

March 29, 2007
No. 14A

STATE OF NEW HAMPSHIRE

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Legislative

SENATE CALENDAR ADDENDUM

REPORTS, AMENDMENTS, HEARINGS

REPORTS

ENERGY, ENVIRONMENT AND ECONOMIC DEVELOPMENT

SB 71, relative to setback requirements for new landfills located near designated rivers.

Ought to pass with amendment, Vote 4-0

Senator Hassan for the committee.

SB 123, relative to pole attachments.

Ought to pass with amendment, Vote 4-0

Senator Fuller Clark for the committee.

SB 143, relative to the criteria for the establishment of ATV and trail bike trails by the department of resources and economic development.

Ought to pass with amendment, Vote 5-0

Senator Odell for the committee.

SB 157, establishing a commission to study the barriers to the establishment of all-terrain vehicle trails on public and private lands.

Ought to pass with amendment, Vote 5-0

Senator Cilley for the committee.

SB 158, relative to review of activities affecting surface waters.

Re-refer to committee, Vote 5-0

Senator Cilley for the committee.

SB 162, establishing a commission to oversee and negotiate issues relative to the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO).

Ought to pass with amendment, Vote 5-0

Senator Cilley for the committee.

SB 166-FN, relative to renewal of port moorings.

Ought to pass with amendment, Vote 5-0

Senator Fuller Clark for the committee.

SB 196, establishing the position of director of climate change in the office of energy and planning.

Re-refer to committee, Vote 5-0

Senator Barnes for the committee.

SB 207, extending the committee to study the funding necessary to operate the hazardous materials program in New Hampshire.

Ought to Pass, Vote 5-0

Senator Fuller Clark for the committee.

SB 237, relative to rapid response teams and notification of layoffs and establishing a council on employment issues affecting veterans.

Ought to pass with amendment, Vote 4-1

Senator Fuller Clark for the committee.

SB 241, relative to availability of cable television in manufactured housing parks.

Ought to pass with amendment, Vote 3-2

Senator Odell for the committee.

SCR 3, urging preservation of traditional powers of state and local governments under international trade agreements.

Inexpedient to Legislate, Vote 4-1

Senator Barnes for the committee.

AMENDMENTS

Sen. Hassan, Dist. 23
February 20, 2007
2007-0261s
08/01

Amendment to SB 71

Amend the bill by replacing all after the enacting clause with the following:

1 Natural Rivers Protection. Amend RSA 483:9, VI(a) and (b) to read as follows:

(a) New solid waste landfills shall not be permitted within the corridor of a designated natural river or segment, ***or less than 100 feet from the landward extent of the 500 year flood plain, whichever distance is greater, and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact;***

(b) ***Expansion of*** existing, ~~[permitted and secure]~~ solid waste landfills shall not ~~[be expanded]~~ ***occur*** within the 500 year floodplain of a designated natural river or segment and any expansion of such a landfill located within the corridor of a designated natural river or segment shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and screened from the river with a vegetative or other natural barrier to minimize visual impact. ***The provisions of this subparagraph shall not apply to landfill expansions associated with landfill closures or other landfill remedial projects at solid waste facilities in operation on January 1, 2007;***

2 Rural River Protection; Landfill Setback. Amend RSA 483:9-a, VII to read as follows:

VII. Any new solid waste storage or treatment facility, as defined in RSA 149-M:4, IX shall be set back a minimum of 250 feet from the normal high water mark of a designated rural river or segment and ***shall be*** screened with a vegetative or other natural barrier to minimize visual impact, except:

(a) New solid waste landfills shall not be permitted within ~~[the 500 year floodplain of a designated rural river or segment and any new solid waste landfill located within]~~ the corridor of a designated rural river or segment ~~[shall be set back a minimum of]~~ ***or less than*** 100 feet from the landward extent of the 500 year floodplain ***whichever distance is greater*** and ***shall be*** screened from the river with a vegetative or other natural barrier to minimize visual impact. ***The provisions of this paragraph shall not apply to landfill expansions associated with landfill closures or other landfill remedial projects at solid waste facilities in operation on January 1, 2007;***

(b) ***New solid waste landfills may be permitted within the city of Rochester within the corridor off the segment defined in RSA 483:15, XIV(c), and if located in the river corridor shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact;***

