

Senate Finance Committee

Deb Martone 271-4980

SB 57-FN-A, making appropriations to the department of environmental services for the purposes of funding eligible drinking water and wastewater projects under the state aid grant program.

Hearing Date: January 24, 2017

Time Opened: 1:01 p.m.

Time Closed: 1:50 p.m.

Members of the Committee Present: Senators Daniels, Reagan, Morse, D'Allesandro and Feltes

Members of the Committee Absent: Senator Giuda

Bill Analysis: This bill makes appropriations to the Department of Environmental Services for the purposes of funding eligible drinking water and wastewater projects under the State Aid Grant Program.

Sponsors:

Sen. Bradley

Sen. Giuda

Rep. Bucu

Rep. Umberger

Rep. Danielson

Rep. Rosenwald

Rep. L. Ober

Who supports the bill: Senators Fuller Clark and Watters; Representatives Rosenwald and Bucu; Gene Forbes and Tracy Wood; Mayor Charlene Lovett; Dr. Middleton McGoodwin; Bill Hounsell; Barbara Reid; Charity Ross.

Summary of testimony presented in support:

Senator Bradley, Prime Sponsor:

- This is a fairly simple bill. It would appropriate approximately \$1.5 million to the Department of Environmental Services in the upcoming biennium that ends June 30, 2019. The purpose would be to fund 9 eligible and completed environmental projects under the State Aid Grant Program. These projects received approval after December 31, 2008, and were completed prior to July 1, 2013. They are different from the projects included in HB 119-FN-A-LOCAL, but should be treated in the same manner.
- During the budget problems of 2008-2010, Governor Lynch suspended the state promise of funding for the State Aid Grant Program. There have been a number of subsequent proposals to provide the funding the towns expected to receive in state aid. It is Senator Bradley's hope the Legislature will find a way to do that.
- These 9 projects incorporated in SB 57-FN-A could well be included in the

budget.

- It may be appropriate to retain this bill until after Governor Sununu's Budget Address.
- The locations of these projects include North Conway, Merrimack, Nashua, Claremont, Newport, Dover, Enfield and Berlin.
- Local taxpayers expected the state to keep its promise. Senator Bradley hopes we can finally fund these projects.

Charlene Lovett, Mayor of Claremont:

- The Claremont wastewater project cited in this bill was completed in October 2012, and met the qualifications for state aid. User fees alone cannot generate the revenue Claremont needs to operate and maintain the wastewater system that dates back to the late 1800s. State aid is critical to the city's ability to fund the infrastructure improvements that directly impact public health, the environment and economic development.
- The Claremont project included in this bill replaced a 1,500' piece of ruptured 10-inch corrugated metal pipe installed in 1949. When the break in the main sewer line occurred, it affected approximately 25% of the city's sewer users. Raw sewerage was seeping into nearby wetlands and streams. Due to the nature of the unanticipated event, funding for this \$807,290.30 project was not budgeted. The city was compelled to apply for state aid.
- Claremont has consistently increased user fees and made capital improvements throughout the system. However, the revenue that is generated by the 2,800 users on the system is simply not enough to cover both the operational costs and the capital improvements needed for an aging system that incorporates 70 miles of main sewer lines alone. State aid bridges that gap, especially during emergency situations.
- State aid for capital improvements to our wastewater system not only provides the funding needed to help us protect public health and the environment, it also lays the foundation for economic growth.
- If we are to reduce our need for state aid in the future, we need to expand the number of system users to generate necessary revenue. This requires capital investment now. The availability of state aid will help achieve that goal.
- Senator Reagan inquired about the average wastewater bill per property owner. Mayor Lovett assured Senator Reagan she would obtain that information and get it to the committee.
- Mayor Lovett submitted a letter of support from Claremont's Public Works Director, Scott Sweet.

Senator Watters:

- Senator Watters indicated he had recently toured the Dover project included in the bill. It includes a state-of-the-art piece of equipment which takes a remarkable amount of water out for additional treatment. This has permitted Dover to get its nutrient and nitrogen levels down to .05 milligram, an extraordinary accomplishment. It is particularly important to recognize these costs now for a community like Dover, because the of the new EPA MS IV storm water runoff treatment regulations, which will cause potential new expense to the 34 communities which flow into the Great Bay.

- This kind of payment, although relatively small, will indicate state recognition of the kind of work done thus far to clean up the wastewater.

