



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 20, 2024

The Honorable Laurie Sanborn
Chair, House Ways and Means Committee
Legislative Office Building, Room 202-204
Concord, NH 03301

RE: HB 1429 – AN ACT establishing a procedure for the department of environmental services to transfer ownership of dams to municipalities or others, including making loans

Dear Chair Sanborn and Members of the Committee:

Thank you for the opportunity to comment on HB 1429. This bill and the subsequent amendment to the bill 2024-0227h would create a procedure in which NHDES would offer a state-owned dam that has been selected for removal to a municipality or interested party prior to removing the dam. The bill would also create a loan program which would allow municipalities, and other entities capable of assessing local property taxes, the ability to apply for a loan administered by NHDES to fund necessary repairs and maintenance of non-state-owned dams. The Department notes that a couple of issues were raised in testimony and in further analysis of the bill and provides the following information for the committee's consideration.

The hearing in the House Resources, Recreation and Development Committee and subsequent information identified two issues that should be addressed in the amended bill. First, the transfer procedures part of the bill applies to "any state-owned dam". This would include dams owned not only by NHDES, but also by Fish and Game, Transportation, Natural and Cultural Resources and other agencies. It may not be allowable under state law or funding agreements for a dam owned by one of our sister agencies to be transferred to another entity. The second issue that has been raised is the potential for a dam being removed to prevent environmental damage. It may be helpful to allow for case-by-case exceptions to the municipal offer requirement.

NHDES' Dam Bureau is responsible for the reconstruction and rehabilitation of the 273 state-owned dams and for the operations of 208 of these dams. The average age of the state-owned dams is over 100 years. Even though most were designed for a 50-year life span, numerous state-owned dams have not seen major retrofits or rehabilitation in 40 to 50 years. A recent analysis by the Dam Bureau estimates the cost of the capital needs to repair and bring into compliance all 273 state-owned dams at \$414 million; an estimated \$300 million of that total is needed to address the 63 dams classified as high hazard.

This responsibility requires NHDES to be cognizant of how funding is being allocated to support the continued rehabilitation and operation of state-owned dams. This is especially critical when an evaluation of whether money should be allocated to a state-owned dam for rehabilitation is warranted, and when as part of that evaluation, NHDES needs to determine if removal of the dam is the most appropriate option.

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This bill would provide a mechanism for allowing the ownership of a dam to transfer from the state to a municipality or interested party as an alternative to the state removing the dam. Currently NHDES follows RSA 4:40 when disposing of property, which requires NHDES to offer property to the municipality and county in which the property resides prior to disposing of any state-owned property. However, RSA 4:40 does not include the situation in which a dam is removed. This bill would create a notification and transfer process for situations involving a dam removal.

The loan program portion of this bill would allow for municipalities the ability to apply for a loan, administered by NHDES, to fund repair and rehabilitation of non-state-owned dams. The bill specifies the interest rate, loan period and how the loans will be repaid by municipalities or parties capable of assessing local property taxes, such as Village Districts established under RSA 52.

NHDES looks forward to working with the Committee on this bill as it moves forward. Given that New Hampshire currently has over 2,600 jurisdictional public and private dams, many of which are over 50 years old, it is important to develop opportunities for adequately funding the rehabilitation and operation of these dams or seek dam removal when dams are no longer providing an environmental, recreational, or economical benefit or become an unacceptable liability.

Thank you again for the opportunity to comment on HB 1429. Should you have questions, or need additional information, please feel free to contact Corey Clark, Chief Engineer, at 603-271-1961 or corey.j.clark@des.nh.gov.

Sincerely,



Robert R. Scott
Commissioner

ec: Sponsors of HB 1429: Representatives Mazur, Plett, Ouellet, Alexander Jr., Carey, Stone, Colombe, Post, Bernardy, Seidel; Senator Murphy