(c) ***Expansion of existing solid waste landfills shall not occur within the 500 year flood plain of a designated rural river or segment, and any expansion of such a landfill shall be set back a minimum of 100 feet from the landward extent of the 500 year floodplain and shall be screened from the river with a vegetative or other natural barrier to minimize visual impact. The provisions of this subparagraph shall not apply to landfill expansions associated with landfill closures or other landfill remedial projects at solid facilities in operation on January 1, 2007;***

~~[(b)]~~(d) Any land application within the river corridor of septage, sludge, or solid waste, as defined in RSA 149-M:4, XXII, shall be set back a minimum of 250 feet from the normal high water mark and shall be immediately incorporated into the soil. The provisions of this subparagraph shall not apply to manure, lime, or wood ash when used for agricultural purposes;

~~[(c)]~~(e) An existing solid waste facility which is located within 250 feet of the normal high water mark of a designated rural river or segment may continue to operate under an existing permit provided it does not cause degradation to an area in excess of that area under permit at the time of designation; and

~~[(d)]~~(f) The department may permit a resource recovery operation at an existing landfill located within 250 feet of the normal high water mark of a designated rural river or segment.

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

Sen. Fuller Clark, Dist. 24
March 29, 2007
2007-1062s
06/03

Amendment to SB 123

Amend RSA 374:34-a, III-IV as inserted by section 1 of the bill by replacing it with the following:

III. "Pole attachment" means any attachment to surplus space, or use of excess capacity, by a cable television and telecommunications carrier for a wire communication system on or in any support structure located on or in any right-of-way or easement owned, controlled, or used by a public utility.

IV. "Rearrangements" means work performed, at the request of a cable television corporation, to, on, or in an existing support structure to create such surplus space or excess capacity as is necessary to make it usable for a pole attachment. When an existing support structure does not contain adequate surplus space or excess capacity and cannot be so rearranged as to create the required surplus space or excess capacity for a pole attachment, "rearrangements" shall include replacement, at the request of a cable television and telecommunications carrier, of the support structure in order to provide adequate surplus space or excess capacity.

Amend RSA 374:34-a, VI as inserted by section 1 of the bill by replacing it with the following:

VI. "Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and rules of the public utilities commission, to allow its use by a cable television and telecommunications carrier for a pole attachment.

Amend RSA 374:34-b as inserted by section 1 of the bill by replacing it with the following:

374:34-b Terms, Conditions, and Costs. Whenever a public utility and a cable television and telecommunications carrier or an association of cable television and telecommunications carriers are unable to agree upon the terms, conditions, or annual compensation for pole attachments or the terms, conditions, or costs of rearrangements, the commission shall determine just and reasonable rates, charges, terms, and conditions for pole attachments. The commission shall consider the effect of pole attachment rates, terms, and conditions upon the interests of subscribers of cable television services and the consumers of utility services.

Sen. Odell, Dist. 8
Sen. Gallus, Dist. 1
March 29, 2007
2007-1063s
10/04

Amendment to SB 143

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

AN ACT naming Jericho Mountain state park and establishing ATV and trail bike trails in such park.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; ATV and Trail Bike Evaluation Process; Authority for Waiver. Amend RSA 215-A:43 by inserting after paragraph V the following new paragraph:

VI. The supervisor of the bureau of trails, subject to approval of the commissioner of resources and economic development and upon consultation with the commissioner of environmental services, the executive director of fish and game, and the commissioner of transportation, shall have the authority to waive one or more of the provisions of paragraphs I and II for the purpose of establishing trails in Jericho Mountain state park and any trail connectors or crossings which directly connect to Jericho Mountain state park.

2 State Park Named; Jericho Mountain State Park. The property acquired in the city of Berlin by the department of resources and economic development, division of parks and recreation, bureau of trails, and any abutting land donated or acquired in the future, shall be hereby called Jericho Mountain State Park.

3 Effective Date. This act shall take effect July 1, 2007.

2007-1063s

AMENDED ANALYSIS

This bill allows the bureau of trails, department of resources and economic development to waive certain criteria in the evaluation process for establishment of ATV and trail bike trails relative to Jericho Mountain state park.

This bill also names the Jericho Mountain state park in Berlin.

