raymond NH

Heather Goley

From: KEVIN SMITH <smith1201@comcast.net>
Sent: Tuesday, April 12, 2022 5:21 PM
To: ~House Municipal and County Govt
Subject: NO on SB400!!!

House Municipal and County Govt,

Decisions in NH shall be controlled by the citizens of NH & their legally-elected representatives & boards - not by some unelected toxic group.

This bill must be dispatched to the trashcan without delay.

Kevin Smith
Salem, NH

Heather Goley

From: m.moore.nh <m.moore.nh@protonmail.com>
Sent: Tuesday, April 12, 2022 11:29 AM
To: ~House Municipal and County Govt
Subject: SB400

To Whom It May Concern;

I strongly oppose this bill! We cannot take local control away from communities and place it in the hands of a few in Concord. Stated eloquently by HollisWatch:

"The development lobby is using the levers of government and your tax dollars to force the construction of high-density housing throughout the state. Hollis needs your help to protect the rural attributes we all cherish. High-density is inconsistent with Hollis's rural character and will permanently degrade the town we love; the effects will be dramatic and immediate."

I have seen this scheme play out before where rural communities are destroyed by massive high density housing and uncontained housing sprawl by those who enrich themselves at the expense of a communities desired character.

I strongly request that you defeat this bill SB400 and any variants that are sure to be proposed in the future.

Respectfully

Michael Moore

Sent with [ProtonMail](#) secure email.

Heather Goley

From: shelly724 (null) <shelly724@aol.com>
Sent: Monday, April 11, 2022 11:10 PM
To: ~House Municipal and County Govt
Subject: SB400

Dear House Committee Municipal Land County Government:

As a homeowner and taxpayer in Merrimack NH, I respectfully ask you to kill SB 400.

Government runs best when it is closest to the people. It must be the local town officials , voted in by the residents of their town, who are elected to make building decisions.

Kill SB 400.

Thank you

Shelly Uscinski

Merrimack

Sent from my iPhone

Heather Goley

From: Stuart Harnden <sbhdmh@comcast.net>
Sent: Monday, April 11, 2022 3:59 PM
To: ~House Municipal and County Govt
Subject: Re: SB400

Honorable Members of the NH House Municipal and County Government Committee:

I am writing to ask that you do not pass SB 400. The reason is very simple: Our country and our State of New Hampshire have become the greatest country and one of the greatest states in it due to the Democratic Principle of Local Control. Nobody knows better how a town or city wants to develop than the residents who live there, who came there because they were drawn there by what the town or city had to offer. People make a choice, and people will make good choices because they care about their towns and cities.

If those choices are taken away from the residents of these towns and cities, and developments are done by overriding local boards and residences, it won't be long before the caring attitudes will become one of malaise and not caring anymore, people will not want to serve on boards with the threat of spending time, money, effort only to see it all disappear in a flash. The attitude will soon become "I don't care anymore, it's a waste of time." And if this sounds preposterous, just look at the dismal school system in our country. Failure everywhere, and all because the system was wrested from the local people and is controlled by powerful unions and politicians who have an agenda that doesn't match what our people want. If you want to see towns and cities become failures like our schools, just start taking away the people's right to self determination. Our country is failing fast enough as it is, we certainly don't need to add gasoline to the fire.

Please do all you can to prevent this bill from passing.

Sincerely,

Stuart B. Harnden
Bedford, NH

Heather Goley

From: Regina Barnes <reg511@yahoo.com>
Sent: Thursday, April 7, 2022 9:49 PM
To: ~House Municipal and County Govt; Tom Dolan; Tony Piemonte; John MacDonald; Richard Tripp; Diane Pauer
Subject: SB400

Mr. Chairman and committee members,

My name is Regina Barnes, I spoke this evening in opposition to SB400, due to respect for time, I summarized my view today, below is my complete testimony.

SB400 - House & Municipal County Committee hearing 4.7.22
Regina Barnes - testimony opposing

What is wrong with SB400:

- SB 400 and the current Housing Appeals Board is NOT about local zoning which is voted on by the people of each local government
 - SB 400 grants unelected boards in Concord authority to override locally elected boards at the municipal level
 - SB 400 is the dangerous partnership between government and private business because it gives developers our tax dollars to build low income/high density housing and then rewards them with 10 years of tax-free status, putting the extra burden of new services needed on the single-family homeowners
 - SB400 aligns with the basic goals of Obama/Biden AFFH (Affirmatively Furthering Fair Housing Act)
 - SB 400 is an attack on single-family home ownership under the guise of 'equality', regionalism is communism and something out of the Bolshevik era
 - SB 400 will cause housing prices for SF homes to go UP not down
 - SB 400 is the mark of the 'new feudalism'
 - SB 400 is an expedited path for developers in the court process
 - SB 400 provides additional levers for attorneys to use against planning boards
 - SB 400 will amend the legal definition of "public use", item 5 of this section redefines the construction of private houses as public use
 - SB 400 grants more authority to unelected concord bureaucrats
 - SB 400 in conjunction with the already unconstitutional Housing Appeals Board will cause the demise of what is left of state / municipal sovereignty
 - SB 400 grants authority to the Office of Planning and Development to determine preferential access to state resources. How is this fair to rural towns that choose not to urbanize? Shouldn't all of the state have equal access to state resources? Please vote against this bill to preserve the unity of the state's rural towns and cities.
-
- Who should control developers; the municipality or a state appointed board?

The Senate failed by passing this bill onto the House, let us hope that the house will kill it on arrival.

Please feel free to contact me with any questions.

Thank you all for your service to the state of NH,

Regina Barnes

Heather Goley

From: Maura Chappelle <maurachappelle@gmail.com>
Sent: Thursday, April 7, 2022 11:54 AM
To: ~House Municipal and County Govt
Cc: Erin Hennessey; Chuck Morse; Troy Merner; Edith Tucker
Subject: Remote Testimony for SB400

Good morning, Senators

I implore you to vote against SB400, do not remove local control from our Planning and Zoning boards

I live in Jefferson. A town so peaceful we don't even have our own police. A recent survey conducted as part of our newest master plan shows a vast majority want it to stay small and unbuilt

Our economy is based on tourism, people stay here to enjoy views, see animals, and be surrounded by trees. Not to stay in cluster housing on roads named after the wildlife that was run off to build it

Our towns should retain the right to decide what can be built and where without the state bribing -- er, sorry, "incentivizing" -- our boards

Jefferson, Whitefield, Lancaster and the rest of Coös does NOT have a housing shortage. If the jam packed towns turning into cities on the Massachusetts line needs housing then focus your efforts down there, do not make a statewide rule for a localized problem and one that is being pushed by the federal government

I expect that this email will be made part of public record as remote testimony

Maura Annette Chappelle
Jefferson New Hampshire

https://www.gencourt.state.nh.us/bill_status/billinfo.aspx?id=1981&inflect=2

Heather Goley

From: Jim Belanger <jim.blng@gmail.com>
Sent: Tuesday, April 5, 2022 12:11 PM
To: ~House Municipal and County Govt
Subject: SB400

Hello M&CG Committee members. Hi Tom.

As former chair of your committee I would like to express that SB400 is way too complicated and not necessary.

Send it to Hospice.

