Bill as Introduced

4/6/00 3159s
4/6/00 3936s

1999 SESSION

99-0631
03/01

SENATE BILL ***132***

AN ACT requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium until July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.

SPONSORS: Sen. Trombly, Dist 7; Sen. Below, Dist 5

COMMITTEE: Environment

AMENDED ANALYSIS

This bill requires the commissioner of resources and economic development and commissioner of safety to undertake a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower. This bill establishes an advisory committee to advise and consult with the department of resources and economic development and department of safety as to requirements for public safety and quasi-public safety communications on the summit of Mount Kearsarge. This bill also places a moratorium on new leases, use permits, or extensions of lease or permit terms for commercial telecommunication facilities on the summit of Mount Kearsarge entered into or extended by the department of resources and economic development until July 1, 2001.

. . . .

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

4/6/00 3159s
4/6/00 3936s

99-0631
03/01

STATE OF NEW HAMPSHIRE

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

AN ACT requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium until July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.

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

1 Study by the Commissioner of Resources and Economic Development and Commissioner of Safety. The commissioner of resources and economic development and commissioner of safety shall undertake a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower, including facilities on a location other than the current parcel of land where the tower is located, in consultation with the advisory committee established in section 2 of this act. The purpose of the review is to assess whether communications needs for public health, safety, and emergency services can be provided with a less obtrusive and smaller tower than the existing 180-foot tower and what the technical requirements might be for other alternatives. The commissioner of resources and economic development and commissioner of safety shall report on any findings and recommendations for legislative action, including funding needs for additional study, 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, 2000.

2 Mount Kearsarge Telecommunications Tower Advisory Committee. There is established an advisory committee to advise and consult with the department of resources and economic development and department of safety as to a technical review of requirements for public safety and quasi-public safety communications on the summit of Mount Kearsarge, including possible alternatives to the existing 180-foot tower.

3 Members and Compensation.

I. The members of the advisory committee shall be as follows:

(a) Three members of the senate, appointed by the senate president.

(b) Three members of the house of representatives, appointed by the speaker of the house.

(c) One representative each from Warner, Sutton, Wilmot, Andover, and New London, appointed by the selectmen from each respective town.

(d) One representative of Merrimack county, appointed by the county commissioners.

(e) One representative of the New Hampshire State Troopers Association, appointed by the Association.

(f) One representative of the department of fish and game, appointed by the executive director of fish and game.

(g) One representative of Save Our Mountain, appointed by the organization.

(h) One representative of the Society for the Protection of New Hampshire Forests, appointed by the organization.

II. Legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

4 Chairperson; Quorum. The members of the advisory committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Eight members of the committee shall constitute a quorum.

5 Report. The committee shall report any recommendations for future action by the legislature or the executive branch to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, the commissioner of resources and economic development, the commissioner of safety, and the state library on or before December 1, 2000.

6 Moratorium on New or Extended Leases. The department of resources and economic development shall not approve or enter into any new leases, use permits, or extensions of lease or permit terms for commercial telecommunications facilities on the summit of Mount Kearsarge before July 1, 2001.

7 Effective Date. This act shall take effect 30 days after its passage.

Amendments

Rep. Whalley, Hills. 25
May 3, 2000
2000-4339h
03/09

Amendment to SB 132

Amend the title of the bill by replacing it with the following:

AN ACT requiring the commissioner of resources and economic development and commissioner of safety to undertake a review of the requirements for public safety and quasi-public communications on the summit of Mount Kearsarge.

Amend the bill by replacing all after the enacting clause with the following:

1 Study by the Commissioner of Resources and Economic Development and Commissioner of Safety. The commissioner of resources and economic development and commissioner of safety shall undertake a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower, including facilities on a location other than the current parcel of land where the tower is located. The purpose of the review is to assess whether communication needs for public health, safety, and emergency services can be provided with a less obtrusive and smaller tower than the existing 180-foot tower and what the costs and technical requirements would be for alternatives that would assure the same or similar level of service to both public safety officials and the general public. The fiscal committee of the general court shall approve funds not otherwise appropriated to cover the cost in assisting the commissioners in the review. The commissioner of resources and economic development and commissioner of safety shall report on any findings, including funding needs for any plan of removal or alteration, to the senate president and the speaker of the house on or before November 1, 2001.

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

2000-4339h

AMENDED ANALYSIS

This bill requires the commissioner of resources and economic development and commissioner of safety to undertake a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower.

Rep. Royce, Ches. 9
May 3, 2000
2000-4363h
03/01

Amendment to SB 132

Amend the title of the bill by replacing it with the following:

AN ACT requiring the commissioner of resources and economic development and commissioner of safety to retain a consultant to review of the requirements for public safety and quasi-public communications on the summit of Mount Kearsarge.

Amend the bill by replacing all after the enacting clause with the following:

1 Study by the Commissioner of Resources and Economic Development and Commissioner of Safety. The commissioner of resources and economic development and commissioner of safety shall retain a qualified, independent consultant to conduct a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower, including facilities on a location other than the current parcel of land where the tower is located. The consultant shall review, study and report to the commissioner of resources and economic development and commissioner of safety on whether communication needs for public health, safety, and emergency services can be provided with a less obtrusive and smaller tower than the existing 180-foot tower and what the costs and technical requirements would be for alternatives that would assure the same or similar level of service to both public safety officials and the general public. The fiscal committee of the general court shall approve funds not otherwise appropriated to cover the cost in assisting the commissioners in conducting the review and in hiring the consultant. The commissioner of resources and economic development and commissioner of safety shall report on any findings, including funding needs for any plan of removal or alteration, to the senate president and the speaker of the house on or before November 1, 2001.

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

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May 3, 2000
2000-4363h
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Amend the bill by replacing all after the enacting clause with the following:

1 Study by the Commissioner of Resources and Economic Development and Commissioner of Safety. The commissioner of resources and economic development and commissioner of safety shall retain a qualified, independent consultant to conduct a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower, including facilities on a location other than the current parcel of land where the tower is located. The consultant shall review, study and report to the commissioner of resources and economic development and commissioner of safety on whether communication needs for public health, safety, and emergency services can be provided with a less obtrusive and smaller tower than the existing 180-foot tower and what the costs and technical requirements would be for alternatives that would assure the same or similar level of service to both public safety officials and the general public. The fiscal committee of the general court shall approve funds not otherwise appropriated to cover the cost in assisting the commissioners in conducting the review and in hiring the consultant. The commissioner of resources and economic development and commissioner of safety shall report on any findings, including funding needs for any plan of removal or alteration, to the senate president and the speaker of the house on or before November 1, 2001.

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

2000-4363h

AMENDED ANALYSIS

This bill requires the commissioner of resources and economic development and commissioner of safety to undertake a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # JB 132 Date April 26, 2000

Committee Resources, Recreation + Development

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con
Patricia Novak	HC 66 Box 12A Wilmot	526-4135	self	✓	
GREG GUTGSELL	PO BOX 2010 NEW LONDON,	927-4119	SELF	✓	
Mary Gutgsell	PO BOX 2010 New London	927-4119	self	✓	
[illegible]	HCR66 Box 33, Wilmot	768-3650	Self	✓	
Rep. Nancy J. Johnson	RR1 Box 4514	652-4957	self	✓	
Ronald Abbott	NH F+G				✓

Hearing Minutes

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SB 132

BILL TITLE: (New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium untill July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.

DATE: April 26, 2000

LOB ROOM: 305 & 307 **Time Public Hearing Called to Order:** 11:00 A.M.

Time Adjourned: 1:31 P.M.

(please circle if present)

Committee Members: Reps. Royce, D. Lawton, Whalley, Cooney, Kibbey, Mirski, Lavoie, O'Connell, Corbin, Roberts, Fields, Czech, Gallus, D. Russell, Blanchard, Downing, Williams, Lefebvre, Robb-Theroux, Fortnam, Glines and Spang.

Bill Sponsors: Sen. Trombley, Dist 7; Sen. Below, Dist 5

TESTIMONY

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

Senator Rick Trombly - Prime Sponsor. Supports the bill. Represents Warner and other communities, which feel their input was not considered. That was wrong. Asked that tower come down. Need for tower has mixed results. Tower has to stay up while debate goes on. Locals should have opportunity for input. This can happen anywhere. DRED or DOS have no reason to fear this bill. It reviews previous decision. Safety concerns can be met. Bill calls for review of this issue.

Chairman Royce: Was the attendance at the Senate hearings large? ANS: Yes. What is the number of committee members? ANS: 16. Question on membership? ANS: From lawsuit by NHPSF.

Rep. Blanchard: Would the report be permanent? ANS: Maybe.

Rep. Downing: Membership question? ANS: DOS will not be left out of process.

Chairman Royce: Will there be a Dept. review before legislation? ANS: Concern is for public input. 180-foot tower is inappropriate.

Rep. Kibbey: Would the moratorium affect present users? ANS: No.

Rep. Gallus: Will there be lawsuits? ANS: Do not know.

Senator Burt Cohen - Supports the bill. RSA affects future commercial use of public land. This bill addresses the Mt. Kearsarge situation. All should participate in decision-making.

Rep. Blanchard: Was the DOS present during the discussions? ANS: Yes.

Senator Clifton Below - Supports the bill. This bill begins a healing process. In 1997, a 180-foot tower appeared on Mt. Kearsarge. Very visible. Deliberate decision to avoid public input. Approved by Governor and Council. In 1920's, an effort was made to reserve special mountaintops. Mt. Kearsarge was purchased and turned over to the state. Included fire tower with public input. Mentioned Part I, Article 8 of the state constitution. Issue is public trust. Do we need 180-foot tower? US Cellular builds tower free if cell use is provided.

Described bill. DRED & DOS willing to do this, but they say bill is not needed. Described membership. Legislature decides what happens next year. Described Part 6, moratorium. There was a 17-6 bi-partisan vote in favor of this bill.

Chairman Royce: Were towns put on notice about tower? ANS: Yes, by some sort of letter to planning board, etc. Were there other communication facilities on the property before the tower? ANS: Yes, including some on a lower height tower.

Rep. Bill Belvin - Supports the bill. Noted that alternatives to the tower may exist.

George Bald, Commissioner, Department of Resources & Economic Development (DRED) - Opposes the bill. Opposes because DRED and DOS will sit down with local representatives about this issue. Noted that this was done by during a previous commissioners term. He does not like to see his department misaligned.

Rep. Whalley: Are you opposed to a review or to the advisory committee? ANS: We cannot take the tower down. It is misleading to say otherwise. We will discuss the situation in any event.

Rep. Lefebvre: Is there a safety report? ANS: Do not know, ask DOS.

