

CHAPTER 278

HB 1449-A - FINAL VERSION

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2002 SESSION

02-2428

06/10

HOUSE BILL ***1449-A***

AN ACT establishing a pilot program to study and establish protected instream flows and water management plans on the Lamprey River and the Souhegan River.

SPONSORS: Rep. Calawa, Hills 17; Rep. R. Cooney, Rock 26; Rep. Whalley, Merr 5; Sen. Francoeur, Dist 14; Sen. Johnson, Dist 3; Sen. D'Allesandro, Dist 20

COMMITTEE: Resources, Recreation and Development

AMENDED ANALYSIS

This bill establishes a pilot program in the department of environmental services to study and establish protected instream flows and water management plans for the Lamprey River and the Souhegan River. The bill also establishes an instream flow technical review committee and a water management planning area advisory committee for each river designated for an instream flow and river management plan under RSA 483.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Two

AN ACT establishing a pilot program to study and establish protected instream flows and water management plans on the Lamprey River and the Souhegan River.

Be it Enacted by the Senate and House of Representatives in General Court convened:

278:1 Findings. The general court finds that it is in the interests of the state to do a comprehensive study regarding the establishment of protected instream flows and water management plans for 2 designated rivers and their tributary drainage areas. The general court finds that it is in the interests of the state to initially restrict instream flow rules to 2 rivers to ensure that adequate information is available to develop the necessary protected instream flows and water management plans and to ensure effective and fair administration of the first application of instream flow regulation under the provisions of RSA 483.

278:2 Pilot Program Established; Instream Flow Rules for the Lamprey River and the Souhegan River.

I. There is established a pilot program for the purpose of studying and establishing protected instream flows and water management plans for the Lamprey River and the Souhegan River, and their respective tributary drainage areas.

II. The commissioner of the department of environmental services shall adopt instream flow rules pursuant to RSA 541-A and RSA 483:9-c relative to the Lamprey River, as designated in RSA 483:15, I, and the Souhegan River, as designated in RSA 483:15, XIII. For each of the designated rivers, the instream flow rules shall require that a protected instream flow study be conducted prior to the commissioner of the department of environmental services adopting a protected instream flow level and a water management plan.

III. The commissioner of the department of environmental services shall initiate and adopt rules pursuant to RSA 541-A for other rivers designated under RSA 483:15 only after the adoption and implementation of the rules relative to protected instream flows pursuant to RSA 483:9-c for the Lamprey and Souhegan rivers and completion of the report required under section 3, III(d) of this act, but not before December 1, 2006.

278:3 Instream Flow Technical Review Committees; Establishment; Duties.

I.(a) There are established instream flow technical review committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, an instream flow technical review committee for each river shall be appointed and convened. There shall be 14 members of each committee appointed as described by this paragraph.

(b) The duty of each committee shall be to advise the department on the preparation and conduct of the protected instream flow study. The committees may seek input from appropriate state and federal agencies and other interested parties as necessary.

(c) A committee member shall have either education or experience in water resources management or protection. The members shall be appointed by the commissioner of the department of environmental services in consultation with the rivers management advisory committee, as follows:

- (1) One representative from New Hampshire fish and game department;
- (2) One representative of the United States Environmental Protection Agency;
- (3) One representative of the United States Fish and Wildlife Service;
- (4) One representative of the United States Geological Survey;

(5) Four technical representatives of business interests, one of whom shall be a municipal water supplier;

(6) Four technical representatives of conservation interests; and

(7) Two ex officio representatives of the New Hampshire general court; the chairperson of the senate environment committee, or designee, and the chairperson of the house resources, recreation and development committee, or designee.

(d) The members of each committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of each committee shall be called by the commissioner of the department of environmental services. Legislative members of each committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(e) The instream flow technical review committees shall make annual reports regarding their progress and findings on or before November 1 of each year of their existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

II.(a) There are established water management planning area (WMPA) advisory committees to assist in implementing the provisions of the pilot program for the Lamprey River and the Souhegan River. Prior to beginning a protected instream flow study for each river, a water management planning area advisory committee for each river shall be appointed and convened. There shall be up to 20 members of each committee appointed as described in this paragraph.