Hon. Jim Belanger
Hollis, NH
www.belangers.us

Heather Goley

From: Life with Liz NH <lizgabert1@gmail.com>
Sent: Monday, April 4, 2022 3:28 PM
To: ~House Municipal and County Govt
Subject: Please Vote NO on SB400

Good Afternoon!

As a Bedford Resident having chosen to bring my family to this beautiful town and state 6 years ago, I am disappointed that this Legislation is in the pipeline and well as similar/related legislation in past years.

We chose Bedford over living in Massachusetts, where we are employed, as we loved the "Live Free or Die" spirit of the state and the beauty of suburbia in so many towns.

What this Legislation, along with related legislation and creation of yet more State Level Bureaucracy like the Housing Appeals Board, is doing to this beautiful state, including the removal of local control, is so very sad. The fact that our (R) Governor and (R) legislature is working so desperately to "urbanize" New Hampshire is a disgrace!

The change in the once quiet rural town of Bedford in just 6 short years in terms of commercial real estate build up, Rental units, and more workforce housing whom, we aren't sure if for (possibly thousands of Illegals from the Southern Border?) has brought an enormous increase in traffic congestion and the once suburban attraction of Bedford is becoming no more!
This is not just Bedford as you well know...

Please Vote NO on SB400...Save New Hampshire from the "New Urbanization" / Obama's AFFH plan to fundamentally transform our nation and our state into a "Perfect" Socialist Society that always destroys Nations and the HUMAN SPIRIT!

Thank You!

Liz Gabert
Bedford, NH

--

Liz Gabert
lizgabert1@gmail.com

April 12, 2022

Municipal and County Government Committee
Legislative Office Building, Room301
Concord, NH 03301

Subject:

SB400 Relative to training and procedures for zoning and planning boards and relative to investments and incentives for affordable housing development.

SB329 Establishing a commission to study barriers to housing development in New Hampshire, including workforce and middle-income housing.

Dear Chairman Dolan and Members of Municipal and County Government,

The Commission on Aging was established in 2019 to advise the governor and the general court on policy and planning related to aging. A more age-integrated New Hampshire fostered by forward thinking public policy and initiatives will ensure we can all thrive as we age.

The State Commission on Aging is in support of SB400 and SB329 for the following reasons:

- Housing is a primary need identified by the Aging in Communities of Choice Task Force of the Commission on Aging. Surveys of older adults, including the listening sessions conducted across the State to update the NH State Plan on Aging, indicate the limited availability and affordability of housing are of primary importance to older adults as they seek to remain in their communities.
- SB400 will strengthen select requirements for development of workforce housing in New Hampshire. In order to preserve local control, it also codifies that the requirements will not negate the economic viability of a project and includes the Planning Board's ability to waive or modify standards on an individual basis to preserve affordability. SB400 also provides incentives for municipalities who wish to earn a Housing Champion Certification.
- SB329 to establish a commission to study barriers to affordable housing is written with a concise charge and timeline to provide the information needed for further work to increase affordable housing options in New Hampshire.
- Many older adults in New Hampshire remain in the workforce need the support of such legislation for improved availability of affordable housing.
- Older adults who need short- or long-term supports to remain in their in their communities find the available workforce to be a limiting factor. Many are not able to engage services to match the number of hours they qualify for and need. Increased affordable housing opportunities will help support growth of the caring professions workforce to meet this need.

Thank you for the opportunity to provide comment.

Sincerely,



Kristi St. Laurent
Member of the State Commission on Aging
Co-Chair of the Aging in Communities of Choice Task Force

Heather Goley

From: Dolores Messner <doloresmessner@yahoo.com>
Sent: Tuesday, April 12, 2022 7:30 AM
To: ~House Municipal and County Govt
Subject: Say no to HB 400

Local zoning boards need to make these decisions not outside forces.

Dolores Messner
18 Barbour Rd
Hampton NH 03842

Sent from Yahoo Mail for iPhone

Heather Goley

From: Joan Hamblet <outlook_AAC1BE68AEF2F4D1@outlook.com>
Sent: Sunday, April 17, 2022 10:14 PM
To: ~House Municipal and County Govt
Subject: SB 400 Community Toolbox Bill

Please support SB 400 to help address the housing crisis.

Thank you.

Joan Hamblet
State Representative
Rockingham District 31 (Greenland, Newington, North Hampton, Portsmouth Ward 3)

Sent from Mail for Windows

Heather Goley

From: Kevin Murphy <kfmurphy76@gmail.com>
Sent: Sunday, April 17, 2022 10:18 AM
To: ~House Municipal and County Govt
Subject: Vote ITL on SB 400

Dear Committee Members,

My name is Kevin Murphy and I reside in Hampstead, New Hampshire. I ask that you reject SB 400 and vote ITL on this ill conceived legislation. Thank you for your time and consideration on this matter.

Respectfully yours

Kevin Murphy

Heather Goley

From: George Reed <george.reed.iv@gmail.com>
Sent: Saturday, April 16, 2022 10:49 AM
To: ~House Municipal and County Govt
Subject: SB 400

Dear House Municipal and County Government members:

I'm writing to advocate for passage of SB 400, regarding affordable housing development. This legislation will help in the following ways:

- provides a package of incentives and directives to help NH address its housing crisis.
- includes opt-in tools for municipalities that are ready to address supply shortages.
- improves the predictability of the process through faster timelines, transparency and documentation of review of project proposals.
- enhances education and voluntary training opportunities for planning and zoning board members.

Sincerely,
George Reed,
Bow, New Hampshire

Heather Goley

From: North Sturtevant <nsturtevant@jsainc.com>
Sent: Friday, April 15, 2022 2:20 PM
To: ~House Municipal and County Govt
Subject: SB 400

As a long time business owner and resident of the State, I ask that the Committee support SB 400. We can not afford to ignore the importance of housing to the survival of New Hampshire's economy.

Wm. North Sturtevant, Portsmouth

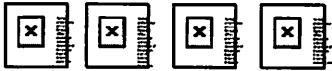
Wm. North Sturtevant, Principal/CEO

JSA Design

273 Corporate Drive, Suite 100

Portsmouth, NH 03801

Direct: 603.239.1238 / Main: 603.436.2551



Heather Goley

From: Barbara Koehler <barb.koehler@roadrunner.com>
Sent: Friday, April 15, 2022 10:13 AM
To: ~House Municipal and County Govt
Cc: Kevin Quinlan; Shari Colby; Jim Gray; Chuck McGee; Jean Beadle; Judy Ballard; Nancy Zeloski; Barbara Langworth; markpbrashjr
Subject: Bill SB 400

Dear House Committee,

I urge you to stop SB 400 from coming to the floor for a full vote. The best of intentions often works out to be the worst results. Housing in our state will manage itself **LOCALLY** through each town's wishes. Each town understands it's own needs best, and as a free state, we owe it to our towns to respect that right.

Once the state starts regulating local zoning and planning to allow low-income housing, the faster crime grows in those areas; the more taxes are raised to handle the cost and the more the character of the town changes. We have a right to manage our own towns. That should not change.

Just like the Federal Govt. **SHOULD** only be concerned about protecting our borders and having an army to protect its citizens, instead of trying to run everyone's lives, so should our State government restrain itself to doing the minimal intrusion into town decisions.

Thank you for listening, and please understand the perspective from the citizens point of view.

Barbara Koehler

Heather Goley

From: joannecasino@comcast.net
Sent: Thursday, April 14, 2022 7:01 PM
To: ~House Municipal and County Govt
Subject: SB 400

Hello Legislatures,

I am writing in support of SB 400 and hope to see this enacted.