Chairman Royce: If the tower were moved about 80 feet, would it be OK? ANS: Yes, in terms of the forest society.

Rep. Downing: Does DRED receive money from the tower? ANS: Yes. How much and where does it go? ANS: Will get the answer to the amount and the money goes to the Division of Parks.

* **Dan Dallaghan, US Cellular** - Opposes the bill. Written testimony, attached. Has 5-year contract with a renewal option. There is $31K revenue from the owner. The tower cannot be taken down.

Chairman Royce: What was the cost to erect? ANS: About $1M.

Rep. Czech: Is it usable without the tower? ANS: No. There a re 2 lawsuits.

Charles Niebling, SPNHF - Supports the bill. Described the long history the SPNHF has with this site. In 1949, deed 521A was given to NH with restrictions, which the tower violates. In 1998, SB 362 (Cohen) was supported. In 1/99, a suit was filed which is now pending. This process should be done independently of the suit. The society should be a member on the committee.

* **Andrew Bridge** - Supports the bill. Written testimony, attached. (E-MAIL COPY) Concerned with private/public partnership. Could present alternative.

Major Booth, Department of Safety/State Police - Opposes the bill. There are public safety communications on the tower. Offered proof that height of the tower is needed, especially for input from Mobil radios (5 watts). Technical review should be done by outside consultant. Why 180 feet? For inbound traffic, he would like to see it higher.

Chairman Royce: How large an area is covered with the 5-watt devices? ANS: To the Manchester/Hooksett line, including most of Merrimack County. The alternative would require several smaller towers.

Michael Carter - Supports the bill. He is a UNH person. Stated that some testimony is not true. $7.5M was given to the State Police for the system. In addition, Sen. Greg got $10M for the systems. Commercial uses are a mistake without public input. The technology in use is old.

Rep. Whalley: What were the untrue statements and what is required to replace the current system? ANS: There are many networks throughout the state. What other technologies? ANS: Many antennas were on the lower tower.

Richard E. Little - Supports the bill. Lives in the shadow of Mt. Kearsarge and is a lover of the mountain. He is an engineer in the computer/communication field. Major concern is the process. Concern regarding the continuing propaganda about the public safety. There are other alternatives to cellular antennas.

* **Don Novak** - Supports the bill. Written testimony, attached. Noted he is highly involved in this issue. Stated that the Union Leader listed the cost of the tower at $250K, not $1M. Described the photo of the tower, attached.

Rep. Blanchard: Were there formal town votes in favor of the tower? ANS: There were memos supporting removal of the tower.

Response from US Cellular stated they did not misrepresent cost of the tower.

* **Patricia Novak** - Supports the bill. Written testimony, attached. No oral testimony.

Greg Gutgsell - Supports the bill. The bill needs to be passed. Lives in Wilmot in the shadow of the mountain. Stated that a DRED memo from Jim Carter to Former Commissioner Thompson advising against public announcements. The structure consolidation was not true. The pillbox structure was from US Cellular. Noted that a meeting about another tower requested by Wilmot was held far away.

* **Brad Anderson, Farmington Conservation Commission** - Supports the bill. Written testimony, attached.

Chairman Royce: Whom did you have meetings with? ANS: DRED. Questions are in court.

John Dabuliewiez - Supports the bill. There is no question about public safety issues. Technical issues are not clear, especially the height of the tower. Noted that he had extensive service in state government including OSP and DES service for many years.

TESTIMONY FOR A 2ND TIME:

Senator Below: There were many questions raised which need to be answered.

Major Booth: The DOS provided all information except antenna coverage, which is considered to be security information.

Attorney Callahan: Read written testimony relating to the cost of $1M. Will provide the committee with information.

Rep. Czech: If the committee needs information, would you provide? ANS: Yes, unless it was proprietary.

Brad Anderson: Other mountains are open to the same treatment.

Don Novak: The Union/Leader article will be provided.

Respectfully submitted,

Rep. Richard T. Cooney
Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SB 132

BILL TITLE: (New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium untill July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.

DATE: April 26, 2000

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Time Adjourned: 1:30

(please circle if present)

Committee Members: Reps. Royce, D. Lawton, Whalley, Cooney, Kibbey, Mirski, Lavoie, O'Connell, Corbin, Roberts, Fields, Czech, Gallus, D. Russell, Blanchard, Downing, Williams, Lefebvre, Robb-Theroux, Fortnam, Glines and Spang.

Bill Sponsors: Sen. Trombley, Dist 7; Sen. Below, Dist 5

TESTIMONY

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HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

PUBLIC HEARING ON SB 132

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DATE: April 26, 2000

LOB ROOM: 305 **Time Public Hearing Called to Order:** 11:19 AM

Time Adjourned: 1:31 PM

(please circle if present)

Committee Members: Reps. Royce, D. Lawton, Whalley, Cooney, Kibbey, Mirski, R. Lawton, Lavoie, O'Connell, Corbin, Roberts, Fields, Czech, Gallus, Blanchard, Downing, Williams, Lefebvre, Robb-Theroux, Fortnam, Glines and Spang.

Bill Sponsors: Sen. Trombly et al.

TESTIMONY

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SEN. TROMBLY – PRIME SPONSOR – SUPPORTS

Represents Warner and other communities, which feel their input was not considered. That was wrong. Asked that tower come down. Need for tower has mixed results. Tower has to stay up while debate goes on. Locals should have opportunity for input. This can happen anywhere. DRED or DOS have no reason to fear this bill. It reviews previous decision. Safety concerns can be met. Bill calls for review of this issue.

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? What is the number of committee members? A: 16.
? Question on membership? A: From lawsuit by NHPSF.

Blanchard: Would the report be permanent? A: Maybe.

Downing: Membership question? A: DOS will not be left out of process.

Royce: Will there be a Dept. review before legislation? A: Concern is for public input. 180-foot tower is inappropriate.

Kibbey: Would the moratorium affect present users? A: No.

Gallus: Will there be lawsuits? A: DNK

SEN. COHEN – DIST. 24 – SUPPORTS

RSA affects future commercial use of public land. This bill addresses the Mt. Kearsage situation. All should participate in decision-making.

Blanchard: Was the DOS present during the discussions? A: Yes.

SEN. BELOW – DISTRICT 5 – SUPPORTS

This bill begins a healing process. In 1997, a 180-foot tower appeared on Mt. Kearsage. Very visible. Deliberate decision to avoid public input. Approved by Governor and Council. In 1920's, an effort was made to reserve special mountaintops. Mr. Kearsage was purchased and turned over to the state. Included fire tower with public input. Mentioned Part I, Article 8 of the state constitution. Issue is public trust. Do we need 180-foot tower? US Cellular builds tower free if cell use is provided.

Described bill. DRED & DOS willing to do this, but they say bill is not needed. Described membership. Legislature decides what happens next year. Described Part 6, moratorium. There was a 17-6 bi-partisan vote in favor of this bill.

Royce: Were towns put on notice about tower? A: Yes, by some sort of letter to planning board, etc.
? Were there other communication facilities on the property before the tower? A: Yes, including some on a lower height tower.

REP. BELVIN – HILLS. 14 – SUPPORTS

Noted that alternatives to the tower may exist.

COMMISSIONER BALD – DRED – OPPOSES

Opposes because DRED and DOS will sit down with local representatives about this issue. Noted that this was done by during a previous commissioners term. He does not like to see his department misaligned.

Whalley: Are you opposed to a review or to the advisory committee? A: We cannot take the tower down. It is misleading to say otherwise. We will discuss the situation in any event.

Lefebvre: Is there a safety report? A: DNK, ask DOS.

Royce: If the tower were moved about 80 feet, would it be OK? A: yes, in terms of the forest society.

Downing: Does DRED receive money from the tower? A: Yes.
? How much and where does it go? A: Will get the answer to the amount and the money goes to the Division of Parks.

DAN CALLAGHAN – US CELLULAR – OPPOSES

Written testimony, attached.

Has 5-year contract with a renewal option. There is $31K revenue from the owner. The tower cannot be taken down.

Royce: What was the cost to erect? A: About $1M.

Czech: Is it usable without the tower? A: No. There a re 2 lawsuits.

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ANDREW BRIDGE – SELF – SUPPORTS

Written testimony, attached. (E-MAIL COPY)

Concerned with private/public partnership. Could present alternative.

MAJOR BOOTH – STATE POLICE / DOS – OPPOSES

There are public safety communications on the tower. Offered proof that height of the tower is needed, especially for input from Mobil radios (5 watts). Technical review should be done by outside consultant. Why 180 feet? For inbound traffic, he would like to see it higher.

Royce: How large an area is covered with the 5-watt devices? A: To the Manchester/Hooksett line, including most of Merrimack County. The alternative would require several smaller towers.

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Whalley: What were the untrue statements and what is required to replace the current system? A: There are many networks throughout the state.

? What other technologies? A: Many antennas were on the lower tower.

RICHARD LITTLE – SELF – SUPPORTS

Lives in the shadow of Mt. Kearsage and is a lover of the mountain. He is an engineer in the computer/communication field. Major concern is the process. Concern re the continuing propaganda about the public safety. There are other alternatives to cellular antennas.

DAN NOVAK – SELF SUPPORTS

Written testimony, attached.

Noted he is highly involved in this issue. Stated that the Union Leader listed the cost of the tower at $250K, not $1M. Described the photo of the tower, attached.

Blanchard: Were there formal town votes in favor of the tower? A: There were memos supporting removal of the tower.

Response from US Cellular stated they did not misrepresent cost of the tower.

PARTICIAL NOVAK – SELF – SUPPORTS

Written testimony, attached. No oral testimony.

GREG GUTGSELL – SELF – SUPPORTS

The bill needs to be passed. Lives in Wilmot in the shadow of the mountain. Stated that a DRED memo from Jim Carter to Former Commissioner Thompson advising against public announcements. The structure consolidation was not true. The pillbox structure was from US Cellular. Noted that a meeting about another tower requested by Wilmot was held far away.

BRAD ANDERSON – FARMINGTON CONSERVATION COMMISSION – SUPPORTS

Written testimony, attached.

Royce: Whom did you have meetings with? A: DRED. Questions are in court.

JOHN DABULIEWIEZ = SELF – SUPPORTS

There is no question about public safety issues. Technical issues are not clear, especially the height of the tower. Noted that he had extensive service in state government including OSP and DES service for many years.

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SEN BELOW: There were many questions raised which need to be answered.

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BRAD ANDERSON: Other mountains are open to the same treatment.

DON NOVAK: The Union/Leader article will be provided.

HEARING CLOSED AT 1:31 PM

Sub-Committee Actions

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON SB 132

BILL TITLE: (New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium untill July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.

