## LEGISLATIVE COMMITTEE MINUTES

## HB1339

# Bill as Introduced

## HB 1339 - AS INTRODUCED

### 2022 SESSION

### 22-2557 08/10

HOUSE BILL	1339
AN ACT	relative to the Winnipesaukee River basin control replacement fund.
SPONSORS:	Rep. Johnson, Belk. 3; Rep. Silber, Belk. 2; Sen. Bradley, Dist 3
COMMITTEE:	Resources, Recreation and Development QTP 21-0 CONSENT HOUSE WAYS/MEANS: OTP 16-0 CONSENT

## ANALYSIS

This bill changes how the Winnipesaukee River basin control replacement fund is capitalized.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

#### HB 1339 - AS INTRODUCED

### STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT

3

relative to the Winnipesaukee River basin control replacement fund.

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

1 1 Winnipesaukee River Basin Control Replacement Fund. Amend RSA 485-A:51 to read as 2 follows:

485-A:51 Replacement Fund Established.

I. There is established a nonlapsing, revolving fund to provide capital for repair and replacement of major components of the water pollution control facilities administered under this subdivision which cannot be absorbed as regular budgetary items. The replacement fund is to be capitalized by contributions from the members served by the facilities based on each member's projected usage of the facilities.

9 II. The fund shall be capitalized at an amount equal to 5 percent of the value of the 10 equipment and other depreciable assets of the treatment facilities. The value of the equipment and 11 other depreciable assets shall be computed every 5 years, beginning in 1990, and shall be based on 12 current replacement costs.

III. Each member's share of the total fund *capital* shall be contributed over a period of 10 years after the initial establishment of the fund and shall be paid as a yearly surcharge to the member's operating charges. Thereafter, each member's surcharge shall be prorated as membership and design changes require.

17 IV. Once a member has fully funded its share of the replacement fund *capital*, the member 18 shall make no further contributions until the fund is utilized for repair or replacement of a facility 19 used by that member or the asset valuation increases such that the fund capitalization 20 increases as established in paragraphs II and III. Expenses for which the fund is used shall  $\mathbf{21}$ be proportionally charged against-each member's contributions to the fund for the facilities utilizing the fund, which will subsequently be reimbursed by the member in successive years in addition to  $\mathbf{22}$  $\mathbf{23}$ the member's yearly contribution to the fund, until the member's share of the fund is fully restored.]  $\mathbf{24}$ Following any expenditure from the fund, 50 percent of the expenditure shall be 25 replenished by contributions from those members that utilize the facilities receiving 26funding based on each member's proportional usages of said facilities, and 50 percent of  $\mathbf{27}$ the expenditure shall be shared among all members using their respective percentage 28 assessment for replacement fund contributions pursuant to paragraph III. The 29 expenditures shall be reimbursed by the members over a 10-year period in addition to the 30 members yearly contribution to the fund until the member's share of the fund is fully 31 restored.

#### HB 1339 - AS INTRODUCED - Page 2 -

1 V. If a repair or replacement cost exceeds the value of the fund established for that  $\mathbf{2}$ particular facility, the repair cost shall be paid out of the portion of the fund established for other facilities Furt reimbursement to the fund shall always be assessed back-to members based on their 3 projected usage of the facilities needing repair however, reimbursement to the fund shall 4 always be assessed back to members in accordance with the apportionment set forth in 5 6 paragraph IV.

7 VI. As new facilities, if any, are added to the system, additional assessments shall be made 8 to the members benefiting from these facilities, prorated on the basis of projected use.

9 VII. If a new member joins the system, the assessments shall be modified to reflect the new 10 member's proportional benefit from the facilities, and excess prior payments made by other 11 members, if any, shall be credited to their accounts.

VIII. All contracts paid for using the fund shall be submitted to the governor and council for 1213 approval.

IX. This nonlapsing, revolving special purpose fund is continually appropriated to be used by 14 the department in accordance with this subdivision. All moneys shall be deposited with the state 15 16 treasurer who shall keep this money in a separate fund, notwithstanding RSA 6:12. The state treasurer shall invest the moneys deposited with him as provided by law. Interest received on 17investments made by the state treasurer shall also be credited to the fund. All such interest shall be 18 19 added to each member's share of the fund based on each member's contribution to it.

20 2 Effective Date. This act shall take effect 60 days after its passage.