Thank you,

Joanne Casino
Concord, NH

Heather Goley

From: Patricia Arsenault <patty_tay9@hotmail.com>
Sent: Thursday, April 14, 2022 1:22 PM
To: ~House Municipal and County Govt
Subject: SB 400

DEAR SIR, REGARDING SB 400 -PLEASE MAKE SURE THAT IF IT DOES 'PASS', WE OLD FOLKS ARE NOT FORGOTTEN, PLEASE, PLEASE WE NEED HOUSING TOO. I BEG OF YOU. THANK YOU-PATRICIA HAVE A NICE WEEKEND 🙏

Heather Goley

From: bobdutton@aol.com
Sent: Thursday, April 14, 2022 12:35 PM
To: ~House Municipal and County Govt
Subject: Please vote NO on SB 400!

Dear Sir/Madam, Please vote NO on SB 400 as it will change the character of our neighborhoods without citizens being able to impact those decisions! It's an outrage that something like this even makes it into legislation! This is nothing more than a giveaway to developers. Regards, Bob & Bibbs Dutton

Heather Goley

From: csm <lwrench@twc.com>
Sent: Thursday, April 14, 2022 11:25 AM
To: ~House Municipal and County Govt
Subject: SB 400

I'm asking for your help to preserve local control over zoning (and preserving the NH way of life at the same time) and prevent high density housing in NH. We already have plenty of condo developments and more coming on line all the time. More single family housing will become available for middle and low income families with the aging (and eventual demise) of baby boomers. Hopefully that won't happen too soon, as I am one.

PLEASE VOTE ITL ON THIS BILL. Thank you

Cathy Mullen
Brookfield, NH

Sent from [Mail](#) for Windows

Heather Goley

From: Debbie Strodel <prov1434@gmail.com>
Sent: Wednesday, April 13, 2022 1:12 PM
To: ~House Municipal and County Govt
Subject: SB 400

Please vote NO on Ought to Pass on SB 400 and protect our NH towns.

Debbie Strodel
Wolfeboro, NH
prov1434@gmail.com

Pray as if everything depends upon God, act as if everything depends upon us.

Heather Goley

From: Laura Colquhoun <lauracolquhoun2@gmail.com>
Sent: Wednesday, April 13, 2022 11:40 AM
To: ~House Municipal and County Govt
Subject: Oppose SB 400

Honorable members of the House Municipal and County Govt

My name is Laura Colquhoun and I live in Nashua NH. I am writing this email to ask you to oppose SB 400.

SB 400 would give an un-elected board the power to overrule local planning boards and that is the last thing the State of New Hampshire needs is federal intervention in local issues.

New Hampshire has a lot of small towns with a lot of character and this could be destroyed by federal intervention.

I ask you to oppose SB 400 for all New Hampshire residents. Let us keep the character that our cities and towns currently have. Thank you.

Very truly yours,
Laura Colquhoun
30 Greenwood Dr
Nashua, NH 03062

Heather Goley

From: johncaw@myfairpoint.net
Sent: Wednesday, April 13, 2022 11:25 AM
To: ~House Municipal and County Govt
Subject: SB 400

Honorable members of the House Municipal & County Gov't Committee,

My name is John Cawthron.
I live in Nashua, NH.

I am writing you today asking that you oppose SB 400.

As you know, SB 400 would give an un-elected board the power to over rule local planning boards via Federal the AFFH act.

The last thing New Hampshire needs is federal intervention in local issues, especially ones that can destroy the character of small towns and cities.

Massachusetts has a similar law called 40B.

That has been a disaster for town planning and has allowed unscrupulous developers to squeeze in high density housing in areas unsuited for that purpose.

Who bears the costs of 40B. The tax payers.

The last things that New Hampshire need are:

1. Federal control of local issues, via an appointed and unaccountable board.
2. Raising of local property taxes to cover the costs of high density housing in areas not suited for that purpose.

With that said, I ask that you oppose SB 400.

Respectfully,

John Cawthron

Heather Goley

From: Linda Merrill <lj.merrill.5@gmail.com> on behalf of Linda Merrill
<lj_merrill@comcast.net>
Sent: Tuesday, April 12, 2022 10:53 PM
To: ~House Municipal and County Govt
Subject: [CAUTION: SUSPECT SENDER] SB 400

Hello
Please please please Kill this bill. We do not need to have an un elected committee decide what will happen in our towns and cities across NH.
It is really important to bring to vote in our towns for buildings.

I just don't get why the consituion is not being upheld in all areas these days.
All I know is my vote needs to count. This is freedom. And we have as our Motto Live FREE or Die.
DO NOT LET THIS BILL GO INTO EFFECT.... YOU WILL BE VOTED OUT!!!!

Linda Merrill
603-930-6436
Author: Heart Centered Leadership 7 soft skill keys to build effective teams
www.pontemvitae.com

Heather Goley

From: Richard Spenard <richard.spenard@myfairpoint.net>
Sent: Tuesday, April 12, 2022 11:48 AM
To: ~House Municipal and County Govt
Subject: SB 400

No!! to SB-400 which is not good for towns.

Heather Goley

From: Marc Abear <sea1mra@gmail.com>
Sent: Tuesday, April 12, 2022 11:16 AM
To: ~House Municipal and County Govt
Subject: Please Vote No on SB 400

Thank you for your efforts on our behalf.
Sincerely, Marc Abear

Heather Goley

From: Bill Dowling <wzrdos@yahoo.com>
Sent: Monday, April 11, 2022 10:14 PM
To: ~House Municipal and County Govt
Subject: SB 400

AS A RETIRED 91 yearold Citzen who has paid for my assisted living with nelp from my family I see this as a stark challenge to me

and my families independence and an end run to price out all principle of being a n AMERICAN CITIZEN VOTE
NO

RESOUNDINGLY STOP SOCIALISM

DR BILL DOWLING

Heather Goley

From: Anthony Amato <tunewriter44@gmail.com>
Sent: Monday, April 11, 2022 5:29 PM
To: ~House Municipal and County Govt
Subject: SB 400

VOTE NO ON SB 400

A. Frank Amato
Hooksett

Heather Goley

From: teebrowne@comcast.net
Sent: Monday, April 11, 2022 4:34 PM
To: ~House Municipal and County Govt
Subject: SB 400

Please kill SB 400.

Keep local control - not centralized state control

Tom browne
Bedford

Heather Goley

From: Roseanna Spizzirri <roseanna_hampton@comcast.net>
Sent: Monday, April 11, 2022 4:17 PM
To: ~House Municipal and County Govt
Cc: roseanna_hampton@comcast.net
Subject: SB 400 Must Be Killed

Importance: High

I am 100% AGAINST this bill.

It should not be passed. You are going to ruin our lovely State by putting ugly apartment buildings anywhere you want in our TOWN!

Every TOWN or CITY GOVERNMENT should be solely responsible for making these determinations, NOT STATE government.

Roseanna Spizzirri
107 Locke Road
Hampton NH 03842
Home (603) 929-0054

Heather Goley

From: Anne Grossi <adgrossi7982@gmail.com>
Sent: Monday, April 11, 2022 4:17 PM
To: ~House Municipal and County Govt
Subject: SB 400

Dear Committee Members,

I live in Bedford, NH. Though it would appear that the people who live in Bedford would want you to oppose this bill because there are those in Bedford who do not want affordable housing in "their town," that is not the case for all residents of Bedford.