DATE: 5/3/00

Subcommittee Members: Reps. Whalley, Royce, and Downing

Comments and Recommendations:

Amendments:

Sponsor: Rep. Rep. Royce	OLS Document #:	2000	4363h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

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

Moved by Rep. Downing

Seconded by Rep. Royce

Vote: 3-0

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

Moved by Rep. Downing

Seconded by Rep. Royce

Vote: 3-0

Respectfully submitted,

Rep. Michael D. Whalley
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

SUBCOMMITTEE WORK SESSION ON SB 132

BILL TITLE: (New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium untill July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.

DATE: 5/3/00

Subcommittee Members: Reps. Wrathall, Royce, & Dawning

Comments and Recommendations:

Amendments:

Sponsor: Rep. OLS Document #: 4363h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Dawning

Seconded by Rep. Royce

Vote: 3-0

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

Moved by Rep. Dawning

Seconded by Rep. Royce

Vote: 3-0

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Testimony

Dept. of Resources and Economic Development

PO Box 1856, 172 Pembroke Road
Concord, New Hampshire 03302-1856
271-2411
Fax: 271-2629

FAX TRANSMISSION COVER SHEET

Date: 5/3

To: Rep. Royce

Fax: X 6689

Re: Mountaintop Policy

Sender: *George M. Bald*
Commissioner

YOU SHOULD RECEIVE 10 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL 271-2411.

decision. An adjoining municipality in which is located an existing private road or class VI highway that serves as an applicant's sole means of fulfilling the street access requirements under RSA 674:41 shall have the same regulatory powers under that statute with respect to that road or highway as if the proposed building or development were located within that same municipality.

* * *

IV. No plat or plan showing land or streets in more than one municipality in the state shall be deemed approved for purposes of this title unless it has been approved by the planning boards of all included municipalities in which the planning board has been granted authority over approval of that type of plat or plan. In addition, no plat or plan showing land whose sole street access or sole maintained street access is or is planned to be via a private road or class IV, V, or VI highway located in an adjoining municipality shall be deemed approved for purposes of this title unless it has been approved by the planning board, if any, of that adjoining municipality, provided however that the sole issue which may be addressed or regulated by the adjoining municipality shall be the adequacy of such street access, and the impact of the proposal upon it.

* * *

HISTORY

Source. 1989, 381:1. 1995, 43:6, 7, eff. July 2, 1995. 1998, 57:1, 2, eff. July 11, 1998.
Amendments—1998. Paragraph II: Amended generally.
Paragraph IV: Added the last sentence.

Governmental Use of Property

HISTORY

Amendments—1998. 1998, 281:1, eff. Aug. 25, 1998, deleted "Notification to Municipalities of" preceding "Governmental" in the subdivision heading.

674:54 Governmental Land Uses.

I. In this section, "governmental use" means a use, construction, or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.

II. The state, university system, county, town, city, school district, or village district shall give written notification to the governing body and planning board, if such exists, of a municipality of any proposed governmental use of property within its jurisdiction, which constitutes a substantial change in use or a substantial new use. Written notification shall contain plans, specifications, explanations of proposed changes available at the time, a statement of the governmental nature of the use as set forth in paragraph I, and a proposed construction schedule. Such notification shall be provided at least 60 days prior to the beginning of construction. Either the governing body or planning board of the municipality may conduct a public hearing relative to the proposed governmental use. Any such hearing shall be held within 30 days after receipt of notice by the governing body or planning board. A representative of the governmental entity which provided notice shall be available to present the plans, specifications, and construction schedule, and to provide explanations. The governing body or planning board may issue nonbinding written comments relative to conformity or nonconformity of the proposal with normally applicable land use regulations to the sponsor of the governmental use within 30 days after the hearing.

II-a. Any use, construction, or development of land occurring on governmentally owned or occupied land, but which is not a governmental use as defined in paragraph I, shall be fully subject to local land use regulations.

III. This section shall not apply to:

(a) The layout or construction of public highways of any class, or to the distribution lines or transmission apparatus of governmental utilities, provided that the erection of a highway or utility easement across a parcel of land, shall not, in and of itself, be deemed to subdivide the remaining land into 2 or more lots or sites for conveyance for development purposes in the absence of subdivision approval under this title. For purposes of this subparagraph, "transmission apparatus" shall not include wireless communication facilities.

(b) The erection, installation, or maintenance of poles, structures, conduits and cables, or wires in, under, or across any public highways under RSA 231, or licenses or leases for telecommunication facilities in, under, or across railroad rights of way. For purposes of this subparagraph, "structures" shall not include wireless communications facilities.

IV. In the event of exigent circumstances where the delay entailed by compliance with this section would endanger public health or safety, the governor may declare a governmental use exempt from the requirements of this section.

HISTORY

Source. 1996, 262:1, eff. Aug. 9, 1996. 1998, 281:2, eff. Aug. 25, 1998.
Amendments—1998. Rewrote pars. II and III and added pars. II-a and IV.

CHAPTER 675

ENACTMENT AND ADOPTION PROCEDURES

Zoning Ordinance, Historic District Ordinance and Building Code Enactment Procedures

675:3 Method of Enactment in Certain Towns and Village Districts.

* * *

MAY. 3.2000 11:19AM DEPT RES & ECON DEV NO. 353 P.2

STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT

POLICY ON USE AND MANAGEMENT OF MOUNTAINTOPS FOR COMMUNICATION FACILITIES

Adopted Nov. 7, 1989
Revised April 15, 1998

Robb R. Thomson, Commissioner

P.O. Box 1856
Concord, N.H. 03302-1856

State of New Hampshire
Department of Resources and Economic Development
Policy On Use and Management of
Mountaintops for Communications Facilities

INTRODUCTION

In 1964 the State of New Hampshire, recognizing the future needs for public communication sites and the potential proliferation of antenna towers, microwave dishes, transmitter buildings and other apparatus on New Hampshire's high peaks and ridges, established a policy limiting radio/electronics installations on Department of Resources and Economic Development administered land. At that time, the chief concern was providing sites for future public communication needs and the visual impact of installations. New communication installations and renewals of existing permits were limited to public agencies. Agencies not supported with public funds were considered only where installations would provide a measure of public service or public safety.

In the 1980's, three additional concerns developed regarding communication facilities on state-owned summits. First is a concern for protecting the aesthetics and natural condition of our high peaks and ridges. Second is electronic interference and signal deterioration due to increasing transmission and reception installations. Although there is no way to quantify the threshold below which a transmission signal becomes unacceptably weakened by neighboring users, each addition of equipment at a site has some negative effect. As the number of installations has increased, so has concern over signal integrity because most of the users of state-owned mountaintops are involved with public health and safety, law enforcement, national defense, and public information.

The third concern is the potential threat to public health from intense signals. The mountaintops were originally acquired and maintained for the visiting public and it is important to limit radio frequency radiation to levels safe for their continued public use.

To address these four concerns the following policy is adopted.

I. DEFINITIONS

"Public user" means a federal, state, county or municipal agency or some association thereof.

"Quasi public user" means a non-governmental entity that transmits electromagnetic signals wholly related to public health and safety and does not receive any direct financial gain from such transmission. (As determined by the Commissioner of the Department of Resources and Economic Development).
"Private user" means any person not a "public user" or "quasi public user".

II. OBJECTIVE

The ultimate goal for state-owned mountaintops in New Hampshire is to have them cleared of all appurtenances and machinery, with the possible exception of observation platforms. This goal cannot be realized until the science of electronic communications has advanced to the state where mountaintop antennas and other electrical paraphernalia are outmoded. Until that time, the overall management objective for mountaintop communications sites will be to provide transmission sites for communications critical to the public health and safety, while minimizing the aesthetic and environmental impacts of these communications facilities.

III GUIDELINES AND CONSIDERATIONS

A. Values To Be Protected

Management of mountaintop communications sites on Department of Resources and Economic Development managed lands is intended to protect three distinct values deemed essential to the public interest:

1. Aesthetics/natural condition: the natural, scenic mountain profile and the natural character of the summit areas. Communication facilities shall be installed so as to have the least physical disturbance or modification of the mountain top environment and minimum impact to the public enjoyment of these environments.

2. Public health and safety: information and communications necessary to maintain the health and safety of the public at large, as well as visitors to mountaintop communication sites.

3. Electronic integrity: non-interference between communications systems and/or associated electrical devices.

B. Policy

It is the policy of the Department of Resources and Economic Development to permit limited development of selected state-owned land under its jurisdiction for electronic communications necessary to public health, safety and information. It is not intended to achieve consolidation of all electronic communication sites across the state onto state-owned mountaintops.

C. Communication Sites Designation

1. The following specific strategic mountaintop sites in state ownership are hereby designated by the Commissioner of the Department of Resources and Economic Development as "Communication Sites".

Belknap Mountain, Belknap Mountain State Forest
Blue Job Mountain, Blue Job State Forest
Cannon Mountain, Franconia Notch State Park
Federal Hill, Federal Hill Fire Tower
Holden Hill, Coleman State Park
Hyland Hill, Hyland Hill State Forest
Jordan Hill, Walker State Forest
Kearsarge Mountain, Kearsarge Mountain State Forest
Milan Hill, Milan Hill State Park
Oak Hill, Oak Hill Fire Tower
Pack Monadnock Mountain, Miller State Park
Pitcher Mountain, Pitcher Mountain Fire Tower
Prospect Mountain, Weeks State Park
Mt. Sunapee, Mt. Sunapee State Park
Wantastiquet Mountain, Wantastiquet Mountain State Forest
Warner Hill, Warner Hill Fire Tower

Development of communications facilities at these sites will be restricted to specific areas.

2. Application for new communication site designations shall be considered only when submitted by a Public User. Applications shall address the following requirements/criteria.

   a. Demonstrated need for public health and safety communications.

   b. A description of other alternatives considered, including existing DRED designated communication sites and locations on private property, and the reasons against their selection.

   c. Complete plans and specifications of the proposed installation including, but not limited to, buildings, towers, power lines, accessory structures, fuel tanks, generators, method(s) of access and access improvements.

   d. Co-location with existing buildings/development.

   e. Compatibility with long-range multiple use plans.

   f. Aesthetic compatibility with surrounding environment.

   g. Power and access availability without major new development.

   h. Impact on natural and recreational resources.

   i. Deed and/or property use restrictions.