## HB 1339 - AS AMENDED BY THE SENATE

04/21/2022 1474s

## 2022 SESSION

22-2557 08/10

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13 III. Each member's share of the total fund *capital* shall be contributed over a period of 10 14 years after the initial establishment of the fund and shall be paid as a yearly surcharge to the 15 member's operating charges. Thereafter, each member's surcharge shall be prorated as membership 16 and design changes require.

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### HB 1339 - AS AMENDED BY THE SENATE - Page 2 -

V. If a repair or replacement cost exceeds the value of the fund established for that 1 2 particular facility, the repair cost shall be paid out of the portion of the fund established for other 3 facilities, [but reimbursement to the fund shall always be assessed back to members based on their projected usage of the facilities needing repair however, reimbursement to the fund shall 4 always be assessed back to members in accordance with the apportionment set forth in 5 paragraph IV. 6

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VI. As new facilities, if any, are added to the system, additional assessments shall be made 8 to the members benefiting from these facilities, prorated on the basis of projected use.

9 VII. If a new member joins the system, the assessments shall be modified to reflect the new member's proportional benefit from the facilities, and excess prior payments made by other 10 11 members, if any, shall be credited to their accounts.

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14 IX. This nonlapsing, revolving special purpose fund is continually appropriated to be used by 15the department in accordance with this subdivision. All moneys shall be deposited with the state treasurer who shall keep this money in a separate fund, notwithstanding RSA 6:12. The state 16 17 treasurer shall invest the moneys deposited with him as provided by law. Interest received on 18 investments made by the state treasurer shall also be credited to the fund. All such interest shall be 19 added to each member's share of the fund based on each member's contribution to it.

20 2 Effective Date. This act shall take effect 60 days after its passage.

## CHAPTER 193 HB 1339 - FINAL VERSION

04/21/2022 1474s

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22-2557 08/10

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SPONSORS:	Rep. Johnson, Belk. 3; Rep. Silber, Belk. 2; Sen. Bradley, Dist 3
COMMITTEE:	Resources, Recreation and Development

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22-2557 08/10

### STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

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

1 193:1 Winnipesaukee River Basin Control Replacement Fund. Amend RSA 485-A:51 to read as 2 follows:

3 485-A:51 Replacement Fund Established.

I. There is established a nonlapsing, revolving fund to provide capital for repair and replacement of major components of the water pollution control facilities administered under this subdivision which cannot be absorbed as regular budgetary items. The replacement fund is to be capitalized by contributions from the members served by the facilities based on each member's projected usage of the facilities.

9 II. The fund shall *be capitalized at an amount* equal *to* 5 percent *of the value* of the equipment 10 and other depreciable assets of the treatment facilities. The value of the equipment and other depreciable 11 assets shall be computed every 5 years, beginning in 1990, and shall be based on current replacement 12 costs.

13 III. Each member's share of the total fund *capital* shall be contributed over a period of 10 years 14 after the initial establishment of the fund and shall be paid as a yearly surcharge to the member's 15 operating charges. Thereafter, each member's surcharge shall be prorated as membership and design 16 changes require.

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V. If a repair or replacement cost exceeds the value of the fund established for that particular
 facility, the repair cost shall be paid out of the portion of the fund established for other facilities, [but
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## CHAPTER 193 HB 1339 - FINAL VERSION - Page 2 -

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 members in accordance with the apportionment set forth in paragraph IV.

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members benefiting from these facilities, prorated on the basis of projected use.

5 VII. If a new member joins the system, the assessments shall be modified to reflect the new 6 member's *proportional* benefit from the facilities, and excess prior payments made by other members, if 7 any, shall be credited to their accounts.

8 VIII. All contracts paid for using the fund shall be submitted to the governor and council for9 approval.

10 IX. This nonlapsing, revolving special purpose fund is continually appropriated to be used by the 11 department in accordance with this subdivision. All moneys shall be deposited with the state treasurer 12 who shall keep this money in a separate fund, notwithstanding RSA 6:12. The state treasurer shall invest 13 the moneys deposited with him as provided by law. Interest received on investments made by the state 14 treasurer shall also be credited to the fund. All such interest shall be added to each member's share of 15 the fund based on each member's contribution to it.

193:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 17, 2022 Effective Date: August 16, 2022

## Amendments

Senate Finance April 12, 2022 2022-1474s 08/05

## Amendment to HB 1339

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1 Amend RSA 485-A:51, V as inserted by section 1 of the bill by replacing it with the following:

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V. If a repair or replacement cost exceeds the value of the fund established for that particular facility, the repair cost shall be paid out of the portion of the fund established for other facilities, [but reimbursement to the fund shall always be assessed back to members based on their projected usage of the facilities needing repair] however, reimbursement to the fund shall always be assessed back to members in accordance with the apportionment set forth in paragraph IV.

# Committee Minutes

ATTENTANCE

## SENATE CALENDAR NOTICE Finance

START: 2:00 Pm Stop: 2:1% (M

Sen Gary Daniels, Chair Sen John Reagan, Vice Chair Sen Bob Giuda, Member Sen Erin Hennessey, Member Sen Chuck Morse, Member Sen Lou D'Allesandro, Member Sen Cindy Rosenwald, Member

Date: April 7, 2022

## HEARING

Tuesday		04/12/20	)22
	(Day)	(Date)	)
Finance		State House 103	2:00 p.m.
(Name of (	Committee)	(Place)	(Time)
<b>12:00</b> :pim.	HB4339	relative-to-the-Winnipesaukee-River-basin-con	trol-replacement-fur
Sponsors: HB 1339 Rep. Johnson	Rep. Silber	Sen. Bradley	
	EXI	CUTIVE SESSION MAY FOLLOW	

Deb Martone 271-4980

<u>Gary L. Daniels</u> Chairman

## Senate Finance Committee

Deb Martone 271-4980

HB 1339, relative to the Winnipesaukee River basin control replacement fund.

Hearing Date: April 12, 2022

Time Opened:2:01 p.m.Time Closed:2:17 p.m.

Members of the Committee Present: Senators Reagan, Giuda, Hennessey, Morse, D'Allesandro and Rosenwald

Members of the Committee Absent: Senator Daniels

**Bill Analysis:** This bill changes how the Winnipesaukee River basin control replacement fund is capitalized.

Sponsors:		
Rep. Johnson	Rep. Silber	Sen. Bradley

Who supports the bill: Senator Jeb Bradley; Wesley B. Anderson

Who opposes the bill: Walter Kirsch

## Summary of testimony presented in support:

Representative Dawn Johnson:

• Representative Johnson introduced the bill, which has no affect on state funds.

Wesley B. Anderson, Chair, Winnipesaukee River Basin Advisory Board:

- The Board consists of ten municipalities and organizations that send sewerage to the treatment plant in Franklin, which is operated by the Department of Environmental Services.
- The Board's main functions are to review the capital improvement program, review the contracts to plan, design and construct capital improvements that require approval by the Governor and Council, and review the program's budget.
- The ten members pay all costs associated with operation and maintenance of the system.
- The only state funds the program receives are grants and loans that any sewage treatment plant can receive.
- There have been no major changes to the system's cost distribution plan since the 1980s, when the system came online. Changes in the funding model have been worked on for years so that it more closely represents the usage of the system by the members and organizations. This is necessary as actual municipal growth rates do not align with predictions of the 1980s, water

consumption changes due to more efficient fixtures, and maintenance of the municipalities' own systems impact how much inflow and infiltration comes to it.

- The member communities are built to support the cost of the four functions.
- The methods for updating the distribution costs of three of the four functions can be updated without any changes to existing laws. The fourth, the replacement fund, can only be updated by the Legislature. The replacement fund account, in the Department of Environmental Services, is used to fund the cost of repairs of unanticipated failures that cost more than can be funded by the operations and maintenance account, yet not costly enough to be bonded.
- Presently, the cost for repairs funded through the replacement fund are distributed to member communities based on their use of the portion of the system that failed. The impacted municipalities are required to pay back the fund the cost of those repairs over ten years. The proposed change approved by the member communities will have the impacted communities paying 50 percent of the cost of the repairs. Fifty percent of the cost will be distributed to all ten members based on their respective usage of the total infrastructure.
- All of the aspects of the existing law are unchanged, except for some clarifying language regarding the proportional assessment of the fund that was identified by the Attorney General's Office during their review of the draft legislation.
- Senator Reagan inquired if all the members are in agreement with the proposed legislation. Chairman Anderson stated 8 of the 10 member communities are in favor, and the majority rules. He indicated one of the opposing municipalities is the closest to the Franklin treatment plant; they have very little of the system upstream that they deal with. Senator Reagan asked how it was apportioned, i.e., gallons. Chairman Anderson explained regarding the replacement fund, it is how much flow goes through that piece of pipe.
- Senator D'Allesandro shared he was in the Legislature when the original grant was received. He wondered how much major work has been done on the system since it was completed. Chairman Anderson stated quite a bit of work has been done. They are maintaining the system so that it meets current standards, as well as keeping up with maintenance and repair. They are looking at updating, for the second time, the computers that operate the system, some repairs to the solid handling system, and they have some loans, the Clean Water Revolving Trust and some ARPA funding, for energy efficiency improvements.
- Senator D'Allesandro asked about the assessments made on the communities. Chairman Anderson explained over the last three years they have been attempting to take the flow analysis and change what is paid based on how much flow is sent to the system. That was approved in late summer 2021 by the member communities. The first change is effective July 1, 2022.
- Senator D'Allesandro inquired as to what percentage of the homes and businesses are connected to the system. Chairman Anderson explained that percentage varies from community to community. He added 50 percent of the City of Laconia is connected to the system.
- Senator D'Allesandro asked if they maintained any kind of "sinking fund". Chairman Anderson indicated the replacement fund is sort of a sinking fund. If

