



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



Thomas S. Burack, Commissioner

January 28, 2015

The Honorable Jeb Bradley, Chair  
Senate Energy and Natural Resources Committee  
Legislative Office Building, Room 105  
Concord, NH 03301

**RE: SB 229**, appropriating funds to the department of environmental services for the purpose of restoring and protecting waters of the southeast watershed in accordance with EPA guidelines.

Dear Chairman Bradley and Members of the Committee:

Thank you for the opportunity to comment on HB 229. This bill would appropriate funds for the purpose of restoring and protecting the watershed in the coastal/southeastern part of the state. The Department of Environmental Services (DES) supports this bill based on the understanding that, if enacted, this bill would appropriate additional funds to DES in the amount of \$400,000 to be paid to the Southeast Watershed Alliance.

The waters which drain to the Great Bay estuary and the coast are some of the best studied in the state. There is a wealth of data which shows that the impacts of development are being felt by the natural resources, be they eelgrass populations, shellfish, nuisance algae, or macroinvertebrates, and people who may be impacted by bacterial pollution or cyanobacteria blooms. While most of the ecological systems are still relatively intact, there is broad concern that the problems associated with polluted runoff and wastewater disposal may render the ecosystem highly susceptible to further degradation. There are many organizations, agencies and individuals working diligently to protect the vital natural resources of the region. Many of these organizations are developing plans.

The most comprehensive plan to date is that of the Piscataqua Region Estuaries Partnership (PREP) which, with the input of dozens of stakeholder groups, developed a plan containing 82 recommended actions. In addition, communities in the Exeter/Squamscott watershed and Durham/UNH are working on plans to reduce nitrogen pollution. The missing element to date has been the creation of an overall watershed-based plan which directly addresses water quality throughout the watershed and estuary.

The purpose of a watershed-based plan is to specify and quantify the actions needed throughout the watershed to either restore a polluted waterbody or to protect water quality in more pristine waters. EPA requires the following elements in a watershed-based plan, in order for the implementation of said plan to receive future funding from the Section 319 program:

- a) An identification of the causes and sources of pollution that will need to be controlled to achieve required load reductions;
- b) An estimate of load reductions needed to reach the desired water quality goal;
- c) A description of the management measures needed to achieve the estimated load reduction;
- d) An estimate of the amounts of technical and financial assistance required to implement the management measures;
- e) An information/education component to enhance public understanding and encourage participation;
- f) A schedule for implementing management measures;
- g) A description of interim, measurable milestones for determining whether management measures are being implemented;

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

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- h) A set of criteria to determine whether load reductions are being achieved and water quality goals are being met; and,
- i) A monitoring component to evaluate the effectiveness of the plan over time, measured against the criteria developed under (h) above.

The DES website includes links to 45 such plans completed to date. The cost to develop a typical plan is in the range of \$50,000 - \$75,000, although these plans all address much smaller geographic areas than that contemplated under the bill. The closest in scale to Great Bay is the Lake Winnepesaukee effort, which was divided into eight sub-basins, only one of which has a completed watershed-based plan at a cost of \$150,000. Some of the key background work has already been completed for the Great Bay Watershed as it relates to nitrogen, but DES recommends that the plan also include other pollutants such as phosphorus and suspended solids.

The funding amount proposed in HB 229, in addition to the matching requirement, would generate much of the funding needed to address many of the nine elements of a watershed-based plan. Any remaining uncompleted elements would require additional effort in the future to finalize.

The Southeast Watershed Alliance was created by the legislature (Chapter 220, Laws of 2009) as a political subdivision through which communities in the seacoast area and surrounding watershed could come together to create and implement plans and projects to improve water quality. While the SWA has shown success on a few small projects, it is a volunteer organization and currently lacks the capacity for a major effort such as the one proposed. Accordingly, some of the requested funding would need to be used to create project management capacity at SWA.

Our only other concern with the proposed legislation would be the need to generate a clear and concise work plan before selecting contractors or employees to carry out the planning work. The process of developing that work plan would require the consensus of a number of communities and organizations and would take many months to accomplish. There would be a number of questions to answer prior to commencing work, such as: Which pollutants will be addressed? Will the plan be broken down by subwatersheds and, if so, at what scale? What measures will define success for the project? In addition, DES would need to ensure that the resulting work plan meets the watershed-based plan requirements and that the funding would be spent in a transparent, competitive and efficient manner.

Finally, the ultimate measure of a plan is the extent to which it is used. Watershed-based plans are non-regulatory tools. Given that the state has no regulatory means to require adoption of the plan, it would be up to the communities and residents of the watershed to see it implemented. Accordingly, we would recommend that the plan include a robust discussion of the ways to increase adoption of its recommendations.

Thank you for your consideration in this matter. If you have questions or need additional information, please contact Ted Diers ([ted.diers@des.nh.gov](mailto:ted.diers@des.nh.gov) or 603-271-3289) or me ([Thomas.burack@des.nh.gov](mailto:Thomas.burack@des.nh.gov) or 603-271-3449).

Sincerely,



Thomas S. Burack  
Commissioner

cc: Sen. Fuller Clark, Sen. Watters, Rep. Schroadter, Rep. Spang