3. In accordance with RSA 674:54 II, all applications for new communication site designations shall be sent to the Board of Selectmen/City Council of the municipality in which the proposed site is located and to the appropriate Regional Planning Commission to provide an opportunity for local and/or regional public hearing(s).
   In addition:

   a. DRED will provide a public notification in a newspaper in general circulation in the area that a proposal for a new communication site designation has been sent to the municipality.

   b. DRED will provide written notification to (1) persons who have interests of record in the site; (2) persons who have written use agreements for the site on file with DRED; (3) land owners across which the state has deeded or written access rights to the site; and (4) donors of land which contains the site.

   c. DRED personnel and the applicant shall participate in any hearing(s) requested by the municipality or by the Regional Planning Commission.

   d. DRED shall respond in writing to any written comments made by the municipality relative to the application and received within 30 days after the hearing. Responses shall identify any modifications made in response to comments from the municipality or a written explanation as to why the implementation of the comments would be contrary to the proposed public project.

4. **In anticipation of compliance with the requirements of Section IV C.2.e and IV C.3.a., upon completion of the processes described in this section, applications for new communication site designations shall be submitted to N.H. Governor and Executive Council for approval.**

5. **Application(s) for use permits or leases for new communication sites shall follow the same procedures as existing designated sites.**

D. Consolidation

Towers and buildings on each communication site will be consolidated and shared by site users. The goals are: 1) a single, expandable, low profile transmitter building serviced by a single non-overhead utility line, 2) a screened, camouflaged or inconspicuous low profile microwave dish array and 3) as few multiple use, broad-band antennae as are technically feasible, affixed to a single tower. Such consolidation will be planned on a site-by-site basis according to building design, cable and power layout, and vegetation distribution. It will be accomplished through cooperative funding among users, contributions, or bonding.

Additions to, and modifications or relocation of, existing structures and equipment must be compatible with the designated site plan for consolidation of facilities through shared use. The Communication Site Advisory Committee will make recommendations to the Commissioner of the Department of Resources and Economic Development regarding all such requests.

E. Advisory Committee

A Communication Site Advisory Committee is established as an adjunct to the Commissioner's office for the purpose of advising the Commissioner on the following matters:

1. Designation of communication sites.

2. Developing Plans for consolidation of facilities.

3. Policies, rules, and regulations for communication site management.

4. Applications for new communication site users.

Committee membership shall include the following individuals or their designate:

1. Director, Division of Forests and Lands
2. Director, Division of Parks and Recreation
3. Director, Division of State Police
4. Executive Director, New Hampshire Fish & Game Department
5. **President/Forester, Society for the Protection of New Hampshire Forests**
6. **Executive Director, New Hampshire Municipal Association**

Technical advisors may serve as deemed necessary or desirable by the Committee.

F. New Installations/Users

Proposals for new or enlarged installations at designated communication sites which are clearly in the overall interest of public health or safety will be given the highest priority. New "private users" are permitted only when the proposed use (1) can be accomplished within the existing footprint of the communication facilities (use of existing buildings and towers) or (2) would result in a net improvement in mountaintop facility aesthetics, primarily through consolidation or (3) would result in enhanced public recreation access or opportunities or (4) would provide the tower or building space needed to accommodate "public users" as determined by the Commissioner.

G. Interference

New installations/users shall not interfere with existing installations, users and functions. Where irreconcilable conflicts arise between "public" and "quasi public" installations and "private user" installations over electronic interference, space, power supply, or location, the "public" or "quasi public" user shall take precedence and displace the private user. Order of displacement is: 1) private users; 2) quasi public users engaged in low power broadcasting; 3) other quasi public users. Within each category newest installations shall be displaced first.

In the case of a complaint of electronic interference or other conflicts created by a new installation, it shall be the responsibility of the proponent of the new installation to submit plans for resolving the complaint or potential problem. The plans shall be consistent with the site consolidation effort. The complainant and new installation proponent shall attempt to resolve the matter. Unresolved issues and the proponent's plans shall be submitted to the Advisory Committee within 10 working days of the complaint for their review and recommendation for action by the Commissioner.

H. Other Installation Requirements

1. Antenna tower(s) on Department of Resources and Economic Development communication sites shall be the minimum height necessary to meet technical requirements of the equipment installed and the service area, but under no circumstances shall attain or exceed the height requiring lights under FAA laws or regulations (200 feet total height).

2. All Department of Resources and Economic Development communication sites shall meet the current American National Standards Institute (ANSI) requirements for controlled and uncontrolled human exposure to radio frequency electromagnetic fields.

3. Permits/leases for site use are not transferable and facilities (buildings, tower and equipment) may not be sub-leased.

4. Requests for changes or modification of a permitted installation shall be submitted in writing for approval by the Commissioner.

5. Site users shall comply with all applicable federal, state and local laws, ordinances and rules.

6. All equipment installations shall be accomplished in compliance with the latest edition of the "State of New Hampshire Department of Resources and Economic Development Technical Requirements For use of Communication Sites".

IV. Applications/Application Review/Local Notification

A. Application for communication site use permits/leases will be filed with the Commissioner, Department of Resources and Economic Development and shall include the following information:

1. Statement of service to be provided and justification.

2. A description of other alternatives considered and reasons against their selection.

3. **Complete plans of the proposed installation, including but not limited to buildings, towers, building or tower additions, power line improvements, accessory structures, generators, fuel tanks, methods of access and access improvements.**

4. Detailed specifications including type, frequency, size and proposed location of receiving and/or transmission units and antennas.

5. Analysis of compatibility with existing facilities and equipment (intermod analysis) and power requirements.

6. Written documentation that the installation meets the current ANSI standards for controlled and uncontrolled human exposure to radio frequency electromagnetic fields. Cumulative affects of the proposed installation together with the existing facilities shall be considered.

B. Applications shall be reviewed by the Communication Site Advisory Committee

1. Applications receiving a favorable recommendation from the Communication Site Advisory Committee shall be sent to all site users for their review and comment. The site user review period shall be two weeks. These comments will be considered by the Commissioner as part of the application.

C. **Copies of all applications will be sent to the Board of Selectmen/City Council of the municipality in which the facility is located and to the appropriate Regional Planning Commission.**

1. **Applications from public users, utilizing existing buildings and towers including placement of antenna on existing tower structures will be sent for informational purposes only.**

2. **In accordance with RSA 674:54 II, applications from public users that constitute a substantial change in use or a substantial new use, including new buildings or new towers or additions to existing buildings or increase in the height of existing towers, shall be provided at least 60 days in advance of the start of construction and shall include copies of plans and specifications of the proposed site improvements. In addition:**

   a. **DRED will provide a public notification in a newspaper in general circulation in the area that a proposal for a new communication building or tower or an addition to an existing building or tower has been sent to the municipality.**

b. DRED will provide written notification to (1) persons who have interests of record in the site; (2) persons who have written use agreements for the site on file with DRED; (3) land owners across which the state has deeded or written access rights to the site; and (4) donors of land which contain the site.

c. DRED personnel and the applicant shall participate in any hearing requested by the municipality or the Regional Planning Commission.

d. DRED or the applicant shall respond in writing to any written comments made by the municipality relative to the application and received within 30 days after the hearing. Responses shall identify any modifications made in response to comments from the municipality or a written explanation as to why the implementation of the comments would be contrary to the proposed public project.

e. Leases or Special Use Permits authorizing the requested public installation shall not be issued by DRED or forwarded to Governor and Executive Council for approval until the processes described in this section have been completed.

3. Applications from quasi-public and private users shall be submitted to the local governing body by the applicant for approval under the municipalities Site Plan Review Regulation.

a. Leases authorizing the requested private user installation shall not be forwarded to Governor and Executive Council for approval until the municipal Site Plan Review has been completed.

V. PERMIT/LEASE AND RENTAL CONDITIONS

A. Where there is an existing permit/lease, use and rent will be governed by the agreement conditions.

B. For new or renewed permits/leases an annual fee or administrative charge will be established for each installation and will be set by the Commissioner. Items to be considered in determining the fee or charge will include:

1. Administration costs to the state.
2. User classification (public, quasi-public, private) and type of installation.
3. Prorated share of facilities maintenance.
4. Benefits accruing to the state as a result of joint installation.
5. Costs associated with installations at alternative locations on private property.
6. Market rent values on comparable private communications sites.
7. Potential impacts to existing state park or state forest operations.

C. All communication installations on DRED lands owned by or leased to private or quasi public entities will be subject to local taxes, payable by the owner/lessee.

VI. AMENDMENTS TO POLICY

This policy may be amended from time to time to serve the public interest upon recommendation of the Communication Site Advisory Committee and approval by the Commissioner.

Approved _____ April 15, 1998
Commissioner Date
Department of Resources and Economic Development

mmops.pol

AMENDED ANALYSIS

This bill requires the commissioner of resources and economic development and commissioner of safety to undertake a review of the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower.

2000-4469h

Amendment to SB 132

Proposed by the Minority of the Committee on Resources, Recreation and Development - R

Amend the title of the bill by replacing it with the following:

AN ACT requiring the commissioner of resources and economic development and commissioner of safety to retain a consultant to review the requirements for public safety and quasi-public communications on the summit of Mount Kearsarge; and establishing an advisory committee regarding the review.

Amend the bill by replacing all after section 1 with the following:

2 Mount Kearsarge Telecommunications Tower Advisory Committee. There is established an advisory committee to advise and consult with the department of resources and economic development and department of safety as to a technical review of requirements for public safety and quasi-public safety communications on the summit of Mount Kearsarge, including possible alternatives to the existing 180-foot tower.

3 Members and Compensation.

I. The members of the advisory committee shall be as follows:

(a) Three members of the senate, appointed by the senate president.

(b) Three members of the house of representatives, appointed by the speaker of the house.

(c) One representative each from Warner, Sutton, Wilmot, Andover, and New London, appointed by the selectmen from each respective town.

(d) One representative of Merrimack county, appointed by the county commissioners.

(e) One representative of the New Hampshire State Troopers Association, appointed by the Association.

(f) One representative of the department of fish and game, appointed by the executive director of fish and game.

(g) One representative of Save Our Mountain, appointed by the organization.

(h) One representative of the Society for the Protection of New Hampshire Forests, appointed by the organization.

II. Legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

4 Chairperson; Quorum. The members of the advisory committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Eight members of the committee shall constitute a quorum.

5 Repeal. Sections 2-4 of this act, relative to the Mount Kearsarge telecommunications advisory committee, are repealed.

6 Effective Date.

I. Section 5 of this act shall take effect November 1, 2001.

II. The remainder of this act shall take effect 30 days after its passage.

AMENDED ANALYSIS

This bill requires the commissioner of resources and economic development and commissioner of safety to hire a consultant and to undertake a review of the technical requirements for public safety and quasi-public safety communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower. This bill establishes an advisory committee for the review.