they have a major project it is bonded through the state system to pay for the cost of repairs over time.

- Senator Rosenwald wondered if the replacement fund could ever go into deficit. Chairman Anderson responded theoretically it could. Senator Rosenwald also pointed out a questionable mistake in the bill's language on Page 2, Lines 3-4 with language included in brackets. Mike Hoffman of the Office of the Legislative Budget Assistant agreed to check with the Office of Legislative Services regarding the language in question.
- Senator Giuda inquired as to the two communities that did not agree to the changes. Chairman Anderson stated it was Tilton and Franklin. Franklin is the last system before the treatment plant. Senator Giuda asked what was Franklin's objection. Chairman Anderson indicated they don't use the rest of the system. They shouldn't have to pay for the upstream communities to use it.
- Senator Giuda asked Chairman Anderson to explain the existing law and the changes HB 1339 would make. Per Chairman Anderson, under the current law 100 percent of the cost would be split between Gilford and Laconia, for example. Ninety percent of the cost would go to Gilford; the remaining 10 percent would go to Laconia. Ninety percent of the flow comes from Gilford. Under HB 1339, 50 percent would be divided between Gilford and Laconia. Gilford will pay 90 percent of the 50 percent; Laconia will pay 10 percent of the 50 percent. The remaining 50 percent will be divided among the communities based on the total value they have of the infrastructure. Senator Giuda indicated that would mean, in a sense, assessing a community downstream for repairs for facilities Chairman Anderson agreed. Senator Giuda asked if a they never use. component failed at the bottom end of the system before the treatment plant, would Gilford for example, at the upstream end, share in the cost of repairs under the current system. Chairman Anderson explained the plant itself is more complicated, as each community bought a share of the plant. When they attempt to determine the distribution of cost, they take into effect how much of the plant each community purchased. Gilford would share in the cost under the current system, but the cost would depend on the total flow at that point of each community. Senator Giuda then asked what would be paid under the new system. Chairman Anderson indicated it would be a percentage based on the total flow of each community, and then 50 percent also gets distributed among everybody, whether or not they use that component. It all depends on where the break happens as to how the cost is distributed.

Speakers

	SENATE FINANCE COMMITTEE					
<u>Date:</u>	04/12/	2022	<u>Time:</u>	2:00 p.m.	Public Hearing on L	1 <u>B=1339</u> D
	Relativ	e to th	e Winni	pesaukee Riv	er basin control repla	cement fund.
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X	× ×			Wesley	BAUderson	DRBP Board
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## Senate Remote Testify

Finance Committee Testify List for Bill HB1339 on 2022-04-12

Support: 1 Oppose: 1

<u>Name</u>	<u>Title</u>	Representing		<b>Position</b>
Bradley, Jeb	An Elected Official	SD3		Support
kirsch, walter	A Member of the Public	Myself		Oppose