(b) The committee shall, with respect to the river for which the committee was appointed:

(1) Provide information toward the development of the water management plan and the implementation of the protected instream flow;

(2) Review and comment on the water management plan; and

(3) Assist the department in hearings, negotiations, and public meetings related to the protected instream flow and the water management plan.

(c) The members shall be nominated by the commissioner of the department of environmental services in consultation with the rivers management advisory committee and shall be appointed by the governor and approved by the executive council, as follows:

(1) Two local rivers management advisory committee representatives;

(2) Four affected business water users in the WMPA;

(3) One conservation commission member from a town or city in the WMPA;

- (4) Up to 3 government official representatives from a town or city in the WMPA;
- (5) One representative of recreational interests in the WMPA;
- (6) One community citizen representative from a town or city in the WMPA;
- (7) One representative of conservation interests in the WMPA;
- (8) One representative of business in a town or city in the WMPA;
- (9) One state senator in a town or city in the WMPA;
- (10) One state representative in a town or city in the WMPA;
- (11) One representative of a lake association in the WMPA, if any;
- (12) One public water supplier in the WMPA, if any;
- (13) One affected dam owner in the WMPA, if any; and
- (14) One affected agricultural water user in the WMPA, if any.

(d) The members of each committee shall elect a chairperson and vice-chairperson from among the members. The first meeting of each committee shall be called by the commissioner of the department of environmental services. Legislative members of each committee shall receive mileage at the legislative rate when attending to the duties of the committees.

(e) Each water management planning area advisory committee shall make an interim report regarding its progress and findings on or before November 1 of each year of their existence to the senate president, the speaker of the house of representatives, the governor, the commissioner of the department of environmental services, and the state library.

III. The commissioner of the department of environmental services shall:

(a) By April 1, 2005, conduct protected instream flow studies and submit a report that details the results of science for the pilot program, including the projected impacts of the protected instream flows and water management plans to be implemented on water users, wildlife, recreation, and other interests along the rivers and any recommendations for proposed legislation. The department shall hold a public hearing jointly with the senate environment committee and the house resources, recreation and development committee within 60 days and be open for a public comment period of an additional 30 days. The department shall consider the public comments received in any revisions to the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River.

(b) By October 1, 2005, adopt and implement the protected instream flows and water management plans relative to the Lamprey River and the Souhegan River.

(c) One year after the adoption and implementation of the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River, the department shall hold a public hearing and open a 30-day public comment period. The department shall consider the public comments received in any revisions to the protected instream flow levels and water management plans for the Lamprey River and the Souhegan River.

(d) By December 1, 2006, submit a report that details the activities and results of the pilot program, including the impacts of the protected instream flows and water management plans on water users, wildlife, recreation, and other interests along the rivers and any recommendations for proposed legislation. The report shall also include a summary of public comments received and the completed instream flow studies and the adopted protected instream flow levels and water management plans and shall be submitted to the senate president, the speaker of the house of representatives, the governor, and the state library.

278:4 Position Established. There is established in the department one hydrogeologist III position, to be known as the instream flow protection coordinator, who shall be a classified employee at labor grade 27, qualified by reason of education and experience, and who shall administer the pilot program. The instream flow protection coordinator shall serve as secretary and staff to the instream flow technical review committees and the water management planning area advisory committees.

278:5 Applicability of New Position; Funding. The position of instream flow protection coordinator established in section 4 of this act shall not be filled unless sufficient moneys are received from grants, gifts, or donations, from any non-general fund public or private sources, to cover the full cost of filling the position. Any sums designated to cover the full cost of filling the position are hereby appropriated.

278:6 Committee to Study the Impact of Water Withdrawals on Instream Flows; Report Date Extended. Amend 2000, 242:5 as amended by 2001, 138:6 to read as follows:

242:5 Report. The committee shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, ~~2002~~ **2006**.

278:7 Effective Date. This act shall take effect upon its passage.

(Approved: May 18, 2002)

(Effective Date: May 18, 2002)