2000-4264h

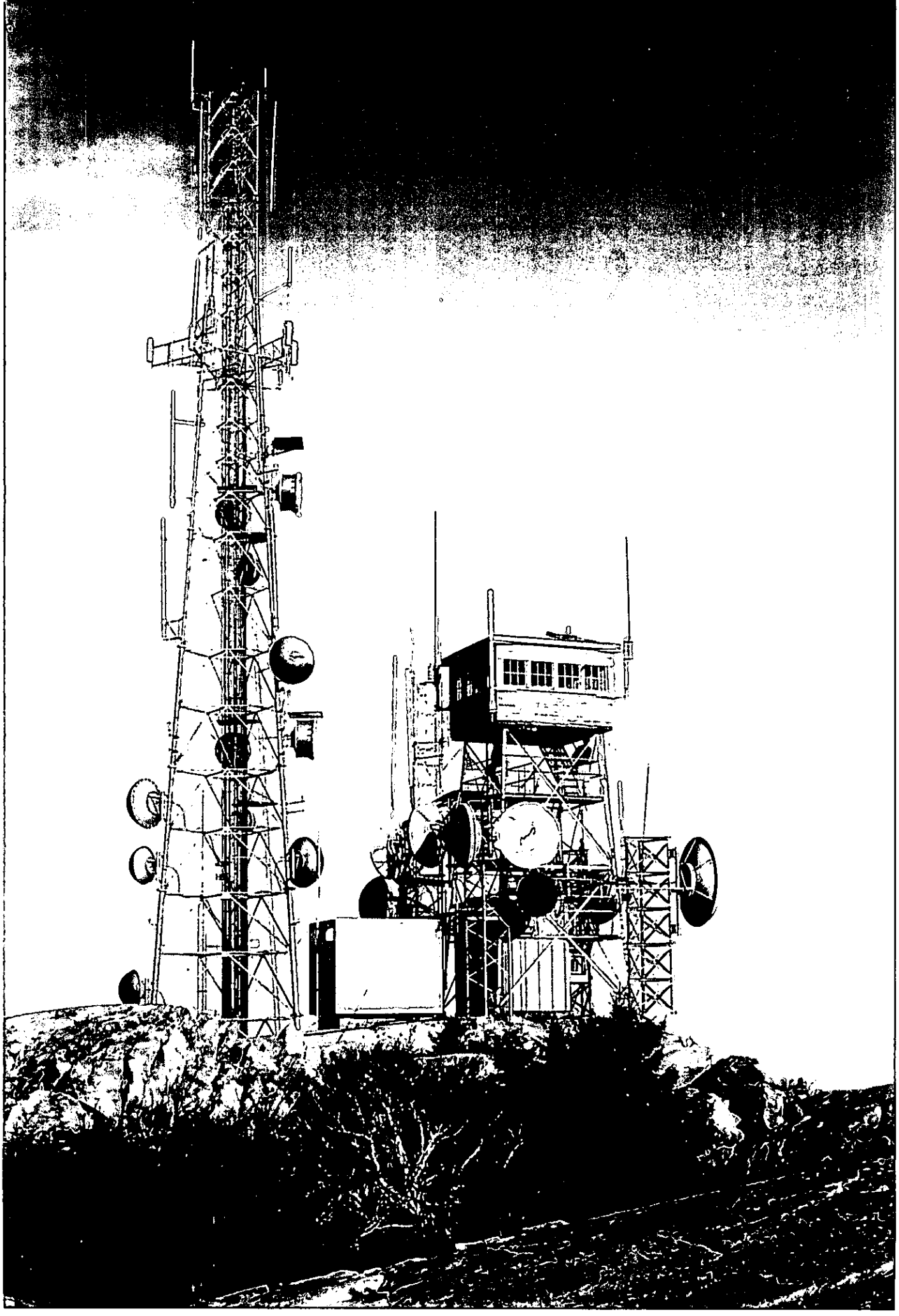
Amendment to SB 136-FN

Proposed by the Committee on Finance - C

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. Disaster leave for state employees will increase the number of local, trained, and experienced disaster workers. Training and expenses for participating employees are provided by the American Red Cross at no cost to the state or to the volunteers and leave days for employees are limited and require approval from their supervisor to assure orderly granting of requests based on competing demands. Experience on disaster assignments is an opportunity for state employees to learn new skills and gain supervisory experience that will benefit them personally, their agencies, and the citizens they serve. Their experience and training will make them ready to immediately serve when a disaster event occurs.

FILE



Don Novak
Wilmot, NH
526-4135

"Celling" of Mt. Kearsarge

Mt. Kearsarge is the dominant landmark in Merrimack County, the site of two state parks, and of rich historical significance. Four U.S. naval vessels have been named for the mountain.
It is not just another hill!

In October, 1997, a one hundred and eighty foot communication tower was erected by U.S. Cellular and the State of New Hampshire on the mountain. This tower and support facilities disfigured a mountain that has been a source of wonder and enjoyment for area residents and visitors alike. In allowing construction of this tower the State:

- violated DRED policy of maintaining this summit as a scenic area.
- violated the deed which stipulated the land was to be used as a forestry and recreation reservation.
- violated the law whereby DRED had to notify the public of new facilities on state land.
- violated DRED policy on use and management of mountaintops for communication facilities.

Lack of Public Notification

U.S. Cellular used the services of Coldstream Real Estate Advisors to expedite approvals without local input. Coldstream advertised being able to use its "contacts with State officials to explore erecting towers on State owned mountains".

The State purposely withheld public notification. The administrator for the State's Division of Forest and Lands, James Carter, said in a memo to Robb Thompson, commissioner of DRED, "If possible, I think we should avoid a general public notice and abutter notification".

State law mandates the local municipality be notified, it wasn't. The law at the time said, "The state .... shall give written notification to a municipality of any proposed government use of property within its jurisdiction, which constitutes a substantial change in use or a substantial new use." Warner, where the tower is located, was not notified of construction until the footings were in place and just days before the tower was erected. Robb Thompson later stated that the lack of notification "was due to a staff oversight for which I apologize". The State in its response to a lawsuit had the audacity to say that the 180 ft. tower and new user (USC) was not a substantial change in use or substantial new use.

Violation of Polices/Rules

DRED's "Policy on Use and Management of Mountaintops for Communication Facilities", Revision 6/3/95, states in Sec. III, A. Values to Be Protected, "Management of mountaintop communication sites on Department of Resources and Economic Development managed lands is intended to protect three distinct values deemed essential to the public interest:
1. aesthetics/natural condition: the natural, scenic mountain profile and the natural character of the summit areas. Communication facilities shall be installed so as to have the least physical disturbance or modification of the mountain top environment and minimum impact to the public enjoyment of these environments.
2. public health and safety: information and communications necessary to maintain the health and safety of the public at large, as well as visitors to mountaintop communication sites".

RSA 227-H-1 states: "it is hearby recognized and declared that the state-owned reservations contribute to the conservation of natural resources and distinctive quality of life in the state. The public welfare of this state is served by the prudent acquisition and management of reservations to provide forest benefits and for the purposes of demonstrating sound forestry principles, protecting habitat for plants, animals, and other organisms, conserving forested watersheds, preserving areas of rare and exemplary natural beauty and ecological value, and providing for perpetual public access and use".

Allowing construction of a tower for mostly commercial use on state forest land is an obvious contradiction of these policies and rules.

Impact

This tower was built on the highest, most visible part of the mountain (Mt. Kearsarge is a bald with no natural screening at its peak), and as tall as possible without requiring FAA lighting. This tower is not only tall, it is broad, it is vertical real estate. The primary reason for its size is to provide space for commercial cellular equipment and other commercial users, which occupy approximately two-thirds of the tower's area (see attachment). Furthermore, the size of commercial antennas requires a substantial structural mass to withstand ice and wind loads. A tower specific for public use would not only have been much smaller, but would have been less massive as well.

The antennas require a substantial amount of support equipment at the summit which is housed in unattractive buildings, further disfiguring the mountain. This equipment emits a constant drone which is frequently augmented by huge cooling fans cycling on and off. The tower, buildings, and noise pollution at the summit truly lessen the experience of the 50,000 people that climb this popular mountain each year.

In constructing this tower the State and U. S. Cellular showed total disregard for the visual impact to the surrounding area and the summit.

Public Response

When this tower was erected, citizens in the neighboring towns united in protest and sought its removal. At 1998 town meetings, warrant articles passed in Andover, Danbury, New London, Sutton, Warner and Wilmot. These warrant articles expressed "outrage and dismay at the State of New Hampshire, the Governor, the Governor's Council, and the New Hampshire Department of Resources and Economic Development (DRED) for the lack of due process and notice for the erection of a 180 foot tower at the summit of Mount Kearsarge; the disregard for the scenic and aesthetic values consistent with the use of public park land; and the selling of public resources for commercial uses under the guise of police and public safety, and the betrayal of the public trust".

In addition, motions passed in the towns of Warner and Wilmot to petition the State to remove the tower.

In addition, a petition reading "that we support legal action to remove the U.S. Cellular constructed tower and their 12' x 20' prefabricated building from Mt. Kearsarge" was signed by over a thousand citizens and presented to the Governor.

In addition, citizens banded together and formed a group called *Save Our Mountain* which filed a lawsuit against the State of New Hampshire to seek removal of the tower. Subsequently, the Sierra Club and Appalachian Mountain Club stated their intent to file amicus briefs in behalf of this lawsuit, and The Society for the Protection of New Hampshire Forests filed a separate lawsuit.

State Police and Emergency Communications

The State maintains that the tower is necessary for State Police communications. This claim has not been supported by the State, and independent technical advisers have testified that a much shorter tower would have given the same coverage. At Mt. Kearsarge's height of almost 3000 ft., the gain of a 180 ft. tower over a much shorter tower is infinitesimal.

USC is on record as saying they could have gotten by with an 80 ft. tower, and the propagation study for the new State Police system was at 70 ft. elevation.

Deed and Lease

The tower was built by U.S. Cellular. USC conveyed it to the State at no cost with the provision that they would be able to rent (for $1000/month) a substantial amount of the tower's space for its commercial cellular antennas. This truly was a coup for USC as it got access to a premier site for very little outlay. USC could have achieved the same coverage with multiple, lower level sites, but this of course would have been more costly to them.

The deed conveying the property on which the tower sits, from the Society for the Protection of New Hampshire Forests to the State of New Hampshire, provided for enjoyment and utilization of the forest, not commercial uses. The deed states, "This conveyance is made upon the express condition that the state will maintain said tract as a forestry and recreation reservation for public use and benefit ...".

The lease agreement between U.S. Cellular and the State of New Hampshire states, "LESSEE'S title insurer must determine that LESSOR owns good and clear marketable title to the land underlying the Premises, and that such title is free from encumbrances and restriction which would interfere with LESSEE'S ability to pledge the leasehold estate as collateral to secure debt financing". U.S. Cellular did not research the deed (testimony of David Klumb of USC).

