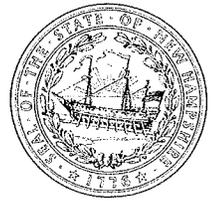




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

January 29, 2013

The Honorable Shannon Chandley, Chairman  
Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, NH 03301

RE: HB 338-FN-LOCAL - An act relative to the state contribution for water pollution control

Dear Chairman Chandley:

Thank you for the opportunity to comment on HB 338-FN-LOCAL, an act relative to the state contribution for water pollution control. The Department of Environmental Services (DES) does not support HB 338 for the reasons described below.

The state aid grant programs for water pollution control, drinking water and landfill closure authorized under the relevant sections of RSA 486, 486-A and 149-M, respectively, have been among the most important and successful environmental programs in New Hampshire's history. Figure 1 presents state aid grant program appropriations from Fiscal Years 1980 through 2013. For many years, these programs have contributed to significant environmental progress and helped make environmental infrastructure investment more affordable for New Hampshire's communities. Since the inception of the wastewater state aid grant program in 1959, more than \$400 million in aid has been provided to eligible New Hampshire communities to provide state support, typically through grants of 20% to 30% of annual loan costs.

Due to state revenue shortfalls during the recession, state appropriations for new state aid grants ended in November, 2008. Since then, funds have continued to be appropriated to make annual payments for state aid grants previously approved by Governor and Executive Council. However, due to the lack of funds, new requests have been placed on what is known as the "delayed and deferred list" (D&D list), since these projects are still eligible for funding under existing statutory criteria. The D&D lists are queues of projects ranked by date of application for each state aid grant type. There are currently a total of 127 projects from about 50 municipalities on the D&D lists with total eligible state aid grant project costs of about \$52.7 million. Initial annual payments for all of the D&D projects would cost the state approximately \$4.9 million in the first year and \$4.5 million in the second year of repayment. The list, hence the cost, continues to grow with time as new eligible projects are completed. Figure 2 presents an estimate of the future demand for these grants under the existing statutory criteria, considering both identified future needs and the program history. Our concerns with HB 338 are presented below in the context of these significant projected future demands, which are quite significant, and with the practical application of the changes proposed in the bill.

As we understand it, HB 338 would enable eligible projects funded prior to Fiscal Year 2008 (prior to July 1, 2007) to continue to receive yearly grants of 20% - 30% of the annual amortization charges (principal and interest) attributable to the project, as has historically been the practice. However, projects on the D&D list since Fiscal Year 2008 would receive one time "lump sums" of 20% of the project principal cost only (rather than annual payments), subject to an

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annual total budget cap of \$4 million including the obligations made for projects prior to Fiscal Year 2008. We have two practical concerns with this proposal:

- There are projects that were approved by Governor and Executive Council for state aid grants in Fiscal Years 2008 and 2009 (between July 1, 2007 and October 22, 2008) that are not on the D&D list. The treatment of these projects is not clearly addressed in HB 338.
- The cap would only allow minimal progress toward resolving the existing D&D backlog because it fails to consider existing commitments and the impact of the proposed requirement for one-time (i.e., “lump sum”) rather than amortized payments. For example, in FY 2014, a \$4 million cap on wastewater state aid grants would leave only \$970,451 for D&D list projects because existing obligations would use \$3,029,459 of the available \$4 million. Only a partial state aid grant for one of the 127 projects could be made in FY 2014 with the remaining funds.

HB 338 would also enact a permanent cap on state aid grants of \$10 million per fiscal year beginning with projects on the D&D list since Fiscal Year 2008. However, should the overall state revenue picture improve in the future, this would limit the available funding for state aid grants to an amount that is considerably below the expected long term demand for these grants (see Figure 2). The bill also is unclear with respect to how the \$10 million cap and the \$4 million cap described above would relate to each other.

Section 3 (proposed RSA 486:1, III) and Section 5 (proposed RSA 486-A:3, IV) would require very prescriptive processes for inclusion or exclusion for communities in state aid grant programs. These sections appear to be designed to ensure that state aid grant backlogs do not carry over to future years. Retroactive to the beginning of Fiscal Year 2008, HB 338 would prohibit DES from authorizing a municipality to enter into a construction contract unless state aid grant funding is available at the time of authorization. If the community must proceed with project construction and funding is not available, a written request must be submitted to and approved by DES and pursuant thereto the community would be required to agree to completely opt out of the state aid grant program. These provisions have several flaws. First, they do not consider the many projects on the D&D list that were approved by DES after July 1, 2007 that have already completed construction. Second, many projects are not voluntary, so construction timing is often not controllable by the community. For example, these projects could be to address federal permit deadlines or to rebuild infrastructure that cannot wait. HB 338 would create a situation in which grant availability would not be tied to critical factors such as environmental benefit, regulatory compliance or affordability for users, but rather would be based on the ability to get an application in to DES early in the year while funding is available.

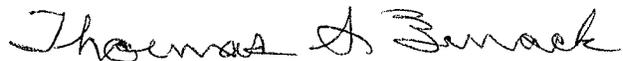
HB 338 would also eliminate two other state aid grant provisions retroactive to the beginning of Fiscal Year 2008. A provision in current law would be eliminated that allows an additional 10% in state aid grants when project costs result in user fees that are too high, as defined by 20% above the state-wide average for residential users. Also, the provision to allow additional grants for projects that increase septage handling capacity to provide regional septage facilities would be eliminated. These incentives have historically worked well to encourage

wastewater facilities to increase septage capacity and to receive septage from other towns, all in accordance with a statutory goal of reducing reliance on out-of-state septage handling facilities.

In summary, DES believes that New Hampshire's environmental state aid grant programs have worked well for many years under the existing statutes to improve our environment and drinking water while making projects more affordable for our communities. There has been a lack of funding for these programs since November 2008 due to state revenue shortfalls. It is hoped that the funding picture will improve in the future as the economy improves or as other funding sources are identified to enable restoration of new project funding in these programs. The changes proposed by HB 388 would make the program less effective as a means to support New Hampshire municipal investment in environmental infrastructure. Therefore, we respectfully request that HB 388 be voted inexpedient to legislate.

Thank you for this opportunity to comment on this bill. Please feel free to call Harry Stewart, Water Division Director at 271-0677 or me at 271-2958, if you have any questions or need additional information.

Very truly yours,



Thomas S. Burack  
Commissioner

Enclosures

cc: Representatives Umberger, Buco and Chandler

