

# Bill as Introduced

HB 77 - AS INTRODUCED

1999 SESSION

99-0197

08/09

HOUSE BILL           **77**

AN ACT               relative to the Melendy Pond Authority of Brookline, New Hampshire.

SPONSORS:           Rep. Arnold, Hills 20; Rep. B. Hall, Hills 20

COMMITTEE:          Municipal and County Government

---

ANALYSIS

This bill validates the actions of the Brookline town meeting in establishing the Melendy Pond Authority, the transfer of title to certain properties to such authority, and the actions of the authority in leasing the properties.

---

Explanation:        Matter added to current law appears in *bold italics*.  
                      Matter removed from current law appears [~~in brackets and struck through~~].  
                      Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine*

AN ACT                   relative to the Melendy Pond Authority of Brookline, New Hampshire.

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

1           1 Melendy Pond Authority.

2           I. All actions, proceedings, and votes of the Brookline town meeting in establishing, and from  
3 time to time altering the composition and duties of, the Melendy Pond Authority are hereby  
4 legalized, ratified, and confirmed.

5           II. All actions, proceedings, and votes of the Brookline town meeting in transferring title to  
6 certain town-owned properties to the Melendy Pond Authority for the purpose of leasing such  
7 properties on behalf of the town under conditions established by the authority are hereby legalized,  
8 ratified, and confirmed.

9           III. The Melendy Pond Authority is authorized to continue to develop and lease properties  
10 held by it and as consented to by the Brookline town meeting.

11           IV. Nothing in this act shall limit or prevent the Brookline town meeting from altering the  
12 composition or authority of the Melendy Pond Authority through future action at town meeting.

13           2 Effective Date. This act shall take effect upon its passage.

# Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 77

**BILL TITLE:** relative to the Melendy Pond Authority of Brookline, New Hampshire.

**DATE:** January 21, 1999

**LOB ROOM:** 301      **Time Public Hearing Called to Order:** 11:00 a.m.

**Time Adjourned:** 11:44 a.m.

(please circle if present)

**Committee Members:** Reps. Hess, Patten, Golden, P. Cote, Rice, Brundige, Sabella, Griffin, Leong, Noyes, Hager, Atkins, Lovejoy, Lockwood, Foster, Fraser, McGuirk, Salatiello, St. Cyr, Sarette, Simon and Zerba.

**Bill Sponsors:** Rep. Arnold, Hills 20; Rep. B. Hall, Hills 20

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

The purpose of this bill is to authorize and validate the Melendy Pond Authority in Brookline so it can continue to lease properties on behalf of the town.

Rep. Arnold reminded the committee that the request had been ITL'd two years ago because there was litigation involving the properties at that time. This was also referred to as "Reed Vs. Brookline" which has since been settled.

Rep. Arnold further pointed out that the land around Melendy Pond was owned by the town, and in the 1940s (1948) it leased out approximately 30 parcels of land to private owners with a 20 year lease arrangement. The town does not tax the land but does tax the cottages located on them.

The selectmen have asked Rep. Arnold to present a bill allowing them to transfer the properties over to the Authority. Rep. Arnold suggests that since we are not a "home rule" state, the state of NH must authorize this.

Rep. Arnold wants to make the authority legal. (Something that has been in place 50 - 60 years.)

Rep. Fraser asked why the bill is back. Rep. Arnold said you didn't pass it because you wanted to wait for the court decision. "We are back."

Rep. Rice: based upon current taxation laws, isn't land taxable? Would that be applicable to Melendy Pond?

Rep. Arnold: I don't know. We didn't tax the land because the town owns it. It's untaxable.

Rep. Sarette: does the community receive any tax money from the land?

Rep. Arnold: I don't believe so.

Rep. Noyes: Shouldn't we refer to the original agreement of the leases?

Rep. Arnold: Probably in the future.

Rep. Noyes: I would suggest it wouldn't be until they come up for renewals. This has been an acrimonious issue?

Rep. Arnold: "The issue I want settled is that the Melendy Pond Authority currently does not exist."

Rep. Rice: Would you believe it makes me uncomfortable without input from the town or the authority?

Rep. Arnold: I suppose, but I am here at the request of the selectmen.

Rep. Lovejoy: This authority leases this out for a sum of money? What happens to the money if its not used for the land?

Rep. Arnold: Some remitted to the general fund.

Rep. Noyes: Which town meeting and what was the vote?

Rep. Arnold: This has been successful and its been working for the users.

Rep. Noyes: Would this validate?

Rep. Arnold: Yes.

Rep. Akins: Since there is no statute creating this Authority, if we kill the bill, what would be the other options available to the town?

Rep. Arnold: Sorry, I refuse to play lawyer.

Rep. Foster: Is it your opinion if we indeed revalidate the authority, would it be in compliance for taxation?

Rep. Arnold: It's a tough question, but the SupremeCourt decision says it can and it'll be okay if the legislature approves it.

Rep. Patten: We would like to see the records of the vote, copy of Melendy Pond agreement and a copy of the court decision.

Rep. Arnold: Yes.

Rep. Simon: What would be the problem with continuing the present authority as it is.

Rep. Arnold: Lets legalize it. Its been okay.

