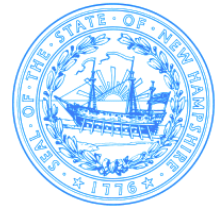




The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

February 12, 2024

The Honorable Judy Aron  
Chair, Environment and Agriculture Committee  
State House, Room 301-303  
Concord, NH 03301

**RE: HB 1170, AN ACT requiring public benefit and community impact assessments from the department of environmental services.**

Dear Chair Aron and Members of the Committee:

Thank you for the opportunity to testify on HB 1170. The New Hampshire Department of Environmental Services (NHDES) is opposed to this bill because it would have widespread financial and timeframe implications for the department and regulated community.

HB 1170 would create a broad requirement for the department to consider the public benefit and community impact of each permit and project the department administers. These new requirements would be in addition to all the factors currently taken into consideration on those permits and projects. NHDES activities span 133 chapters of state law and include at least 108 different permit types. The agency processes over 10,000 permits a year which cover activities as diverse as hazardous waste treatment to wetlands impacts to air discharges. In addition, NHDES administers dozens of grants, loans, and technical assistance programs. The legislation does not contain a definition of the word "project," so it is not clear what agency activities are included in the requirement. If it includes all loans and grants as well as permits, then the universe of activities covered is even more expansive.

The bill would require an analysis of public benefit and community impact prior to approval of each permit. It would require the department to engage with each community in the state to identify benefits and potential impacts. It would create a new requirement for public input, both in the community in which a permit or project is located as well as neighboring communities. Many permits today do not have a statutory requirement for public input, and the timeframes for those permits (some as short at 15 days) would not accommodate public comment periods. Inserting delays into the permitting and project approval processes would slow emergency response, cleanup of contamination, economic growth, and community improvements in the state.

It is unclear whether "public benefit" includes economic benefits. The calculation of economic benefits is complicated, time consuming, and expensive to conduct. Some parties in a community may benefit while others do not, which is difficult to weigh in a permitting context. It is unclear if the burden of these assessments would be placed upon the parties who are seeking approval of a permit, grant, loan, or project. If these requirements are placed on applicants, their application preparation costs will increase. If placed

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The Honorable Judy Aron  
Chair, Environment and Agriculture Committee  
February 12, 2024 -- Page 2

upon NHDES, additional staff with proper expertise would need to be hired, and the related costs would increase the permitting fees that applicants pay.

The requirements introduced by this bill would add significant delays and uncertainty to an applicant's permit process. It is important to note that most NHDES permits have timeframes established in RSA 541-A:29, other administrative rules or federal requirements (for federally delegated programs). The time needed for assessments of public benefit and community impact could create conflicts with those timeframes and potentially result in default approvals per RSA 541-A:29(a). For NHDES programs that have requirements under federal law, it may not be legal for NHDES to impose the requirements of this legislation, or doing so may jeopardize federal approvals and/or funding for NH programs.

The bill does not identify a source of revenue to provide resources, and it does not authorize the additional positions needed to carry out the assessment work it would require. Given the broad reach of this bill, it would necessitate a new bureau within the Commissioner's Office to assess public benefit and community impact. The bureau would require economists, toxicologists, sociologists, program administrators and public interaction specialists. Additional staff with expertise in public survey and focus groups would be needed to create and measure "impact assessment indicators" introduced by this bill. In order to accommodate current timeframes, the number of employees needed to carry out these functions would be quite large, numbering in the dozens. It would also require the development of databases to track "impact assessment indicators" and the decisions themselves. The requirement would introduce new avenues for, and increase the number of, permit appeals, so both the Department of Justice and the NHDES legal unit would need additional personnel. Finally, the department would need to develop administrative rules for this new requirement, which would also be time consuming and require staff resources. The costs of the new personnel, equipment and technology required to comply with this proposed legislation are unknown, but given the number of staff potentially needed, the cost is likely to be in the millions of dollars.

Thank you again for the opportunity to comment on HB 1170. Given the scope of this legislation as proposed, NHDES would foresee it having widespread impacts on permit and project approval timeframes, application costs, the operating costs of the agency, and the pace of economic development. Should you have further questions or need additional information, please feel free to contact Ted Diers, Water Division Assistant Director ([ted.diers@des.nh.gov](mailto:ted.diers@des.nh.gov), 271-2951) or Mike Fitzgerald, Air Division Assistant Director ([william.m.fitzgerald@des.nh.gov](mailto:william.m.fitzgerald@des.nh.gov), 271-6390).

Sincerely,



Robert R. Scott  
Commissioner

ec: Sponsors of HB 1170: Representatives W. Thomas, N. Murphy, M. Perez, Meuse