

Senate Public and Municipal Affairs Committee

Kelly Flathers 271-3093

SB 171-LOCAL, relative to the perambulation of towns.

Hearing Date: February 1, 2017

Time Opened: 9:45 a.m.

Time Closed: 10:23 a.m.

Members of the Committee Present: Senators Ward, Gray and Birdsell

Members of the Committee Absent: Senators Kahn and McGilvray

Bill Analysis: This bill repeals the requirement that selectmen perambulate the lines between towns every 7 years.

Sponsors:

Sen. Watters
Sen. Daniels
Sen. Gray
Sen. Reagan
Sen. Ward

Sen. Birdsell
Sen. French
Sen. Hennessey
Sen. Sanborn
Rep. Treleaven

Sen. D'Allesandro
Sen. Giuda
Sen. Kahn
Sen. Soucy
Rep. Sandler

Who supports the bill: Sen. Donna Soucy - District 18; Sen. Gary Daniels - District 11; Sen. Martha Hennessey - District 5; Sen. Harold French - District 7; Sen. Regina Birdsell - District 19; Sen. Ruth Ward - District 8; Steve Fournier - Town Administrator, Newmarket, NH; Sen. Bob Giuda - District 2; Cordell Johnston - NH Municipal Association; Sen. Andy Sanborn - District 9; Michael Joyal - City of Dover

Who opposes the bill: John Fournier; Brian Nelson Burford - NH State Archives; Ken Clinton - NH Land Surveyors Association; Susan Bryant Kimball - Self; Dennis McKenney - LLS 691/Self; Jasen Stock - NH Timberland Owners Association; Josh Manning - NH LSA

Who is neutral on the bill: No one

Summary of testimony presented in support:

Sen. Watters (Prime) – District 4

- This bill makes an adjustment to the perambulation requirement and makes it voluntary for towns to walk their boundary lines.
- We are the only state in the union with a perambulation requirement, originally established to prevent conflicts among neighbors.

- It is a cumbersome, outdated requirement that is unnecessary in the days of GPS and surveying techniques.
- This brings NH towns out from underneath a mandate that is no longer functional, but it still gives towns the option to walk.

Cordell Johnston – NH Municipal Association

- I am speaking in support of this bill.
- Support for repealing the perambulation requirement has been a policy of our association for many years.
- It is an ancient law that has outlived its usefulness. We hear about how essential this is, but very few selectmen actually do it.
- None of the other 49 states require perambulation. CT repealed it's perambulation requirement about 40 years ago. ME repealed its requirement in 2003, requiring it only when there is a dispute over a boundary line. MA does not require a full perambulation, but does require selectmen to check the boundary markers every 5 years. VT and RI had never heard of perambulation.
- There is a provision for perambulation of state boundaries. This statute used to require perambulation every 7 years, which was changed a while ago to require it only when necessary.

Sen. Birdsell

- (Q) Is this a full repeal of perambulation?
 - (A) **Cordell Johnston:** This repeals the requirement that it's done every 7 years. It leaves intact the remainder of the statute that allows perambulation if necessary.
- (Q) Are towns actually doing this?
 - (A) **Cordell Johnston:** We did a survey years ago and a minority of towns do this regularly.

Sen. Ward

- (Q) If someone has a complaint about a line, they can still bring it up to selectmen and they will be responsible for checking it out?
 - (A) **Cordell Johnston:** Yes, if the selectman deems it necessary.
- (Q) The citizen has to carry the burden themselves?
 - (A) **Cordell Johnston:** The citizen has no way to require their selectmen to investigate complaints.

Summary of testimony presented in opposition:

John Fournier

- I am speaking in opposition to this bill.
- I own a home in Middleton that borders a town, county, and representative

district line. In 2005, they drew up a new tax map and moved this line, placing my home in a different county. It took me 12 years to get my property moved back into Strafford County. This law was the only thing that enabled me to do this.

- I went to both county commissioners meetings; they had no power. I went to both selectmen's meetings; they had no desire to walk the line. I eventually had the line surveyed at my own expense.
- This law has been on the books for 360 years and there is no reason to alter it.
- It is more or less voluntary now, as it doesn't have any penalty.
- My handout shows examples of boundary disputes over the years. We don't need to change a law that serves the people and the state.