Sen. Cilley, Dist. 6

March 30, 2007

2007-1077s

01/09

Amendment to SB 157

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

AN ACT establishing a committee to study the criteria necessary for the creation of a master plan for the development of future all-terrain vehicle parks.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study the creation of a master plan for the development of future all-terrain vehicle parks.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Two members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the criteria necessary for the creation of a master plan for the development of future all-terrain vehicle parks and the specific factors to be considered in creating such a master plan. The committee may solicit testimony from any organization or individual with information or expertise relevant to the committee's objective.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Three members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2007.

6 Effective Date. This act shall take effect upon its passage.

2007-1077s

AMENDED ANALYSIS

This bill establishes a committee to study the criteria necessary for the creation of a master plan for the development of future all-terrain vehicle parks

Sen. Cilley, Dist. 6

March 30, 2007

2007-1073s

06/04

Amendment to SB 162

Amend RSA 19-L:1, II(e)-(f) as inserted by section 1 of the bill by replacing it with the following:

(e) The New Hampshire state point of contact for the United States Trade Representative.

(f) Three public members as follows: one health care professional, one representative of a New Hampshire based manufacturing business with 25 or more employees, and one representative of an economic development organization, appointed by the governor.

Amend RSA 19-L:1, II as inserted by section 1 of the bill by inserting after subparagraph (g) the following new subparagraph:

(h) One member of the advisory committee on international trade.

Amend RSA 19-L:2, I as inserted by section 1 of the bill by replacing it with the following:

I. The commission shall:

(a) Meet at least twice annually.

(b) Hear public testimony and recommendations from the people of the state and qualified experts, when appropriate, at no fewer than 2 locations throughout the state each year on the actual and potential social, environmental, economic, and legal impacts of international trade agreements and negotiations on the state.

(c) Conduct a bi-annual assessment of the impact of international trade agreements on New Hampshire state laws, municipal laws, working conditions, and business environment, and identify new and emerging concerns that merit further attention.

Amend RSA 19-L:4 as inserted by section 1 of the bill by replacing it with the following:

19-L:4 Annual Report. The commission shall issue an annual report, describing the activities of the commission and the issues raised at public hearings, beginning on November 1, 2008 to the governor, the speaker of the house of representatives, the president of the senate, the New Hampshire congressional delegation, the Speaker of the United States House of Representatives, the President of the United States Senate, the United States trade representative, and the state library.

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section 2 of this act shall take effect on January 1, 2015.

II. The remainder of this act shall take effect upon its passage.

2007-1073s

AMENDED ANALYSIS

This bill establishes a citizens trade policy commission to evaluate the impact of existing and proposed international trade agreements on the ability of the state of New Hampshire and its municipalities to pass laws and ordinances regarding public health and safety, environmental protection, labor standards, state and local procurement, and the provision of public services.

Sen. Fuller Clark, Dist. 24

March 30, 2007

2007-1070s

03/05

Amendment to SB 166-FN

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

AN ACT relative to port moorings.

Amend the bill by replacing section 1 with the following:

1 Pease Development Authority; Division of Ports and Harbors; Authority Relative to Mooring Permits.

Amend RSA 12-G:42, VI-XI to read as follows:

VI. Administer and enforce permit programs for the placement and use of moorings and state-owned slips in state tidal waters, including waiting lists for such permits. ***In addition to any annual or other permits, approvals, or authorizations issued by the division pursuant to any permit program***

authorized under this paragraph to the owner of a mooring, the division shall adopt rules pursuant to paragraph X to provide for temporary use of moorings and mooring locations in state tidal waters to maximize the usage of mooring locations to the extent practicable. No temporary use of a mooring shall be authorized pursuant to this section without the consent of the owner of the mooring, except that the division director, the chief harbor master or the chief harbor master's deputy, or any harbor master or assistant harbor master, may direct, order, or allow any vessel to secure temporarily to any mooring located in state tidal waters to facilitate navigation or the mooring of vessels or when failure to secure such vessel to such mooring would present an imminent and substantial hazard to navigation, to the vessel or any other vessel located in state tidal waters, or to the safety of any passenger on any vessel located in state tidal waters. Notwithstanding any other provision of law, the owner of a mooring that is used temporarily by another person under the authority of this chapter shall remain liable for any loss or damage incurred by a third party as a result of the temporary use of a mooring, except when such loss or damage is caused by the intentional act or omission of the temporary user of the mooring.