Rep. Griffin: There is no authority, but you want to validate the authority? No taxes paid by people? Can town tax the land?

Rep. Arnold: Can't tax land or amenities.

Rep. Patten: We need a letter from the selectmen, the authority and a copy of the vote in 1940s.

Rep. Arnold: You may ask my fellow representative, Betty Wall.

Rep. Akins: Does the authority have any by-laws?

Rep. Arnold: There are a number of members elected by the town which seems to validate the town involvement.

Rep. Noyes: How large a tract and the members?

Rep. Arnold: Probably 30 or so.

Rep. Leone: Is it possible that a future board of selectmen could try to tax this land if we were to pass this bill?

Rep. Arnold: I don't know.

Rep. Brundige: Are these authority members elected?

Rep. Arnold: Yes.

It was reiterated to Rep. Arnold that the committee was in need of a copy of the original vote, copy of Melendy Pond agreement and a copy of the recent court case.

*Richard C. Stone, Clerk*

# Testimony

# TOWN OF BROOKLINE, NEW HAMPSHIRE

P. O. Box 360, Brookline, NH 03033-0360  
PHONE (603) 673-8855 FAX (603) 673-8136



January 28, 1999

Ms. Betsy Patten  
Vice Chair  
Municipal & County Government Committee  
State House  
Concord NH 03301

Dear Ms. Patten:

In light of the recent Supreme Court decision, we the Board of Selectmen of the Town of Brookline and the members of the Melendy Pond Authority, request that you suspend further action on the pending legislation relative to the Melendy Pond Authority. We require additional time to review the ramifications of the decision and are unsure that legislative action is appropriate at this time.

We appreciate the time that your committee has spent on this matter.

Sincerely,

*Judy L. Cook (R)*  
Judy L. Cook, Chairman  
Brookline Board of Selectmen

*Peter G. Webb (R)*  
Peter G. Webb, President  
Melendy Pond Authority

cc: Representative Thomas Arnold

# Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 77

**BILL TITLE:** relative to the Melendy Pond Authority of Brookline, New Hampshire.

**DATE:** February 4, 1999

**LOB ROOM:** 301

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Simon

Seconded by Rep. Foster

Vote: 16-0 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: 16-0**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Richard C. Leone, Clerk

Bill # 77

Public Hearings \_\_\_\_\_

Executive Session 2/4/99 11Am

COMMITTEE REPORT:

Motion by ~~Simon~~ JFL  
Second by \_\_\_\_\_

YEAS

NAYS

Hess, David W, Chairman		
Patten, Betsey L, V Chairman	✓	
Golden, Paul A		
Cote, Patricia L		
Rice, Thomas E P	✓	
Brundige, Robert W	✓	
Sabella, Norma A	✓	
Griffin, Mary E		
Leone, Richard C, Clerk	✓	
Noyes, Richard A	✓	
Hager, Elizabeth S	✓	
Akins, Ralph L	✓	
Lovejoy, Marian E	✓	
Lockwood, Priscilla P	✓	
Foster, Linda T	✓	
Fraser, Marilyn A		
McGuirk, Paul A	✓	
Salatiello, Thomas B		
St Cyr, Gerard L	✓	
Sarette, John C	✓	
Simon, Anthony F	✓	
Zerba, Roger T	✓	

TOTAL VOTE

16

0

Appeared in Favor

Appeared in Opposition

# Committee Report

# COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 77**

TITLE: **relative to the Melendy Pond Authority of Brookline, New Hampshire.**

DATE: **February 4, 1999**                      CONSENT CALENDAR    YES       NO  

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- RE-REFER
- REFER TO COMMITTEE FOR INTERIM STUDY  
(Available only in second year of biennium.)

## STATEMENT OF INTENT (Include Committee Vote)

This bill seeks to "legalize" the Melendy Pond Authority in the town of Brookline. This authority was established, without the required state approval, by the town more than fifty years ago. It supervises what was originally the "town forest" and is now an area of summer camps. Private individuals own the camps, which are located on lots leased from the authority. The New Hampshire Supreme Court recently decided a case involving this area. Because of this opinion, the town and authority have recently asked the Committee to suspend further action on this bill. The Committee believes that this bill as presented is inadequate to deal with this situation, particularly considering the potential implications of the court opinion.

Vote 16-0.

Rep. Anthony F. Simon  
FOR THE COMMITTEE

Original: House Clerk  
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

**Municipal and County Government**

**HB 77**, relative to the Melendy Pond Authority of Brookline, New Hampshire. INEXPEDIENT TO LEGISLATE

Rep. Anthony F. Simon for **Municipal and County Government**: This bill seeks to "legalize" the Melendy Pond Authority in the town of Brookline. This authority was established, without the required state approval, by the town more than fifty years ago. It supervises what was originally the "town forest" and is now an area of summer camps. Private individuals own the camps, which are located on lots leased from the authority. The New Hampshire Supreme Court recently decided a case involving this area. Because of this opinion, the town and authority have recently asked the Committee to suspend further action on this bill. The Committee believes that this bill as presented is inadequate to deal with this situation, particularly considering the potential implications of the court opinion. Vote 16-0.