All the lease agreements for the Mt. Kearsarge tower have no termination date, as the State has no authority to prevent renewal except for non performance. The companies have automatic renewal rights. This violates State law that restricts lease agreements to no more than five years.

Safety

As a result of the tower there are now significant risks to the thousands of people that climb to the summit each year.

- There have been incidents of large sheets of ice falling from the tower barely missing people.
- There are no means of preventing individuals from climbing the tower.
- Day users and wardens manning the fire tower may be exposed to radio frequency emissions beyond the FCC maximum. Emission levels for the site have not been tested since 1994.

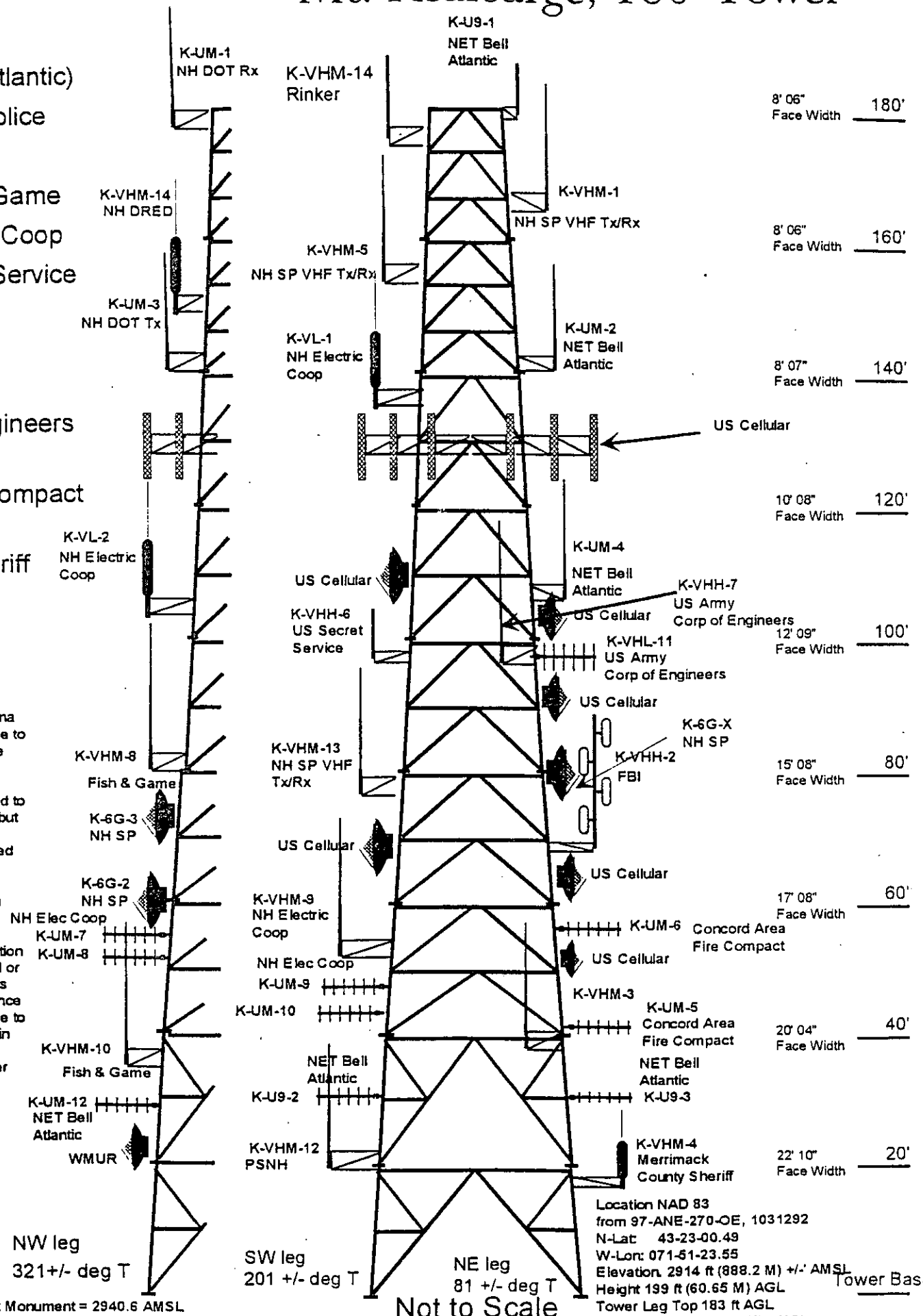
Summary

The construction of the Mt. Kearsarge tower is a disgrace, it destroys the majesty of a historically significant landmark, undermines the public's confidence in government, and reinforces the reality that big business is in control.

Mt. Kearsarge, 180' Tower

US Cellular
NET (Bell Atlantic)
NH State Police
NH DOT
NH Fish & Game
NH Electric Coop
US Secret Service
NH DRED
FBI
US Army
Corp of Engineers
Concord
Area Fire Compact
Merrimack
County Sheriff
PSNH
Rinker
WMUR TV

Disclaimer: The antenna placements were made to best accommodate the location of new installations. The locations were selected to minimize interactions but are hampered by the early and uncoordinated installations. The locations selected are recommended only on space and NO guarantees of interference or interaction minimization is offered or implied. Those tenants experiencing interference or interactions will have to consider participating in operation through a combiner/multicpoupler system at this site in order to minimize the interference and/or interactions.

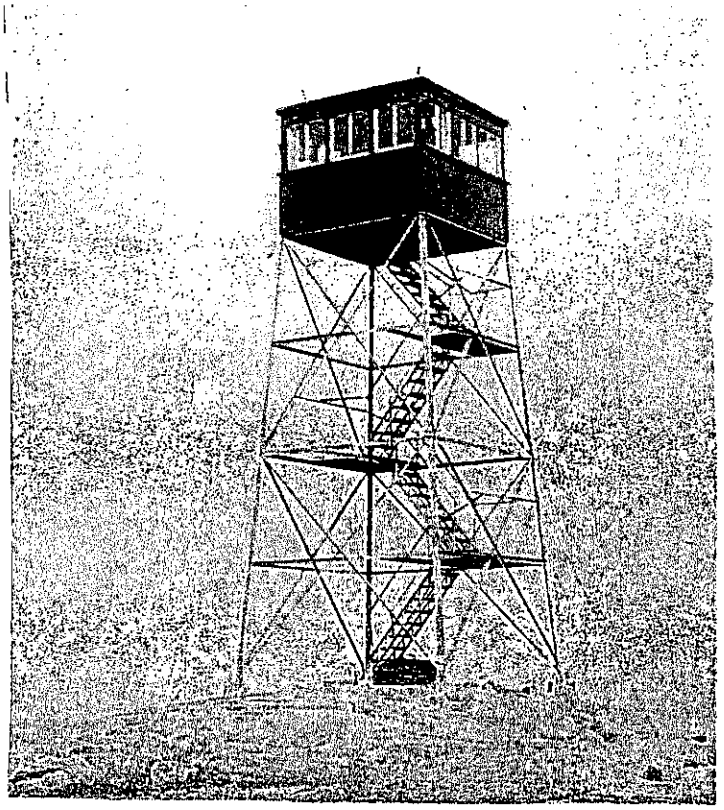


Location NAD 83
from 97-ANE-270-OE, 1031292
N-Lat 43-23-00.49
W-Lon: 071-51-23.55
Elevation 2914 ft (888.2 M) +/-' AMSL
Height 199 ft (60.65 M) AGL
Tower Leg Top 183 ft AGL
Overall 3113 ft (948.8 M) AMSL

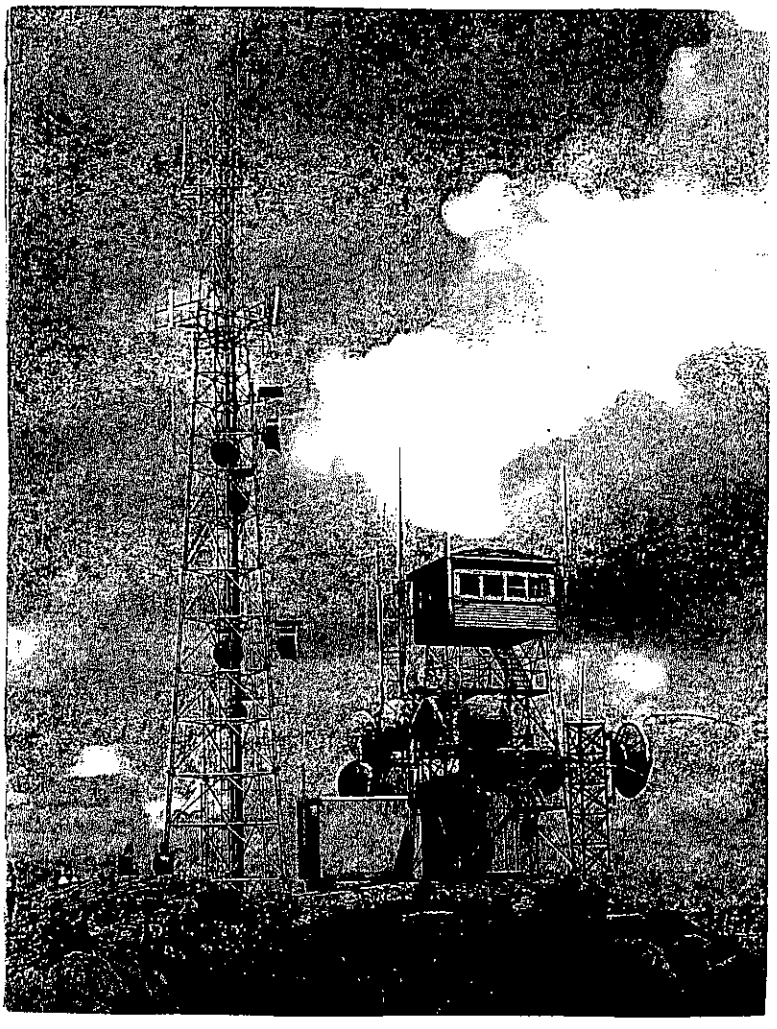
Revision 8/31/98

Peak Monument = 2940.6 AMSL
Marker Lead Bolt = 2937 AMSL ledge @ NWest foot = 2914

Mount Kearsarge - Tower Etiquette, Then and Now



In 1924 this fire tower was built on the summit. Plans to build it were first announced by the State Forester in 1919 - 5 years before! During those 5 years the state actively solicited public opinion on the project, to find out "what objection there might be if any on the part of persons living near Kearsarge." (Letter from State Forester.) Much attention was given to the design of this tower, to ensure that it would "harmonize with the topography and be as unobtrusive as possible at the top of the mountain." (Letter published by Philip Ayres, executive officer of the Forest Society, which owned the summit at the time.)