VII. Set and collect fees for mooring and state-owned slip permits and waiting lists for such permits, ***including fees for permits for temporary use of moorings***. The authority shall establish fees for state-owned slips in ports, harbors, and state tidal waters. Fees shall not be charged for state-owned slips in ports, harbors, or state tidal waters securing vessels discharging cargo that is subject to the federal Harbor Maintenance Tax imposed pursuant to 26 U.S.C. sections 4461-4462. The fees for state-owned slips shall be paid into the harbor dredging and pier maintenance fund established under RSA 12-G:46.

VIII. Install and continually maintain a uniform system for marking the intercoastal waters of the state including the state ports and state tidal waters not presently marked by the United States Coast Guard, using funds collected from the fees required under RSA 270-E:3, III, and any other funds so appropriated. Said marking system shall be installed on an incremental basis and maintained as necessary.

IX. Have the responsibility for and jurisdiction over state-owned commercial piers and associated facilities, including the establishment of permit programs and wait lists for vessels securing to or berthing at state-owned piers and associated facilities, and the establishment of fees associated with the implementation of such permit programs, including fees for vessels secured to or berthed at state-owned commercial piers in a manner not authorized under rules of the division adopted under this chapter. The authority shall also operate, maintain, and manage the parking facilities at all state-owned commercial piers and associated facilities and shall be authorized to establish permit programs and fees or to otherwise charge for the use of parking at such piers and facilities, including fees or charges for vehicles or trailers parked at state-owned commercial piers or associated facilities in a manner not authorized under rules of the division adopted under this chapter.

X. Adopt rules, pursuant to RSA 541-A, relative to:

- (a) Port captains, pilots, and pilotage.
- (b) Harbors and harbor masters.
- (c) The terms, conditions, and procedures under which the division shall issue, suspend, revoke, deny, or approve permits required under this chapter for moorings, ***including the temporary use of moorings***, and state-owned slips.
- (d) State-owned commercial piers and associated facilities, including without limitation the terms, conditions, and procedures under which the division shall issue, suspend, revoke, deny, or approve permits authorized under this chapter relative to the use of state-owned commercial piers and associated facilities and such other rules as the division deems necessary for the proper and safe use, operation, and management of such commercial piers and associated facilities.

(e) An appeal procedure whereby an applicant for any mooring permit or other permit related to use of a state-owned slip or commercial pier may request a waiver or variance from any date or deadline for submitting an application or any application fee established in any rule adopted pursuant to subparagraph (c) or (d) based on good cause, as defined in rules adopted by the authority.

XI. Adopt rules, after obtaining prior approval by the fiscal committee of the general court and the board, relative to the setting and collecting of fees authorized under RSA 12-G:38, relating to foreign trade zones; RSA 12-G:42, IV and V, relating to wharfage, dockage, and other marine terminal operations; RSA 12-G:42, VI, relating to moorings, ***including fees for permits for temporary use of moorings***, state-owned

slips, and wait lists; RSA 12-G:42, IX, relating to state-owned commercial piers and associated facilities; RSA 12-G:49, relating to pilotage; and any other matter necessary for the proper administration of the division with respect to the setting and collecting of fees. The rules adopted under this paragraph shall not be subject to the provisions of RSA 541-A, so as to provide the authority with the ability to maximize revenues and to adjust fees according to market conditions and trends as is the common practice in private industry. Fees established pursuant to this paragraph shall be consistent with the following criteria:

(a) Fees relating to the establishment and operation of foreign trade zones shall be designed to recover a reasonable portion of budget expenses consistent with the purposes of RSA 12-G:38. The general court does not intend that such fees cover all of the budget expenses associated with the implementation of RSA 12-G:38.

(b) Fees relating to wharfage, dockage, and other marine terminal operations shall be comparable with the fees for wharfage, dockage, and other marine terminal operations assessed by other port authorities and other marine terminal operators and stevedores in the United States.

(c) Fees relating to the mooring permits, *including fees for permits for temporary use of moorings*, and mooring wait lists shall be designed to recover all of the budget expenses associated with implementation of the mooring permit and wait list system as well as a reasonable portion of the budget expenses consistent with the purposes of RSA 12-G:42, III, VI, and VII; RSA 12-G:43, I(a) and (c); and RSA 12-G:50.