I am in support of SB 400. There is a serious housing shortage in NH. It is affecting many families and our representatives and senators cannot ignore the problem. Young people are leaving NH because of the housing shortage and because of the high rents. Rents in Manchester range from \$1500 to \$3500 in the new buildings. The average rent in Manchester is almost \$1700. The average rent in Bedford is \$2000. The average rent in Atlanta, GA is \$1800, yet Atlanta has many more services than Manchester and Bedford: many restaurants, more museums, theater, and much more.

The median age is increasing in NH because our young people are leaving. When the young people leave, it affects our workforce because there are fewer people to hire.

Please support SB 400 so that NH can provide affordable housing and so that our young people will stay in NH.

Thank you,
Anne Grossi

Demographic patterns are caused by the intersection of complex forces. Zoning is likely to have very little to do with them.

There is no imperative to substitute State mandates for local decisions about their community and, in the process, grow the size and cost of state government to do it.

Granite State Taxpayers recommends a vote AGAINST SB 400.

Thank you for your attention and your work on behalf of the citizens of New Hampshire.

Ray Chadwick, Chairman
Granite State Taxpayers
Bedford, NH 03110
1 (603) 566-9129
www.GraniteStateTaxpayers.org

Heather Goley

From: Ray Chadwick <rfchadwick@juno.com>
Sent: Thursday, April 7, 2022 3:32 PM
To: ~House Municipal and County Govt
Cc: dmc2015@comcast.net; danmcguire@gmail.com; paul.nicolai@niclawgrp.com
Subject: Granite State Taxpayers Opposes SB 400

House Municipal and County Government Committee Members

Granite State Taxpayers is New Hampshire's oldest state-wide Taxpayer advocacy group, founded in 1990 by the late Governor Mel Thomson and the late NH Senator George Lovejoy. We advocate on behalf of Taxpayers for limited government that works efficiently within its constitutional authority, for local control and for free market solutions.

Granite State Taxpayers Opposes SB 400

This bill makes changes to the training and procedures for zoning and planning boards, creates incentives and establishes requirements for workforce housing and affordable housing development, revises the time frames for planning board consideration of applications, and establishes the New Hampshire housing champion certification program.

SB 400 in effect creates the precedents and sets objectives for state control of the management and outcomes of zoning and development decisions that are currently the responsibility of cities and towns in New Hampshire.

Granite State Taxpayers opposes this proposal for three primary reasons:

1. Since its inception, zoning has been almost entirely a local issue. Local communities know best what they want for the character of their communities. This proposal assumes someone in State government knows better than local citizens and their elected officials, an assumption that has proven incorrect in many different issues. There is no reason to expect otherwise here.
2. Passage of SB 400 would evidence a determination that the State knows better than local communities about what their character, zoning and development should be. Should the local communities not fall "in line" the obvious future next step would be to mandate what the State knows. This has happened in neighboring states. Over decades, voluntary programs have not worked (i.e.: the state requirements have not been voluntarily implemented), resulting in increasing attempts to override local zoning. Massachusetts' new Transit Oriented Development (TOD) zoning law is the latest example of this. There is no reason to expect voluntary programs to have different results in New Hampshire. Mandatory programs will be next once the Legislature has decided that the State knows better than local communities.
3. While the study this proposal is based on shows a correlation between the cost of housing and the level of regulation, it does not and cannot provide evidence of actual causation. The report cites Grantham as a town that does not unduly increase the cost of housing by zoning regulation. The median price of house listings in Grantham today is \$497,000. The statewide median number is \$400,000. Grantham's median housing prices are 20% higher than the median housing price statewide. Since the study admits zoning is not the cause, it must be something else.

As another example, the study asserts that overly restrictive zoning makes the state less attractive to people looking to migrate here. The problem with this hypothesis is that New Hampshire has been a net in-migration state every year from 2015 forward. UNH reports that between 2015 and 2019, New Hampshire had an average of 8300 more people each year move into the state than leave it. More recent news reports say New Hampshire is in the country's top five net in-migration states. The facts say zoning has not impeded net in-migration.

Heather Goley

From: Robert Moore <robert@solidearthfarm.com>
Sent: Thursday, April 7, 2022 11:43 AM
To: ~House Municipal and County Govt
Subject: ITL SB 400

Keep the State out of our local business! ITL SB 400

Robert Moore
Lisbon, NH

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~ **SB 400 7. IV.** "...Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, or are subject to age restrictions, shall not constitute workforce housing for the purposes of this subdivision." **Seriously, what does this mean and what is the purpose of this? Does it mean that any development that has 51 percent of its dwelling units as one bedroom or studio apartments cannot be workforce housing? What is the relationship between SB 400 7. IV. and SB 400 IV.? Doesn't this statement mean that workforce housing for the elderly is NOT allowed? Clarification is needed!**

~ **SB 400 12-O:65 New Hampshire Housing Certificate Certification and V. Program Advisory Board.** I am opposed to both of these proposals. I believe they are an **unnecessary waste of State money and resources.** How will the Housing Certification Program not **discriminate in favor of more populated metropolitan areas over small rural communities?** The program is described as "voluntary", yet section II. cites "*In exchange for housing champion certification, a municipality shall receive preferential access to state resources, including, but not limited to, discretionary state infrastructure funds, as available.*" **So although "voluntary", there would be financial consequences for municipalities that would choose not to participate. Is that fair? Who would benefit most from all of this - developers or citizens? urban areas or rural?**

There are many other problems with this bill that I hope others will convey to you. I hope the ones I have already cited will convince you to vote this bill as Inexpedient to Legislate.

In conclusion, **I strongly urge that you OPPOSE SB 400.** Although I may not personally be your constituent, this bill would have ramifications throughout the State, and I expect that you will take my opinions into consideration as well as those of your own voters. **Please preserve local control and vote NO on SB 400.**

Respectfully,

Loretta Laurenitis
Peterborough, NH



Virus-free. www.avg.com

Heather Goley

From: Loretta Laurenitis <lbonlaur@yahoo.com>
Sent: Wednesday, April 6, 2022 7:04 PM
To: ~House Municipal and County Govt; NH House Communications
Cc: ~Senators
Subject: Opposition to SB 400 Strongly Urged

Dear Members of the House Municipal and County Government Committee:

I am writing to **urge you to OPPOSE SB 400** and kill the bill at your committee level. Please include my correspondence as part of the official hearing record.