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# Voting Sheets

Senate Finance Committee EXECUTIVE SESSION					
Hearing date: Executive session date: Motion of: Motion of:	2/22 04/12/27 Amdat: - (g. 2.	Bill # HB 1339 3044-eliminate VOTE:			
Made by Daniels   Senator: Reagan   Giuda    Giuda    Norse    D'Allesandro    Morse    Hennessey    Motion of:    Made by Daniels   Senator: Reagan   Giuda    Rosenwald    D'Allesandro    Made by Daniels   Senator: Reagan   Giuda    D'Allesandro    Morse    Hennessey	SecondedDanielsby Senator:ReaganGiuda□Giuda□Bosenwald□D'Allesandro□Morse□Hennessey□JDaniels□SecondedDaniels□by Senator:Reagan□Giuda□Cosenwald□D'Allesandro□Morse□Hennessey□	ReportedDanielsby Senator:ReaganGiuda			
<u>Committee Member</u> Senator Daniels , Chairman Senator Reagan, Vice-Chair Senator Giuda Senator Hennessey Senator Rosenwald Senator Morse Senator D'Allesandro Amendments:	Present Yes	No Reported out by			

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# Committee Report

## STATE OF NEW HAMPSHIRE

## SENATE

## REPORT OF THE COMMITTEE

Wednesday, April 13, 2022

## THE COMMITTEE ON Finance

to which was referred HB 1339

AN ACT

relative to the Winnipesaukee River basin control replacement fund.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-1

AMENDMENT # 1474s

Senator Lou D'Allesandro For the Committee

Deb Martone 271-4980

## General Court of New Hampshire - Bill Status System

## **Docket of HB1339**

**Docket Abbreviations** 

Bill Title: relative to the Winnipesaukee River basin control replacement fund.

### Official Docket of HB1339.:

Date	Body	Description
11/20/2021	н	Introduced 01/05/2022 and referred to Resources, Recreation and Development
1/12/2022	Н	Public Hearing: 01/12/2022 9:00 a.m. LOB305-307
2/2/2022	н	Executive Session: 02/02/2022 10:00 a.m. LOB305-307
2/8/2022	Н	Committee Report: Ought to Pass (Vote 21-0; CC)
2/16/2022	Н	Ought to Pass: MA VV 02/16/2022 HJ 3
2/17/2022	Н	Referred to Ways and Means 02/16/2022 HJ 3
3/14/2022	Н	Full Committee Work Session: 03/18/2022 10:00 am LOB 202-204
3/18/2022	Н	Full Committee Work Session: 03/21/2022 10:00 am LOB 202-204
3/18/2022	Н	Full Committee Work Session: 03/23/2022 10:00 am LOB 202-204
3/21/2022	Н	Committee Report: Ought to Pass (Vote 16-0; CC)
3/31/2022	н	Ought to Pass: MA VV 03/31/2022 HJ 9
4/5/2022	S	Introduced 03/31/2022 and Referred to Finance; SJ 8
4/7/2022	S	Hearing: 04/12/2022, Room 103, SH, 02:00 pm; SC 15
4/13/2022	S	Committee Report: Ought to Pass with Amendment <b>#2022-1474s</b> , 04/21/2022; <b>SC 16</b>
4/21/2022	S	Committee Amendment <b>#2022-1474s</b> , AA, VV; 04/21/2022; <b>SJ 9</b>
4/21/2022	S	Ought to Pass with Amendment 2022-1474s, MA, VV; OT3rdg; 04/21/2022; SJ 9
5/13/2022	Н	House Concurs with Senate Amendment (Rep. Harb): MA VV 05/12/2022 HJ 13
6/6/2022	S	Enrolled Adopted, VV, (In recess 05/26/2022); SJ 13
6/7/2022	н	Enrolled (in recess of) 05/26/2022 HJ 14
6/22/2022	Н	Signed by Governor Sununu 06/17/2022; Chapter 193; 08/16/2022 <b>HJ</b> <b>14</b>

NH House

NH Senate

## Other Referrals

## Senate Inventory Checklist for Archives

Bill Number: <u>HB</u> 1339

in ance Senate Committee:

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

X Final docket found on Bill Status

## **Bill Hearing Documents: {Legislative Aides}**

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

## **Committee Action Documents: {Legislative Aides}**

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

X - amendment # 14745 \_\_\_\_\_ - amendment # \_\_\_\_\_

\_\_\_\_ - amendment # \_\_\_\_\_\_ - amendment # \_\_\_\_\_

**Executive Session Sheet** 

**Committee Report** 

## Floor Action Documents: {Clerk's Office}

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

\_\_\_\_\_ - amendment # \_\_\_\_\_\_ - amendment # \_\_\_\_\_\_

\_\_\_\_\_ - amendment # \_\_\_\_\_\_ \_\_\_\_ - amendment # \_\_\_\_\_

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

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

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

X as amended by the senate

as amended by the house

M final version

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

**Committee** Aide

Senate Clerk's Office