This is what has happened to the summit of Kearsarge since 1924. All of the changes you see here, plus several buildings not shown, were introduced since the summit became public property in 1949, as a "forestry and recreation reservation for public use and benefit." (Terms of Forest Society deed.) The public was consulted about none of them. In fact, prior to the 1997 construction of the 180' tower at right, a Dept. of Resources & Economic Development memo stated "we should avoid a general public notice and abutter notification." This denial of due process is one of our legal objections to the new tower. Disregard of scenic values is another; DRED long ago classified the summit as a "Scenic Area, in which aesthetic considerations come first." We also object to the selling of this public resource for commercial use. Most of the antennas you see on the fire tower and the new tower are for commercial users - not for public safety. More have been added to the new tower since this photo was taken.

Courtesy of Maxwell Campbell, SOM historian

FILE

To: Members of the House Resources, Recreation, and Development Committee: April 26, 2000

We are writing you to ask you to support the amended version of SB 132, the Mt. Kearsarge tower bill. The bill does not mandate the removal of the Mt. Kearsarge tower, but does establish a committee to study the issue.

The objectives of this committee are to: study the communication needs on Mt. Kearsarge for public and quasi-public users, look at alternatives structures to provide these communication needs, and determine the cost of removing the existing tower and constructing a less obtrusive structure.

We support this bill because the emergency services that will benefit the citizens of New Hampshire could have been provided with a commercially available, lower, more visually appropriate antenna mount than the tall cellular tower that was used. The current height of this facility was driven upward not by technical requirements for our emergency services, but rather by the private, commercial interests of the cellular industry. This cellular industry currently occupies more than 60% of the existing tower.

The "celling" off of our natural and scenic beauty to private, for profit companies is not an appropriate used of our natural resources. This is particularly true when there exist commercially available alternatives to tall cellular towers that allow for the deployment of these new and exciting wireless services, while at the same time protecting the natural and scenic beauty that makes New Hampshire so special.

How do we know such "commercially available alternatives to tall towers exist? They are being deployed and proposed right now in towns throughout New Hampshire. The Town of Amherst is a wonderful example. Omnipoint, Telecorp (AT&T), Bell Atlantic Mobile, and US Cellular have all deployed or received permission to deploy their cellular, wireless systems in Amherst and none of them will be located on tall cellular towers.

How can this be? The Town of Amherst recognized that tall cellular towers are not a technical or legal requirement, but a choice. We recognize that companies can deploy their systems using commercially available alternatives to tall cellular towers. Because our ordinance does not allow tall cellular towers, the industry is coming in with visually appropriate alternatives which protects our natural and scenic beauty. (Attached please find a summary of the history of the Town of Amherst and this issue.)

We are still in the very beginning of this wireless revolution. The industry itself predicts that the demand for wireless services will at least double again within a few years and this does not even include the wireless Internet access that will require even more cell sites. If we as a State do not take steps to manage this wireless revolution we will literally be overrun by visually inappropriate and technically unnecessary cellular towers.

We have also attached a Question and Answer packet on the siting of Personal Wireless Service Facilities for your information.

Please support the amended version of SB 132.

Thank you for your consideration. Please contact us if you have any questions.

Sincerely,

Andrew and Elizabeth Bridge

Andrew and Elizabeth Bridge
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Amherst, NH 03031
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COMMENTARY PUBLISHED IN THE NASHUA TELEGRAPH 1-23-00

What a Difference a Good Wireless Telecommunications Ordinance Makes!

On Wednesday, January 19, 2000 the Town of Amherst Planning Board unanimously approved a proposal by U S Cellular to construct a Personal Wireless Service Facility (PWSF) on top of Walnut Hill. The facility will be disguised as an eighty-foot tall pine tree which will protrude 24 feet above the average tree canopy height of 56 feet. It will hold antennas not only for US Cellular but also Bell Atlantic Mobile.

It is interesting to follow the progression of the position of the wireless industry in regard to the deployment of personal wireless services in the Town of Amherst over the past three years. Three years ago we were told by this industry that the Federal Telecommunications Act of 1996 mandated that towns could not zone out tall towers. We were told that only 190-foot tall towers would allow the wireless industry to deploy their systems in town and that we would need five of them constructed within a seven-mile stretch down the center of Amherst.

The wireless industry also told us that no alternatives to tall "towers" would work. Disguised pine tree poles would not work in NH because of the snow and ice and while cellular facilities disguised to look like flagpoles were perhaps possible, it would probably take "two hundred" of them to cover the town. We were told that an ordinance like the Town of Durham's which set a height limit for PWSF's of 20 feet above the trees would not work and that no carrier could ever deploy their systems under such an ordinance.

Three years ago the first applications to construct towers in Amherst took two years, thousands of dollars in legal fees, and a landmark decision by the Federal Circuit Court of Appeals in favor of the Town of Amherst to decide these applications.

My, how things have changed over three years. The industry now admits that, while a PWSF only 80 feet tall may not be "optimum" for them, it will work. The same industry that told us disguised pine tree poles wouldn't work in NH now admits they will. The same industry that told us 200 camouflaged flagpole PWSF's would be needed in place of five one hundred and ninety foot tall towers now admits that four eighty foot tall flagpole facilities could do the job of one eighty foot tall disguised pine tree pole.

The same industry that once told us that no carrier could ever deploy their systems under an ordinance that sets height limits similar to that of the Town of Durham, has now applied for and been granted permission to deploy their systems under this ordinance.

Most importantly for the industry, the Town, and the residents who want better cell phone coverage, the application review process that went on for two years last time took only two hours this time and resulted in a unanimous decision in favor of the industry.

There is one major factor that is responsible for this remarkable turnaround by the wireless industry; it is the realization by our elected officials that the issue of the siting of Personal Wireless Service Facilities is a planning issue and not a technical issue. As such, our Planning Board has empowered itself to stipulate to this industry what the industry must do in order to

deploy their systems within the Town. As soon the Planning Board did this they found this industry to be most willing to work within the Town's zoning ordinance.

Unfortunately it seems that human nature dictates that people will try to get away with as much as they can in a given set of circumstances. This has certainly proven to be true with the wireless industry. It has also proven to be equally true that this industry, once confronted with an ordinance that allows PWSF's to be constructed within the town provided they are hidden, camouflaged or disguised, finds a way to do it.

The Town of Amherst has shown New Hampshire and indeed the entire country that the goals of deploying these new and exciting wireless services and the protection of our natural and scenic beauty are not mutually exclusive. With a strong ordinance Amherst will be enjoying both.

Sincerely,

Andrew and Elizabeth Bridge

19 Woodland Dr.

Amherst, NH 03031

(603) 673-4756

The Bridges are proponents of alternatives to tall cellular towers. They have actively been involved in this issue for three years. They have testified on this issue before numerous local and state boards and they have provided information on alternatives to tall cellular towers to the US Senate through the help of US Senator Bob Smith. The Bridges have also provided information to US Representative Charles Bass for use in U S House Bill 952- The Local Zoning Preservation Act of 1999 introduced by Representative Bass.

More recently Mr. and Mrs. Bridge have been working on securing passage of New Hampshire House Bill 733 which would establish a Wireless Master Plan for the State of New Hampshire.

They have lived with their daughter Joanna in Amherst for over fifteen years.

FILE

PERSONAL WIRELESS SERVICE FACILITIES

QUESTIONS AND ANSWERS

QUESTION	ANSWER
1. Does Federal law allow States and local communities to regulate the deployment of Personal Wireless Service Facilities?	YES (See Section 1.)
2. Does Federal law mandate that we have tall cellular towers?	NO (See Section 2.)
3. Are there commercially available alternatives to tall cellular towers?	YES (See Section 3.)
4. Do we have to be "technical" experts in order to regulate the wireless telecommunications industry?	NO (See Section 4.)
5. Can we insist that wireless carriers utilize alternatives to tall cellular towers even if they are more expensive?	YES (See Section 5.)
6. Haven't most of the tall cellular "towers" that this industry needs already been constructed and aren't most of them needed only along our major highways?	NO (See Section 6.)
7. Are there different methods of co-locating antennas other than placing them on one tall "tower" mount?	YES (See Section 7.)
8. Are all companies that wish to build personal wireless service facilities (PWSF's) licensed wireless telephone companies?	NO (See Section 8.)

Prepared By:
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November 14, 1999

SECTION 1.

FEDERAL LAW ALLOWS COMMUNITIES TO REGULATE THE DEPLOYMENT OF PWSF's.

The Federal Telecommunications Act of 1996 specifically preserves state and local zoning authority over the placement, construction, and modification of personal wireless service facilities.

Communities have the legal authority to regulate the deployment of PWSF's provided that they

1. do not discriminate among personal wireless service carriers.

2. do not prohibit or have the effect of prohibiting the provision of personal wireless services.(PLEASE SEE NOTE ***BELOW)

3. act upon any request to site a PWSF within a reasonable time. If a site application is denied the denial must be in writing and supported by substantial evidence contained in a written record.

4.do not regulate the placement, construction, and modification of a PWSF based upon the environmental effects of Radio Frequency (RF) emissions from these facilities provided that these emissions comply with FCC regulations.

References:

*The Federal Telecommunications Act of 1996 (Public law 104-104, February 8, 1996). Section 704-Preservation of Local Zoning Authority.

*Federal Communications Commission fact sheets 1 and 2, National Wireless Siting Policies.

***NOTE: The Federal Circuit Courts of Appeal have ruled that the requirement by local communities that wireless companies use alternatives to tall cellular towers does NOT have the effect of prohibiting the provision of personal wireless services.

See Amherst vs Omnipoint Case 98-2061 First Circuit
AT&A vs Virginia Beach Case 97-2389 Fourth Circuit
Sprint vs Willoth, NY Case 98-7442 Second Circuit

All these cases can be accessed at http://laws.findlaw.com

SECTION 2.

TALL CELLULAR TOWERS ARE NOT MANDATED BY FEDERAL LAW.

The Federal Telecommunications Act of 1996 (TCA) does not mandate that we have tall cellular towers. The TCA has only one section, Section 704, dealing with State and local rights concerning "facilities siting" and the word "tower" never appears.

The text of Section 704 is as follows:

SEC.704 FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) National Wireless Telecommunications Siting Policy.-Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following paragraph:

"(7) PRESERVATION OF LOCAL ZONING AUTHORITY.-

"(A) General Authority.-Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

"(B) Limitations.-

"(i)the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof-

"(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

"(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

"(ii)A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such a request.

"(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

"(iv) No State or local government or instrumentality thereof may regulate the placement, construction, or modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to

the extent that such facilitates comply with the Commission's regulations concerning such emissions.