Senator Fuller Clark:

- It is very important to encourage the improvement of our water infrastructure. These programs are created to act as incentives for local communities to offset the cost of local government infrastructure projects. Many of New Hampshire's communities have found these necessary projects unaffordable were it not for the state aid. It is important to understand the need for these programs.
- Senator Fuller Clark chaired a previous commission on the funding needs for water infrastructure improvements over the next 10 years. In that study the commission documented the state is potentially looking at \$2.7-\$2.9 billion of needed expenditures to improve our water infrastructure. It actually paralleled what we need to be doing with roads and bridges. The reality is that this infrastructure is hidden, with many of the critical needs going unrecognized and unacknowledged.
- At the very least we need to clean up, both with this bill and HB 119-FN-A-LOCAL, the promises we made to these communities before 2008 and the moratorium.
- Senator Fuller Clark understands this funding may very well be incorporated into the budget. She hopes it will be, as it is essential to the health and welfare of our communities, as well as the economy of the state.
- Senator Reagan indicated he sat on the same commission with Senator Fuller Clark. He asked why all the residents of all the towns that don't have a systemwide service be forced to pay for the towns that do have a systemwide water/wastewater service. Senator Fuller Clark stated that some communities' tax base or population base is such that they are able to fund various projects. There is, however, a limit beyond which you can charge local residents the cost of these capital projects. At that point, they will not be passed by the local communities, and the improvements that need to be made both for the environment and to sustain our households and businesses won't be made.
- Senator Morse asked Senator Fuller Clark about the status of HB 119-FN-A-LOCAL. She indicated the entire House Finance Committee was exec'g the bill today. She understands they are in favor of funding those 12 projects by including them in the House budget.

Bill Hounsell, North Conway Water Precinct and Granite State Rural Water Association:

- These 9 projects, in conjunction with the 12 projects in HB 119-FN-A-LOCAL, address the remaining projects completed and eligible for payment by the State Aid Grant Program. These 9 particular projects were left in a "doughnut hole" of not being recognized because they had their bonds passed after 2008. The moratorium stipulated the bonds must be passed prior to 2008. That didn't go into effect until July 1, 2013. There was no understanding that the projects authorized to go forward by DES were not going to be funded at some point. That became clear later on.
- These projects were done, and had completed the 1-year warranty period. They were eligible to submit their paperwork. A determination is then made as to

which parts of the project are eligible for the grant. For example, some of the main trunk lines of the project are eligible, but some of the branch lines are not. There is a process to the final certification of payment. It then goes to the Governor and Council for approval, contingent upon funding.

- State agencies were instructed to no longer keep any "delayed/deferred" lists. This action stopped the paperwork process on these authorized projects to go forward. Since that time, they have not been recognized as being eligible.
- North Conway Water Precinct had its eligibility and its warranty up as of June, one month prior to the stipulation on the bond issue and the moratorium. Had they been able to complete the submission of their paperwork, they would have been waiting to get paid.
- Every project that had been successful in getting funded in a biennium went to the Governor and Council for approval. Those funds then go into a maintenance budget. Some of these projects are done through the State Revolving Loan Fund for 20 years. Many of these projects, such as the North Conway Water Precinct, are done through the Department of Agriculture on 30-year bonds. Once the projects are on the maintenance budget those payments go on for 20 years.
- If you have a \$6 million maintenance budget and you add the 12 projects from HB 119-FN-A-LOCAL, the maintenance budget gets bumped to \$7 million. With the 9 projects from SB 57-FN-A, that's another \$1.5 million, a total of \$8.5 million. If the moratorium is lifted and funded by \$10 million all the projects will be paid, and the remaining \$1.5 million can get the program back up and running. It would be a huge return on the state's investment.
- With the North Conway Water Precinct project, the Mount Washington Valley had no sewer. And now, the entire valley around North Conway is central sewer.
- Under the State Aid Grant Program, we get to look at what can be done for all communities. It is important for all to contribute because we're all in this together.
- In the North Country in particular, there are many condo associations that are receiving unhealthy water. The North Country has been able to interconnect its municipal systems to adjacent community systems. It is vital for the health, as well as the economic growth of the region.
- You will incentivize projects that otherwise will never happen. More communities will become involved.
- Senator Reagan wondered what he should say to constituents of his who live in towns with no systems, who would now be asked to maintain their own systems and then contribute to such a plan. Mr. Hounsell indicated it would have to be through the General Fund. The ratepayers and the users are paying the bulk of it.
- Nitrates are heading to the sources of drinking water, something we all share. We are doing wastewater to protect our drinking water.
- Many more water associations exist today, working together on this issue. All water requires all people to participate. We need to be very generous when it comes to funding our water infrastructure. It is the essence of life, and the health of our people. There is no infrastructure more important than water.
- There are approximately 15,000 living in the Mount Washington Valley. That

population blossoms to 36,000 every weekend. All the Rooms and Meals revenue goes back to the General Fund. As a tourist state, we can't do any more than invest in water.