Brian Nelson Burford – NH State Archives

- I am speaking in opposition to this bill.
- This is not a quaint rural ritual done in NH. It's not about measuring a town line; it's about inspecting monuments that mark the line.
- Perambulation of town lines affects landowners, who are required to follow local ordinances. It affects municipal services and the voting rights of individuals.
- About 10 years ago there was a bill to repeal this requirement. About 6 months after Milford sponsored the bill, they were notified by Amherst that there were a number of individuals living along the town line who were voting in the wrong town and sending their children to the wrong schools. Milford later brought forward a bill to change the town line.
- My testimony includes a history of perambulation in the state, a chart showing bills related to this since 1989, and a list of town line perambulation reports that have been filed with the Secretary of State between 1995 and 2015.
- In 2005, I determined that there were 589 boundaries crossing land in NH. I counted the number of reports filed with the Secretary of State by year and found that an average of 16% of town lines were perambulated within a 7 year period. In 2016, I updated this information and found that an average of 15.5% of town lines were perambulated.
- Mr. Johnston alluded to a NH Municipal Association survey from a few years ago. In the results of this survey, 19% of towns said that they had perambulated but hadn't filed with the Secretary of State. The numbers I mentioned before only reflect those who filed.

Ken Clinton – NH Land Surveyors Association

- I am speaking in opposition to this bill.
- I want to clarify that selectmen can appoint members of the community or licensed land surveyors to do this task.
- I've supplied the committee with information on related bills in recent history. In 2016, HB 1460 was deemed ITL 14-1 by the House. In 2015, HB 250 was

deemed ITL 14-2 by the House. In 2005, HB 70 was deemed ITL 14-2 by the House. In 1989, HB 628 was determined ITL 17-0 by the House.

- There was a bill in 2013 to modify the law to include GPS. That was also struck down by the House. GPS can indicate where a point is located, but it cannot determine the state of the monuments along the line.
- Legislators have repeatedly readdressed this law and deemed it necessary. There is no harm in this law as currently written; there are no penalties.
- Removing the requirement makes perambulation so unlikely that it would harm citizens.
- As land surveyors, we have special knowledge in this matter. This is something critical that needs to be required, not optional.

Susan Bryant Kimball – Self

- I am speaking in opposition to this bill.
- My concern is that if perambulation becomes optional, towns will opt not to do it.
- There is currently no recourse for a landowner if there a question on a line and the town chooses not to perambulate.
- Confusion on boundary lines is not uncommon. The town line I had an issue with was last perambulated in 1949. We have a woods opening that lies west of the line used for taxation and east of the line marked on the ground. It determines which taxes and rules I need to follow. Surveying technology cannot tell us which line is correct; that's a municipal decision. If I want to sell my property, this is important information to have.
- Amend this law to enable landowners to force towns to perambulate if they choose to avoid the issue entirely.

Dennis McKenney – Licensed Land Surveyor 691 / Self

- I am speaking in opposition to this bill.
- I am part of the minority that has property bounded by or bisected by a municipal boundary line.
- This bill proposes to formalize the policy of benign neglect that our town lines have been suffering from for many decades.
- I distributed a spreadsheet with a specific example of a small section of boundary common to Deering and Bennington that is representative of issues related to town lines. I did pro bono perambulation on this line in 2004 and found that there was untaxed land, resulting in an equity issue. Why should I pay 100% of my property taxes but, due to the town's inattentiveness, my neighbor doesn't pay taxes on part of their land?
- Misidentified locations create confusion with where families send their children to school.
- Towns have a responsibility to monitor their boundaries. This is a chronic

problem across NH.

Jasen Stock – Executive Director, NH Timberland Owners Association

- I am speaking in opposition to this bill.
- Currently, if there is a question about a town line, the ability of the landowner to request perambulation is limited. The town is under no obligation to do that perambulation.
- This is a significant issue for every landowning citizen. There needs to be a methodology for seeking a resolution.

Sen. Ward

- (Q) How would you change this bill?
 - (A) **Jasen Stock:** I'd want to have a conversation with the Municipal Association first to navigate how to determine which requests are frivolous and which are necessary.

Neutral Information Presented: None

Future Action: Pending

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Date Hearing Report completed: February 3, 2017