SB 400 is such a flawed and overreaching bill that it would require pages to address the issues. I hardly think the Senate did its due diligence to review and understand the **multifaceted impacts** which this bill would create. At the very least, it should have been broken down into a number of different bills to receive appropriate study and consideration. By overwhelming the reader and public citizens with so many and varied proposed changes, perhaps the intent was to let this slip through by frustrating attempts to seriously review the content and implications. I hope you will not allow that to happen, and I hope that you will **deny it simply on the basis that that this proposed legislation includes too many topics and changes to be adequately reviewed.**

I have been on the Zoning Board of Adjustment in my community since 2003. I have had the opportunity to take part in many valued trainings from the New Hampshire Municipal Association and the formerly titled Office of Strategic Initiatives. As far as I am concerned, **there is absolutely no need for the first paragraph of SB 400 related to training for land use boards. We already have many opportunities for training, so what is the purpose of this paragraph? If the intent was to provide training on a particular topic, that detail is missing and should have been included.**

As a ZBA member, I also find the references to "standard self-training materials and corresponding tests for zoning and planning boards" to be both questionable and insulting, as well as lacking in the necessary details to know what the purpose of this proposal is. **Are the authors of SB 400 proposing that land use board members be indoctrinated into certain viewpoints or philosophical agendas? What would be the purpose of testing? Would that be monitored or need to be reported to some monitoring group? Is this the beginning of trying to establish some kind of standards for land use board members that would attempt to override our independence and, for many of us, our elected status? The "devil is in the details", and SB 400 does not make its intention explicit in this proposed paragraph. On this basis alone, please reject and oppose SB 400.**

I am also troubled by, and opposed to, a number of other features of SB 400. I am briefly listing those below:

~ **SB 400 4.** *"Inclusionary zoning ordinances shall include standards that do not reduce the economic viability of developments in comparison to developments that do not require housing affordability. Such ordinances shall also enable the planning board to waive or modify in individual cases any standards that are demonstrated by an applicant to render a development economically infeasible."* This is **lacking in specificity. What standards? What does economic viability mean** --- the same amount of profit as any other project? Who decides economic viability --- the developer or some other yet not established state agency? Just **how would an applicant demonstrate that a development is economically infeasible? What oversight is there of that or is it only the applicant's contention that counts?** What are the criteria for a planning board to waive or modify any standards that the applicant contends make a development economically infeasible? **Why would the planning board be allowed to ignore zoning standards which the community has voted on? There are so many questions about what undesirable impacts this section alone would have on local control and even economic consequences for the community. Please oppose SB 400 on this basis alone!**

~ **SB 400 5.I.** *"Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal..."* **Who determines that "failure" --- a developer who disagrees with the board's statements? Does this apply to all applications? What does "automatic reversal" mean -- that the application is automatically granted approval? Again the "devil is in the details." Of course written findings of fact supporting a disapproval should be given to an applicant, but how that can be interpreted is unclear here.**

Heather Goley

From: Phil Kasiiecki <pkasieck@hotmail.com>
Sent: Wednesday, April 6, 2022 12:39 AM
Subject: Please put an end to SB 400

If you care about the NH Advantage, please kill SB 400. This bill is terrible and contrary to any principle of limited government, overriding local control and instead instituting central control.

SB 400 is a redo of other bills that have failed in the past. It is Obama's AFFH (Affirmatively Furthering Fair Housing Act) at the state level and on steroids. During a presidential debate in 2020, Joe Biden admitted that the suburbs are integrated - essentially shooting down any notion that this is necessary considering the stated rationale for it.

Why are our politicians, especially some in the State Senate, so desperate to get this monstrosity to become law?

We can look at Seattle for an example of how this fails people, especially those that backers of this purport to be fighting for - the worst-off. In Seattle, the developers, realtors and cities and towns are raking in the money while the worst-off people are priced out of their homes and left with nowhere to go.

In addition to retraining planning and zoning boards on the acceptance of mandated housing integration and concepts such as "new urbanism", they will give our tax dollars to developers who agree to build high-density buildings, often where they are inappropriate. Additionally, they will award tax-free status on those buildings for the next ten years. Meanwhile, homeowners bear the burden of the extra taxes, an unwelcome proposition at any time but especially in a time where we have the highest inflation in four decades already eating away at our finances.

This is, simply put, not good for New Hampshire at all, and not good for the worst-off - the ones that those who unconscionably helped SB 400 pass the State Senate purport to be fighting for.

Please kill SB 400 now and forever.

Heather Goley

From: Jane Aitken <themaclady@comcast.net>
Sent: Sunday, April 3, 2022 3:18 PM
To: ~House Municipal and County Govt
Subject: SB 400 is AFFH on Steroids 4/7

To the House Municipal and County Government Committee;

You will be hearing SB 400 on 04/07/2022 at 04:00 PM in LOB 301-303

PLEASE KILL THIS BILL!

It is basically the Obama/Biden 'fundamental transformation' of towns and cities, enabling an AFFH-style program administered by the STATE.

Similar bills have failed 3 other times.

The author of this article said it better than anyone could. Please take time to READ IT.

<https://patch.com/new-hampshire/bedford-nh/article-review-ideal-communist-city>

- SB 400 and the current Housing Appeals Board is NOT about local zoning which is voted on by the people of each local government
- SB 400 is the dangerous partnership between government and private business because it gives developers our tax dollars to build low income/high density housing and then rewards them with 10 years of tax-free status, putting the extra burden of new services needed on the single family homeowners
- Exemplifies how SB 400 as furthering the basic goals of Obama/Biden AFFH (Affirmatively Furthering Fair Housing Act)
- SB 400 is an attack on single-family home ownership under the guise of 'equality'
- Article confirms that regionalism is communism and something out of the Bolshevik era
- New Urbanism is a fad that promotes AFFH
- SB 400 will cause housing prices for SF homes to go UP not down
- Is the mark of the 'new feudalism'

Please also kill SB 329 which you are scheduled to hear at 3:00 PM the same day.

- Jane Aitken
Vice Chair, CNHT.org
Founder, BRA Taxpayers

SB 400-FN - AS AMENDED BY THE SENATE

03/17/2022 0999s

2022 SESSION

22-2888

08/10

SENATE BILL **400-FN**

AN ACT relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.

SPONSORS: Sen. Bradley, Dist 3; Sen. Whitley, Dist 15; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20; Sen. Watters, Dist 4; Sen. Perkins Kwoka, Dist 21; Sen. Rosenwald, Dist 13; Sen. Avard, Dist 12; Sen. Cavanaugh, Dist 16; Sen. Sherman, Dist 24; Sen. Prentiss, Dist 5; Sen. Soucy, Dist 18; Sen. Kahn, Dist 10; Rep. DiLorenzo, Rock. 17; Rep. Umberger, Carr. 2; Rep. Alexander Jr., Hills. 6; Rep. Sweeney, Rock. 8; Rep. Porter, Hills. 1

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill makes changes to the training and procedures for zoning and planning boards offered by the office of planning and development. This bill creates incentives and establishes requirements for workforce housing and affordable housing development. The bill also revises the time frames for planning board consideration of applications, and establishes the New Hampshire housing champion certification program.

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 Two

AN ACT relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.

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

1 1 Local Land Use Boards; Training. RSA 673:3-a is repealed and reenacted to read as follows:

2 673:3-a Training. Any member of a zoning board of adjustment or planning board may complete
3 training offered by the office of planning and development or another organization that provides
4 similar training covering the processes, procedures, regulations, and statutes related to the board on
5 which the member serves. The office of planning and development shall develop standard self-
6 training materials and corresponding tests for zoning boards of adjustment and planning boards
7 which shall be provided to members free of charge. The office of planning and development may
8 provide other types of training, which may be designed in a variety of formats including, but not
9 limited to, web-based, distance learning, or traditional classroom style. For purposes of this section,
10 the term "member" includes regular and alternate members of zoning boards of adjustment and
11 planning boards.