Gene Forbes, Water Division Director and Tracy Woods, Administrator-Wastewater Engineering Bureau, Department of Environmental Services:

- Director Forbes distributed a letter from Assistant Commissioner Clark Freise, outlining the Department's position.
- For over 50 years the State Aid Grant Program has been a major and successful program which supports our environmental vitality across the state. The Department encourages the continuation of that program.
- There are a few concerns with a few of the projects listed in the bill. There are 2 projects that do not fit the criteria for completion as indicated in the bill. Those projects are the Burke Street Phase I in Nashua, and the Newport Wastewater Treatment Plant Upgrade. Both projects were completed after the specified completion date of July 1, 2013.
- There is one other project that was not included that perhaps should be, as it does meet the criteria. DES recommends adding the Harbor Avenue Sewer Separation project in Nashua. It does meet the criteria as specified in Lines 6-8 of the bill.
- Incidentally, the Berlin project listed in SB 57-FN-A, is also included in HB 119-FN-A-LOCAL.
- With the noted changes above, the total appropriation would increase from \$1,498,670 to \$1,506,882. The FY 2018 appropriation in Section 2 of the bill would decrease from \$785,581 to \$758,610. The FY 2019 appropriation would decrease from \$775, 243 to \$748, 247.
- DES recommends these changes to be consistent with the stated criteria in the bill.
- Senator Morse inquired about the financial landscape of the projects beyond 2013. Director Forbes indicated he would have to get back to Senator Morse with a response. Obviously, the financial picture changes every year as new projects are added. It would depend on where the line was drawn. Senator Morse then indicated DES wouldn't have a list. Director Forbes stated generally the Department would know which projects are underway. They haven't evaluated the eligible dollars associated with such projects. The projects need to follow certain standards of oversight and participation with the state. The Department is involved with all projects that are theoretically eligible, so a list and dollars could be estimated.
- Senator Feltes asked if the Department had developed the criteria outlined in Lines 6-8 of SB 57-FN-A. Director Forbes indicated they did not. Senator Feltes then further inquired if the criteria made sense to DES. Director Forbes stated it made some sense to move out the December 31, 2008 date in an attempt to capture some of the communities that were unsure of funding at that time, voted and approved their projects, and had the expectation that funding would eventually come through. It is very reasonable to extend that date.
- Senator Morse asked if it was true that the Legislature funded every one that was promised funding through 2008. Director Forbes agreed, with the exception

of the 12 projects included in HB 119-FN-A-LOCAL. Senator Morse thought those projects which were beyond the projects that were approved, were *not promised* they would receive funds when Governor Lynch suspended the funding. Director Forbes could not speak to those expectations in 2011 and 2012. He did indicate the statute itself was not amended. The statute currently states the projects meeting these criteria are eligible for state aid grants, subject to appropriation. Senator Morse declared the Legislature funded every project that was promised to this date. The program needs to get back in place. Senator Morse doesn't think stopping in 2013 is the right answer.

- Senator Daniels inquired about the 2018 and 2019 figures for the Nashua Harbor Avenue project. Ms. Wood indicated those figures are included in Assistant Commissioner Freise's letter.

Barbara Reid, New Hampshire Municipal Association:

- The municipality works with DES, and finances the project 100% upfront. In certain cases the municipality will be eligible for 20% or 30% of that eligible cost once they start paying the debt service back. The municipality borrows the money for the project, completes the project, turns it on, waits for the 1-year warranty period and then files the final paperwork. They then start paying back the debt, and the state grant kicks in. It pays back the eligible costs over the financing term.
- That is what created the problem with this delay under Governor Lynch. DES was told to cut back on their budget. The moratorium was not enacted until July 2013, but was effective retroactive to 2008.
- All of these municipalities had gone to their Town Meeting or City Council, and had these projects approved with the understanding that when it came time to pay them back, the state grants would be there. This included 156-157 projects. A large portion of them, 127, were paid in the FY 2014-2015 Budget. We are now dealing with the "tail end" of these delayed and deferred projects.
- Last year 8 projects were funded in HB 1428-FN-A-LOCAL. There are now 12 projects in HB 119-FN-A-LOCAL. And with this bill there are, give or take, 9 projects.
- Ms. Reid distributed copies of a DES State Aid to Municipalities funding chart to committee members.
- These are the projects that got caught in retroactive moratorium. But there are 50-60 more ongoing projects out there, all in different stages of development and construction. Municipalities have not stopped working on needed infrastructure improvements. They are eligible for this program, but for the funding. If this had been level-funded, all of the projects would have been taken care of.
- It is Ms. Reid's understanding that DES submitted a budget covering all of the projects they are contractually required to cover. The projects included in HB 119-FN-A-LOCAL have been added to DES' additional budget request. The projects included in SB 57-FN-A have not been included in DES' budget request.
- "Why is this important to Senator Reagan's towns?" For example, if not for the Berlin project, the new federal prison could not have been built. Neither could the town have had the new biomass facility. Conway was able to have a significant number of hotels and restaurants, which contribute to the Room and

Meals Tax revenue, due to the types of infrastructure improvements they made.

- Senator Morse asked about the high point on the DES funding chart. Ms. Reid indicated it was approximately \$16.5 million back in 2005. It probably included some landfill closure projects. Senator Morse then wondered what \$16.5 million would do today. Ms. Reid guessed it would probably be more than what was needed to fund water/wastewater projects that are currently outstanding. Senator Morse inquired if there is a current figure which would cover the outstanding projects. Ms. Reid stated DES had provided a listing as of September 2015. She has nothing more current.
- The Municipal Association is reporting the House Finance Committee would vote ITL on HB 119 with the commitment the projects would be included in the Governor's budget.

Future Action: Inexpedient to Legislate

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Date Hearing Report completed: January 25, 2017