(d) Fees relating to slips shall be designed to be proportional to the fees for moorings established under subparagraph (c).

(e) Fees relating to state-owned commercial piers and associated facilities shall be established giving due consideration to the fees for use of similar privately-owned facilities.

(f) Fees relating to pilotage shall be comparable with the pilotage fees assessed by other port authorities in the United States.

2007-1070s

AMENDED ANALYSIS

This bill directs the Pease development authority to adopt rules relative to the temporary use of moorings and the waiver of mooring application deadlines for good cause.

Sen. Fuller Clark, Dist. 24

March 30, 2007

2007-1065s

09/10

Amendment to SB 237

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

AN ACT establishing a council on employment issues affecting veterans.

Amend the bill by deleting section 1 and renumbering the original sections 2-8 to read as 1-7, respectively.

Amend paragraph II as inserted by section 1 of the bill by replacing it with the following:

II. The purpose of this act is to establish a commission to study methods of restructuring the unemployment compensation program to meet the needs of New Hampshire's veterans. The commission shall also explore ways to promote full employment for underemployed veterans and seek solutions for other problems associated with veterans obtaining and maintaining employment.

Amend paragraph I as inserted by section 3 of the bill by replacing it with the following:

I. The members of the commission shall be as follows:

(a) Two members of the senate, one of whom shall be a member of the commerce, labor and consumer protection committee, appointed by the president of the senate.

(b) Two members of the house of representatives, one of whom shall be a member of the state-federal relations and veterans affairs committee and one of whom shall be a member of the labor, industrial and rehabilitative services committee, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of employment security, or designee.

(d) The labor commissioner, or designee.

(e) The commissioner of the department of resources and economic development, or designee.

- (f) The commandant of the New Hampshire veterans home, or designee.
- (g) One member of the state veterans advisory committee, appointed by the chairman.
- (h) One representative of a labor union, appointed by the governor.
- (i) One person representing the disability insurance industry, appointed by the governor.
- (j) One person appointed by the New Hampshire state veterans council.
- (k) One person appointed by the United States Department of Labor's New Hampshire State Veterans Employment and Training Service.
- (l) One person appointed by the New Employer Support for the Guard and Reserve.
- (m) One person appointed by the New Hampshire Veterans of Foreign Wars.
- (n) One person appointed by the New Hampshire American Legion.
- (o) One person appointed by the Disabled American Veterans.
- (p) One representative of New Hampshire Legal Assistance, appointed by the executive director.
- (q) The chairperson of the Workforce Opportunity Council, or designee.

2007-1065s

AMENDED ANALYSIS

This bill establishes a council on employment issues affecting veterans.

Sen. Fuller Clark, Dist. 24

March 29, 2007

2007-1064s

06/09

Amendment to SB 241

Amend RSA 53-C:6, X as inserted by section 2 of the bill by replacing it with the following:

X. In addition to other remedies allowed by law, a manufactured housing park owner may be assessed by a district court a civil penalty of \$500 and other reasonable damages for discriminating in rental charges or other charges to tenants based on the tenants' subscription to a cable television service or for demanding or accepting payment, except as provided in this section, for the affixing of cable television facilities to a privately owned utility pole within the manufactured housing park.

HEARINGS

WEDNESDAY, APRIL 4, 2007

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 103, SH

Sen. Burling (C), Sen. Fuller Clark (VC), Sen. Kelly, Sen. Cilley, Sen. Kenney, Sen. Downing

1:00 p.m.

NHRS PRESENTATION

1:30 p.m.

EXECUTIVE SESSION ON PENDING LEGISLATION

2:00 p.m.

SB 116, establishing a committee to study the licensing and regulation of fuel gas fitters by the state fire marshal.

(SB 116, PREVIOUSLY HEARD ON FEBRUARY 7TH, HAS PROPOSED AMENDMENT WHICH WILL REPLACE ENTIRE TEXT OF BILL, INCLUDING TITLE.)

THURSDAY, APRIL 5, 2007

JUDICIARY, Room 103, SH

Sen. Foster (C), Sen. Gottesman (VC), Sen. Reynolds, Sen. Clegg, Sen. Letourneau

8:30 a.m.

EXECUTIVE SESSION ON PENDING LEGISLATION