

Senate Energy and Natural Resources Committee

Griffin Roberge 271-2878

SB 30, defining woodland buffers and relative to such woodland buffers for the purposes of the shoreland protection act.

Hearing Date: January 10, 2017

Time Opened: 9:15 a.m.

Time Closed: 9:37 a.m.

Members of the Committee Present: Senators Avard, Bradley, Innis and Feltes

Members of the Committee Absent: Senator Fuller Clark

Bill Analysis: This bill defines woodland buffers. This bill also makes changes to the measurements of woodland buffers and waterfront buffers.
This bill is a request of the department of environmental services.

Sponsors: Sen. Bradley

Who supports the bill: Senator Bradley, Representative Judith Spang (Strafford – District 6), Carol R. Foss (NH Audubon), Andrea LaMoreaux (NH Lakes Association)

Who opposes the bill: Dan McGuire

Who is neutral on the bill: No one.

Summary of testimony presented in support:

Senator Bradley

- Senator Bradley has been approached over the years to work on the shoreland protection act. This act has enhanced property values on lakes and rivers across the state. It has been successful in protecting the environment, and allowed people to protect their property rights. Complaints over the years have largely been mitigated.
- This bill is narrow in its scope. It defines woodland buffers. People can cut down trees around their property, but it creates a “bowling alley.” The tree cutting provisions in the bill would allow for some buffer for structure development.

Rene Pelletier & Darlene Forst

NH DES, Assistant Director, Water Division

Shoreland Section Supervisor, Land Resource Management Programs

- Submitted written testimony.

- Ms. Forst stated the intent of the bill is to modify the waterfront buffer. The bill would modify buffer standards intended to improve the distribution of trees and saplings in the waterfront buffer. This would serve as a natural buffer and prevent gaps that would allow for run-off.
- It was not intended for the bill to increase the amount of vegetation required. DES requests to change the language in paragraph 7 from a tree and sapling score of a 25 foot by 25 foot segment to 25 foot by 50 foot segment. A failure to modify the language would increase the amount of vegetation required for a waterfront buffer.
- The proposed changes to the language relative to the definition of the natural woodland buffer, woodland buffer, and the maintenance of a vegetated buffer do not change the current buffer standards, but more clearly articulate what the current standard requires.
- Senator Avard asked if a property owner can cut down their trees. DES says the bill makes no substantive changes. It does not change what they can cut down. The bill aims to provide clarification and put the language in simple English.
- Changes in the bill relative to the timeframes for response to a Request for More Information and processing of information received after such a request will bring the Shoreland permitting procedure timeframes in line with those established within the Wetlands Impact Application process. These are two different timeframes. This will allow for the integration of the processes in the future.
- The final change redefines which projects are exempt from Shoreland application fees. Currently, public roads, public utility lines and associated structures and facilities, and public water access facilities are exempt from application fees. The proposed changes would extend the fee exemption to all projects that are funded solely through public funds. These can be all projects that are reasonably expected to have some public benefit, but are unlikely to profit any private interest.
- Senator Avard asked that if the bill passes, it will place a fee on companies like Eversource. Ms. Forst said it would make them non-exempt. It would not create a new fee structure, but puts them in the standard fee structure. The standard fee structure is .10 cents per square foot, \$100 base fee, and a cap of \$3700. Senator Avard was concerned that the fee could be passed onto the rate-payers. Ms. Forst stated that is something the committee would need to ask the private utility.
- The design of the act is not about obstructing views. The act was designed to have trees act as a buffer to prevent run-off, and run-off affects water quality. The intention is not to control property rights. The trees provide nutrients to improve water quality.
- Senator Avard asked if there is an issue of leniency. He asked the DES to discuss why there is a reduction in timeframe for the applicant. DES says it wants to speed up the time process for permitting. If there is a problem, DES has been lenient in granting time extensions. Language for that may not be in the bill, but it does exist.

Andrea LaMoreaux
NH Lakes Association

- Ms. LaMoreaux reaffirmed what DES said about trees acting as a buffer to maintain water quality in the state's lakes and rivers.

Summary of testimony presented in opposition:

Dan McGuire

- He believes this bill would affect his property in Epsom. His main objection is line 17 that DES mentioned. If that line is fixed, the bill becomes minor, but he is still opposed to it. He notes the tightening of timeframes for a response to a Request for More Information for a property owner, but also giving the DES more days. He also notes the reduction of shrub and groundcover in paragraph 6, line 13. This bill infringes on property rights. The property owners are the ones who dwell on their property. They are the ones who make the property as they would like it.
- Senator Avard asked if the bill is restrictive of landowners. Mr. McGuire said it was.
- He mentioned the DES seems to be pushing for narrower access to water. He did not see a reason for it.
- Senator Avard asked if he had any problem with the possibility of fees being passed to rate payers. Mr. McGuire said he had a problem with it.

Neutral Information Presented: None.

Future Action: Ought to Pass with Amendments

gjr
Date Hearing Report completed: January 11, 2017