12 2 New Paragraph; Local Land Use Boards; Staff; Finance. Amend RSA 673:16 by inserting after
13 paragraph II the following new paragraph:

14 III. Any fee which a city or town imposes on an applicant pursuant to this title shall be
15 published in a location accessible to the public during normal business hours. Any fee not published
16 in accordance with this paragraph at the time an applicant submits an application shall be
17 considered waived for purposes of that application. A city or town may comply with the
18 requirements of this section by publicly posting a list of fees at the city or town hall or by publishing
19 a list of fees on the city or town's Internet website.

20 3 New Paragraph; Local Land Use Planning and Regulatory Powers; Zoning. Amend RSA
21 674:17 by inserting after paragraph III the following new paragraph:

22 IV. If a municipality allows an increased density, reduced lot size, expedited approval, or
23 other dimensional or procedural incentive under this section for the development of housing for older
24 persons, as defined and regulated pursuant to RSA 354-A:15, VIII, it shall allow the same incentive
25 for the development of workforce housing as defined in RSA 674:58, IV. Beginning July 1, 2023,
26 incentives established for housing for older persons shall be deemed applicable to workforce housing
27 development, regardless of whether a local land use ordinance or regulation specifically provides for
28 their application to workforce housing development.

29 4 Local Land Use Planning and Regulator Powers; Innovative Land Use Controls. Amend RSA
30 674:21, IV(a) to read as follows:

1 (a) "Inclusionary zoning" means land use control regulations which *require a property*
2 *owner to produce, as part of a development which meets certain characteristics, housing*
3 *units which are affordable to persons or families of low and moderate income or provide a*
4 voluntary incentive or benefit to a property owner in order to induce the property owner to produce
5 housing units which are affordable to persons or families of low and moderate income. Inclusionary
6 zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined
7 application process. *Inclusionary zoning ordinances shall include standards that do not*
8 *reduce the economic viability of developments in comparison to developments that do not*
9 *require housing affordability. Such ordinances shall also enable the planning board to*
10 *waive or modify in individual cases any standards that are demonstrated by an applicant*
11 *to render a development economically infeasible.*

12 5 Planning and Zoning; Administrative and Enforcement Procedures; Issuance of Decision.
13 Amend RSA 676:3, I to read as follows:

14 I. The local land use board shall issue a final written decision which either approves or
15 disapproves an application for a local permit and make a copy of the decision available to the
16 applicant. *The decision shall include specific written findings of fact that support the*
17 *decision. Failure of the board to make specific written findings of fact supporting a*
18 *disapproval shall be grounds for automatic reversal and remand by the superior court*
19 *upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15,*
20 *unless the court determines that there are other factors warranting the disapproval.* If the
21 application is not approved, the board shall provide the applicant with written reasons for the
22 disapproval. If the application is approved with conditions, the board shall include in the written
23 decision a detailed description of all conditions necessary to obtain final approval.

24 6 New Paragraph; Powers of Zoning Board of Adjustment. Amend RSA 674:33 by inserting after
25 paragraph VII the following new paragraph:

26 VIII. Upon receipt of any application for action pursuant to this section, the zoning board of
27 adjustment shall begin formal consideration and shall approve or disapprove such application within
28 90 days of the date of receipt, provided that the applicant may waive this requirement and consent to
29 such extension as may be mutually agreeable. If a zoning board of adjustment determines that it
30 lacks sufficient information to make a final decision on an application and the applicant does not
31 consent to an extension, the board may, in its discretion, deny the application without prejudice, in
32 which case the applicant may submit a new application for the same or substantially similar request
33 for relief.

34 7 Workforce Housing: Definition. Amend RSA 674:58, IV to read as follows:

35 IV. "Workforce housing" means housing which is intended for sale and which is affordable to
36 a household with an income of no more than 100 percent of the median income for a 4-person
37 household for the metropolitan area or county in which the housing is located as published annually

1 by the United States Department of Housing and Urban Development. "Workforce housing" also
2 means rental housing which is affordable to a household with an income of no more than 60 percent
3 of the median income for a 3-person household for the metropolitan area or county in which the
4 housing is located as published annually by the United States Department of Housing and Urban
5 Development. Housing developments that exclude minor children from more than 20 percent of the
6 units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, *or are*
7 *subject to age restrictions*, shall not constitute workforce housing for the purposes of this
8 subdivision.

9 8 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(c) to read as follows:

10 (c)(1) The board shall, at the next regular meeting or within 30 days following the
11 delivery of the application, for which notice can be given in accordance with the requirements of
12 subparagraph (b), determine if a submitted application is complete according to the board's
13 regulation and shall vote upon its acceptance. Upon determination by the board that a submitted
14 application is incomplete according to the board's regulations, the board shall notify the applicant of
15 the determination in accordance with RSA 676:3, which shall describe the information, procedure, or
16 other requirement necessary for the application to be complete. Upon determination by the board
17 that a submitted application is complete according to the board's regulations, the board shall begin
18 formal consideration and shall act to approve, conditionally approve as provided in subparagraph (i),
19 or disapprove within 65 days, subject to extension or waiver as provided in subparagraph (f). In the
20 case of a determination by the board that the application is a development of regional impact
21 requiring notice in accordance with RSA 36:57, III, the board shall have an additional 30 days to act
22 to approve, conditionally approve, as provided in subparagraph (i), or disapprove. [~~Upon failure of~~
23 ~~the board to approve, conditionally approve, or disapprove the application, the selectmen or city~~
24 ~~council shall, upon request of the applicant, immediately issue an order directing the board to act on~~
25 ~~the application within 30 days.] *If the board determines that it lacks sufficient information to*
26 *make a final decision on an application and the applicant does not consent to an extension*
27 *pursuant to subparagraph (f), the board may, in its discretion, deny the application*
28 *without prejudice, in which case the applicant may resubmit the same or a substantially*
29 *similar application.* If the planning board does not act on the application within that [30 day] 65-
30 day time period, then [~~within 40 days of the issuance of the order,~~] the selectmen or city council
31 shall certify on the applicant's application that the plat is approved pursuant to this paragraph[
32 ~~unless within those 40 days the selectmen or city council has identified in writing some specific~~
33 ~~subdivision regulation or zoning or other ordinance provision with which the application does not~~
34 ~~comply]. Such a certification, citing this paragraph, shall constitute final approval for all purposes
35 including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.~~~~

36 (2) Failure of the selectmen or city council to [~~issue an order to the planning board~~
37 ~~under subparagraph (1), or to] certify approval of the plat upon the planning board's failure to~~

1 ~~[comply with the order,]~~ **act within the required time period** shall constitute grounds for the
 2 superior court, upon petition of the applicant, to issue an order approving the application ~~[if the~~
 3 ~~court determines that the proposal complies with existing subdivision regulations and zoning or~~
 4 ~~other ordinances].~~ **The superior court shall act upon such a petition within 30 days.** If the
 5 court determines that the failure of the selectmen or the city council to act was not justified, the
 6 court may order the municipality to pay the applicant's reasonable costs, including attorney's fees,
 7 incurred in securing such order.

8 9 Planning Board; Board's Procedures on Plats. Amend RSA 676:4, I(f) to read as follows:

9 (f) ~~[The planning board may apply to the selectmen or city council for an extension not to~~
 10 ~~exceed an additional 90 days before acting to approve or disapprove an application.]~~ The applicant
 11 may waive the requirement for planning board action within the time periods specified in
 12 subparagraph (c) and consent to such extension as may be mutually agreeable.

13 10 Planning and Zoning; Rehearing and Appeal Procedures; Court Review. Amend RSA 677:15,
 14 IV-V to read as follows:

15 IV. ~~[The court shall give any hearing under this section priority on the court calendar.]~~
 16 **Whenever an appeal to the superior court is initiated under this section, the court shall**
 17 **give the appeal priority on its calendar. Within 10 days of the certified record being filed**
 18 **with the court, the court shall schedule a hearing to be held within 90 days unless extended**
 19 **by agreement of all parties or by motion. The appellant shall file an opening brief 60 days**
 20 **before the hearing. The appellee shall file a response brief 30 days before the hearing. The**
 21 **appellant may file a reply brief 15 days before the hearing. The court shall issue a decision**
 22 **within 60 days after the hearing, unless the court has received an extension from the chief**
 23 **justice of the superior court.**

24 V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up
 25 for review when there is an error of law or when the court is persuaded by the balance of
 26 probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed
 27 against the municipality unless it shall appear to the court that the planning board acted in bad
 28 faith or with malice in making the decision appealed from.

29 VI. **Whenever an appeal to the supreme court is initiated after superior court**
 30 **review, the supreme court shall give the appeal priority on its calendar and shall issue a**
 31 **final decision within 90 days of the date upon which oral argument has been conducted.**

32 11 Planning and Zoning; Rehearing and Appeal Procedures; Priority. RSA 677:5 is repealed and
 33 reenacted to read as follows:

34 677:5 Priority. Whenever an appeal to the superior court is initiated under RSA 677:4, the court
 35 shall give the appeal priority on its calendar. Within 10 days of the certified record being filed with
 36 the court, the court shall schedule a hearing to be held within 90 days unless extended by agreement
 37 of all parties or by motion. The appellant shall file an opening brief 60 days before the hearing. The

1 appellee shall file a response brief 30 days before the hearing. The appellant may file a reply brief
2 15 days before the hearing. The court shall issue a decision within 60 days after the hearing, unless
3 the court has received an extension from the chief justice of the superior court.

4 12 New Subdivision; Fee Shifting and Posting of Bond. Amend RSA 677 by inserting after
5 section 19 the following new subdivision:

6 Fee Shifting and Posting of Bond

7 677:20 Fee Shifting and Posting of Bond.

8 I. Whenever an appeal to the superior court is initiated under this chapter, the court may in
9 its discretion require the person or persons appealing to file a bond with sufficient surety for such a
10 sum as shall be fixed by the court to indemnify and save harmless the person or persons in whose
11 favor the decision was rendered from damages and costs which he or she may sustain in case the
12 decision being appealed is affirmed.

13 II. In any appeal initiated under this chapter the court may, subject to the provisions of this
14 paragraph or any other provision of law, award attorney's fees and costs to the prevailing party.
15 Costs and attorney's fees shall not be allowed against a local land use board unless it shall appear to
16 the court that the board, in making the decision from which the appeal arose, acted with gross
17 negligence, in bad faith, or with malice. Costs and attorney's fees shall not be allowed against the
18 party appealing from the decision of a local land use board unless it shall appear to the court that
19 said party acted in bad faith or with malice in appealing to court.

20 13 Municipal Economic Development and Revitalization Districts; Definition of Public Use.
21 Amend RSA 162-K:2, IX-a to read as follows:

22 IX-a. "Public use" means:

23 (a)(1) The possession, occupation, and enjoyment of real property by the general public
24 or governmental entities[;].

25 (2) The acquisition of any interest in real property necessary to the function of a
26 public or private utility or common carrier either through deed of sale or lease[;].

27 (3) The acquisition of real property to remove structures beyond repair, public
28 nuisances, structures unfit for human habitation or use, and abandoned property when such
29 structures or property constitute a menace to health and safety[;and].

30 (4) Private use that occupies an incidental area within a public use; provided, that
31 no real property shall be condemned solely for the purpose of facilitating such incidental private use.

32 (5) *The acquisition of real property to construct housing units which meet*
33 *the definition of workforce housing contained in RSA 674:58, IV, whether or not such*
34 *construction results from private development or private commercial enterprise. The*
35 *municipality shall not acquire property for this purpose through the powers of eminent*
36 *domain.*

1 (b) Except as provided in subparagraphs (a)(2), [~~and~~] (4), **and (5)** of this paragraph,
2 public use shall not include the public benefits resulting from private economic development and
3 private commercial enterprise, including increased tax revenues and increased employment
4 opportunities.

5 14 Municipal Economic Development and Revitalization Districts; District Establishment and
6 Development Programs; Authority to Acquire, Construct, and Promote Residential Development and
7 Housing Stock. Amend RSA 162-K:6, III(h) and (i) to read as follows:

8 (h) Lease all or portions of basements, ground and second floors of the public buildings
9 constructed in the district; [~~and~~]

10 (i) Negotiate the sale or lease of property for private development if the development is
11 consistent with the development program for the district[-] ; **and**

12 (j) **Acquire, construct, reconstruct, improve, alter, extend, operate, maintain or**
13 **promote residential developments aimed at increasing the available housing stock within**
14 **the municipality.**

15 15 Community Revitalization Tax Relief; Duration of Tax Relief Period. Amend RSA 79-E:5, II
16 to read as follows:

17 II. The governing body may, in its discretion, add up to an additional [2] **4** years of tax relief
18 for a project that results in new residential units and up to [4] **an additional 8** years for a project
19 that includes [~~affordable~~] housing **that meets the definition of workforce housing in RSA**
20 **674:58, IV, and up to additional 8 years for a project that includes residential units located**
21 **on the second story or higher of a building.**

22 16 New Subdivision; New Hampshire Housing Champion Certification. Amend RSA 12-O by
23 inserting after section 64 the following new subdivision:

24 New Hampshire Housing Champion Certification

25 12-O:65 New Hampshire Housing Champion Certification.

26 I. The office of planning and development shall develop a New Hampshire housing champion
27 certification program for all qualifying municipalities. The office of planning and development shall
28 adopt rules to establish qualifications and procedures for a municipality to earn the New Hampshire
29 housing champion certification. The procedure for a municipality to earn the New Hampshire
30 housing champion certification shall be based on a scoring system.

31 II. The New Hampshire housing champion certification program shall be voluntary. Each
32 municipality shall have the option, in its sole discretion, to apply to the office of planning and
33 development to receive the New Hampshire housing champion certification. In exchange for housing
34 champion certification, a municipality shall receive preferential access to state resources including,
35 but not limited to, discretionary state infrastructure funds, as available.

36 III. Qualifications to receive the New Hampshire housing champion certification shall
37 include, but are not limited to:

1 (a) Adoption of such land use regulations and ordinances which the office of planning
2 and development determines to be necessary to promote the development of workforce housing, as
3 that term is defined in RSA 674:58, and other types of housing necessary for the economic
4 development of the state. In this paragraph, "land use regulations and ordinances" shall include,
5 but are not limited to, innovative land use controls described in RSA 674:21.

6 (b) Adoption of financial tools that incentivize the development of workforce housing,
7 including adoption of the community revitalization tax relief incentive program under RSA 79-E and
8 establishment of municipal economic development and revitalization districts under RSA 162-K.

9 (c) Training of planning board and zoning board of adjustment members using training
10 materials and programs, including online materials and programs, provided by the office of planning
11 and development pursuant to RSA 673:3-a; or training materials and programs, including online
12 materials and programs, provided by the New Hampshire Municipal Association, that cover the
13 processes, procedures, regulations, and statutes related to the board on which the member serves; or
14 any other training materials and programs, including online materials and programs, approved by
15 the office of planning and development, that cover the processes, procedures, regulations, and
16 statutes related to the board on which the member serves.

17 (d) Adoption of energy efficiency residential building standards, pursuant to RSA 674:51,
18 or adoption of an energy efficiency and clean energy district, pursuant to RSA 53-F.

19 IV. A New Hampshire housing champion certification shall be valid for 3 years from the
20 date such certification is awarded. A municipality may renew its housing champion certification for
21 subsequent 3-year periods. The office of planning and development shall include in the criteria for
22 renewal performance metrics including, but not limited to, the qualifications listed in paragraph III,
23 total housing production, and production of workforce housing in a municipality during the period
24 since a municipality last received New Hampshire housing champion certification.

25 V. There is hereby established the New Hampshire housing champion certification program
26 advisory board. The advisory board shall review and approve proposed rules, and any amendments
27 thereto, used by the office of planning and development to administer the housing champion
28 certification program and shall advise the office regarding ongoing program administration. The
29 advisory board shall consist of:

30 (a) One member of the senate, appointed by the senate president.

31 (b) Two members of the house of representatives, at least one of whom shall be a
32 member of the municipal and county government committee, appointed by the speaker of the house
33 of representatives.

34 (c) The commissioner of the department of business and economic affairs, or designee.

35 (d) The executive director of the business finance authority, or designee.

36 (e) The executive director of the New Hampshire housing finance authority, or designee.

37 (f) The executive director of the community development finance authority, or designee.

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- 1 (g) The executive director of the state commission for human rights, or designee.
2 (h) One member appointed by each of the following entities:
3 (1) The New Hampshire Municipal Association.
4 (2) The New Hampshire Association of Regional Planning Commissions.
5 (3) Housing Action New Hampshire.
6 (4) Clean Energy New Hampshire.
7 (5) The Home Builders and Remodelers Association of New Hampshire.
8 (6) The New Hampshire Association of Realtors.
9 (7) The New Hampshire Planners Association.
10 (8) Plan New Hampshire.

11 VI. Members of the advisory board shall serve without compensation, except that legislative
12 members of the board shall receive mileage at the legislative rate when attending to the duties of the
13 board.

14 VII. The office of planning and development shall adopt rules pursuant to RSA 541-A to
15 implement the provisions of this section no later than July 1, 2023. During the rulemaking process,
16 the office of planning and development shall consult with relevant state agencies and entities that
17 administer the programs and funds identified under paragraph II to ensure the rules for the New
18 Hampshire housing champion certification program are not in conflict with the rules of these state
19 agencies and entities.

20 VIII. Each year the office of planning and development shall develop a report which
21 describes all actions taken related to the operation of the housing champion certification program
22 and assesses the overall impact of the housing champion certification program, including an
23 assessment of the additional housing units produced in the state as a result of the program's
24 operation and incentives. The report required by this paragraph shall be submitted to the governor,
25 the speaker of the house of representatives, and the president of the senate on or before November 1
26 of each year, beginning in 2022, and upon such submission, the report shall be posted online on the
27 website of the office of planning and development.

28 17 Effective Date.

29 I. Sections 8, 10, and 11 of this act shall take effect January 1, 2023.

30 II. The remainder of this act shall take effect 60 days after its passage.

such tax increment financing and project expenses. A municipality that adopts RSA 79-E and grants tax relief under the expanded duration periods will experience a redistribution of the overall tax burden but no drop in total revenue. The Department cannot project any impact on municipal expenditures associated with the changes to this provision.

The Judicial Branch states there are a number of existing laws, in addition to Constitutional requirements, that require expedited review or have deadlines by which a decision is required. Adding additional cases with compressed time frames may necessitate additional resources to fulfill these requirements. Changes implemented effective 60 days after passage rather than the traditional January 1st of the following year pursuant to RSA 14:9-a will affect the Branch's ability to make changes collectively from all legislation. This may result in duplicative efforts and expenditures for training of judges and staff, updating databases, modifying forms and changes to the e-filing system. The overall impact on expenditures is indeterminable.

It is assumed the fiscal impact would not occur until FY 2023.

AGENCIES CONTACTED:

Department of Business and Economic Affairs, Department of Revenue Administration, New Hampshire Municipal Association, and Judicial Branch

**SB 400-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

LOCAL:

Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill does the following:

- Amends the existing voluntary training provisions applicable to new planning or zoning board members by allowing all planning and zoning board members to receive training from the Department of Business and Economic Affairs, Office of Planning and Development (OPD) free of charge. OPD training may be designed in a variety of formats, including web-based, distance learning or traditional classroom style.
- Modifies the appeals process for zoning decisions and process for fees for posting of bonds.
- Makes numerous changes to enhance the availability of workforce and available housing, including:
 - o Authorizes municipalities to establish municipal economic development and revitalization districts under RSA 162-K, also known as TIF (Tax Increment Financing), to construct workforce housing or generally increase the available housing stock.
 - o Extends the maximum duration of the community revitalization tax relief incentive period under RSA 79-E for certain housing projects, based on type of project.

- o Establishes a voluntary housing champion certification program for qualifying municipalities to promote the development of workforce housing and other types of housing necessary for the economic development of the state. Certification is valid for 3 years and may be renewed for another 3 year period. The program is to be administered by the OPD. Municipalities would be eligible for preferential access to state resources such as discretionary state infrastructure funds.

The OPD indicates the requirements related to free training for planning and zoning board members could be interpreted broadly for the provision of course materials and reasonable access to training and tests statewide, resulting in an indeterminable fiscal impact on the agency's expenditures.

The OPD also states the proposed housing champion certification program for municipalities is to be administered by the office, but the uncertain nature of a voluntary program and its cyclical nature makes it difficult to reliably anticipate associated staffing needs. The additional responsibilities involved in adopting rules, establishing program qualifications, consulting with relevant state agencies and entities to avoid conflicts and providing an annual report and overall program impact and assessment of additional housing units produced is beyond the office's current scope of work, necessitating an indeterminable increase in state expenditures to fulfill these requirements.

The New Hampshire Municipal Association (NHMA) indicates municipalities may utilize the provisions of RSA 162-K and RSA 79-E and may experience a shift in property tax revenues, without necessarily increasing or decreasing such revenues. Results would vary on a town by town basis. A municipality that qualifies as a housing champion may receive additional revenues associated with state infrastructure funding awards, but such amounts are unknown. NHMA also states other provisions of the bill may negatively impact municipal expenditures, but due to the unknown number or extent of such occurrences, such impact is indeterminable. These provisions relate to the posting of a bond if a municipality appeals a land use board decision if ordered by a court, and the awarding of attorney fees if a land use board decision is reversed on appeal and such board acted with gross negligence, in bad faith or with malice. Municipal revenue may increase if a land use board decision is upheld on appeal and the appealing party acted in bad faith or with malice and attorney fees are awarded. Due to the unknown frequency of such an event the fiscal impact on municipal revenue is indeterminable. The other provisions of the bill are unlikely to affect municipal revenue or expenditures.

The Department of Revenue Administration indicates that a municipality that adopts RSA 162-K may experience an indeterminable revenue and expenditure impact based on the details of