"(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

"(C) DEFINITIONS.-For the purposes of this paragraph-

"(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

"(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services;

"(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v))."

The TCA talks about Personal Wireless Service Facilities (PWSF's) and defines these as:

" facilities for the provision of personal wireless services;"

A tall cellular tower does not equal a Personal Wireless Service Facility. A tall cellular tower is simply one part of one type of PWSF. Please see the attached diagram of the components of a PWSF.

References:

* The Federal TCA of 1996

* FCC Fact Sheets 1 and 2

COMPONENTS OF A PERSONAL WIRELESS SERVICE FACILITY

ANTENNA	SECTORED ARRAY
^	DUAL POLARIZED
^	
^	
MOUNTS	BUILDINGS
^	WATER TOWERS
^	ELECTRICAL TRANSMISSION LINES
^	SILOS
^	CHURCH STEEPLES
^	MAST POLES
^	FLAGPOLES
^	LIGHT POLES
^	SIGN POLES
^	ARTIFICIAL TREE POLES
^	LATTICE TOWER
^	MONOPOLE TOWER
^	RANGER LOOKOUTS
^	UNLIMITED NUMBER OF CUSTOM DESIGNS
^	
BASE STATION ELECTRONICS	CUSTOM DESIGNED ABOVE OR BELOW GROUND STRUCTURES
^	WATER PROOF UNDERGROUND VAULTS
^	HIDDEN STATIONS WITHIN EXISTING BUILDINGS

SECTION 3.

COMMERCIALLY AVAILABLE ALTERNATIVES TO TALL CELLULAR TOWERS

There are numerous ways to provide for personal wireless services without using tall cellular towers. These include off the shelf and custom designed methods for hiding, camouflaging, and disguising PWSF's.

ALTERNATE METHOD OF DEPLOYMENT	COMPANY INDEX
Hidden, Camouflaged, Disguised systems	
1. panel mount antennas for sides of building	B, D
2. mast mounted dual polarized antennas	A, B,C ,D,E
3. arrayed antenna on top of power line towers	C
4. road signs	D
5. street lights	D,E,F
6. banner poles	E
7. flagpoles	C, D,F
8. artificial tree poles	A,C, F
9. ranger lookouts	E
10. farm silos	D
11. custom designs	A, B, C, D,E,F

COMMERCIALLY AVAILABLE ALTERNATIVES TO TALL CELLULAR TOWERS

COMPANY INDEX

COMPANY NAME NUMBERS	PRODUCTS	CONTACT
A. Alan Dick & Co.	Polarization diversity antenna Artificial tree poles	(603) 598-4500 www.alandick.com
B. Allen Telecom Decibel Products	Diversity antennas dB "Triple Tree PCS Antenna"(tm) Diversity master antennas	(800) 676-5342 www.decibelproducts.com click on new products
C. F W T, INC.	Power Mount Flagpoles Artificial Pine Trees Church Steeples Light Poles	(800) 433-1816 www.fwtinc.com
D. Stealth Network Technologies	Silo Design Custom Designs Flagpoles Street Lights Road Signs	(800) 755-0689 www.stealthsite.com
E. Telestructures	Banner Poles Ranger Lookouts Street Lights Custom Designs	(770) 261-3100 www.telestructures.com
F. Valmont/ Microflect	Artificial Tree Poles Street Lights Flagpoles Custom Designs	(800) 825-6668 www.valmont.com

Please note: This is not meant to be a complete list but rather only a sampling of commercially available alternatives to tall cellular towers.

SECTION 4.

THIS IS A PLANNING ISSUE NOT A TECHNICAL ISSUE.

It is not the responsibility of the Planning Boards of our local cities and towns to be "technical experts" in radio frequency propagation.

It is our responsibility:

1.to understand Section 704 of the Telecommunications Act of 1996, the governing law under which our authority to regulate this industry falls.

2.to determine how we want our communities to look after the build out of these PWSF's is completed.

3.to establish clear planning guidelines under which wireless carriers must operate in order for us to arrive at the end we desire.

SECTION 5.

A CARRIER'S COSTS OF DEPLOYMENT ARE NOT OUR CONCERN.

There is nothing in the TCA that prohibits a State or local government from insisting upon alternative methods of deploying PWSF's, even if these alternatives are proven to be more expensive.

Likewise, there is nothing in the TCA that prohibits a carrier from passing along added costs of deployment to their subscribers.

Even if it can be shown that alternative deployment methods are more costly, there is still nothing in the governing law to prevent our requiring they be used.

SECTION 6.

WE ARE IN THE EARLY STAGES OF THE DEPLOYMENT OF THESE WIRELESS SERVICES

The explosion in the construction of new tall cellular "towers" during the past three years represents not the end but rather only the beginning of the deployment of these wireless services. The facilities that we currently see are meant to provide service to primarily the mobile user, hence the term car phone.

This first phase of deployment is called the coverage phase. During this phase the industry wants to obtain as much geographic coverage as possible, especially along major travel routes, for the lowest cost. As more and more people purchase wireless phones and use them away from home the industry will become concerned about the capacity of their systems. As usage increases they will need to add more cell sites in order to avoid busy signals. This point marks the beginning of the coverage phase of the build out.

However, the industry is not just hoping that people will use their phones only while they are mobile and away from home. Their goal is made clear in AT & T's own ads, lets *"make your wireless phone your only phone"*. This industry has its sights set on the stationary business and residential users.

These users will not be moving while talking on their wireless phones. Therefore, they will tie up individual channels longer than would the mobile user whose signal would be passed on to the next cell site as they travel along. As more and more people use their wireless phones as stationary phones, say from home, capacity will become the major concern of this industry. Since each antenna cell can only handle approximately 150 calls at a time, more and more antenna cell sites will be required. These will be located not just in industrial areas, not just in commercial areas, and not just along our highways, but rather in our residential neighborhoods.

The number of antenna sites required will increase at an alarming rate as an average of five major companies rush to capture the residential wireless market. These antenna sites will, by necessity, be located in residential areas.

Without wireless telecommunications ordinances designed specifically to plan for the current and future deployment of the more than 450,000 additional cell sites that this industry itself estimates it will need nationwide in the next three to five years, communities will be overrun with visually inappropriate tall cellular towers.

Before the passage of the Federal Telecommunications Act of 1996 there were only a very small number of personal wireless service facilities (PWSF's). Most of these were constructed as tall cellular "towers". Since the TCA's passage, new tall cellular "towers" have been constructed at an alarming rate.

As this industry matures and we enter the capacity phase of this build out, this growth rate for new PWSF's will increase dramatically. If our local cities and towns fail to plan for this growth, most of these personal wireless service facilities will be constructed in the form of tall "towers".

The goal of preserving our natural and scenic beauty and the goal of allowing for the deployment of these new wireless services are not mutually exclusive. We can have both. To do so, however, will require that we act now and insist upon the use of visually appropriate PWSF's.

SECTION 7.

THERE ARE MANY DIFFERENT MEANINGS TO THE TERM CO-LOCATION

The term co-location generally means that more than one group of antennas is located at an individual wireless communication site. When the industry talks about co-location they try to define it as vertical co-location. They tout vertical co-location as a good thing, often phrasing their comments along the following lines:

"Its better to build one tall tower and then let two or more companies co-locate on it rather than making each individual company build their own tower."

While this seems to make sense, it is based upon the faulty premise that "towers" are needed in order to provide the service. Once it is recognized that tall "towers" are not needed the fallacy of this argument becomes apparent.

While co-location might mean vertical co-location such as the flagpole from Stealth Network Technologies that accommodates antennas from three carriers in one flagpole or the artificial pine tree pole from Valmont that can handle multiple carriers antennas, co-location can also mean horizontal co-location. Here antennas are placed side by side on the same wireless communications site. This horizontal co-location reduces the overall height needed for the antenna mounts to just over the treetops therefore protecting the viewshed.

Local planning and zoning boards need to be aware that alternatives to vertical co-location exist so that they can decide which, if any, are best suited for their community.

SECTION 8.

THERE ARE TWO MAJOR GROUPS OF COMPANIES THAT WISH TO BUILD PWSF'S.

The first group is the wireless carriers themselves. These are companies such as Bell Atlantic Mobile, Cellular One, AT & T, Omnipoint, Sprint, Nextel and others. These companies have paid or promised to pay the FCC millions of dollars for the right to use certain radio frequencies. They are referred to as licensed wireless companies.

Their revenues come from the individuals to whom they sell wireless telephone services. They are interested in providing their customers with the greatest geographic coverage at the lowest possible cost to themselves. If they meet little or no resistance to their requests to build tall cellular "towers", then that's what they will attempt to do.

However, if they are met with resistance to tall "towers" they will often agree to build a greater number of shorter and disguised PWSF's . They are willing to do this because their revenues come from all of the individuals who buy their wireless telephones. The total cost of a facility will be spread out over a large number of individual customers making it imperative that they get their systems up and running quickly.

The second group of companies that may wish to build PWSF's are speculative real estate companies. These companies build facilities and then lease out antenna space on them to not only licensed wireless carriers, but other companies as well. Their revenues come not from the large number of end users of wireless telephones, but rather from the relatively small number of companies to whom they lease "tower" space.

Therefore they have a greater incentive to only build tall "towers". These tall "towers" are known as **vertical real estate**. For example, if a facility costs them $200,000 to build, they can recover their costs much faster if they rent space to four or five licensed carriers rather than only one. Therefore, they want to build tall so as to have more vertical lease space.

When faced with an application to build a tall "tower" facility, towns should make sure that they ask who will actually own the facility. These vertical real estate companies may not be covered by the Federal TCA.

FILE

Town of Farmington
Conservation Commission
39 North Main Street
Farmington, NH 03835
Phone: (603) 755-2208 Fax: (603) 755-9934

A Bicentennial Community
1798 - 1998

SB 132
Testimony for Resources, Recreation and Development
April 26, 2000

Ladies and Gentlemen:

My name is Brad Anderson, I am with the Farmington Conservation Commission. Farmington is the location of Blue Job Mountain, where one of the state's 180-foot towers stands on a cherished mountaintop.

I have worked on this issue since October, 1997 when I saw helicopter after helicopter flying low over my house. When I realized what was happening, I was shocked beyond my ability to relate – you have to stand under one of these towers erected in a place you treasure to understand the way I felt about it.

But as I investigated further I learned that this is far beyond a NIMBY or aesthetic issue. There are a number of reasons why, here are two:
First, despite their denials, DRED had clearly not met the guidelines and responsibilities outlined in their own internal policy document, and
Second: by their own admission, both Safety and DRED have not answered the public's questions about why these towers needed to be erected at all.

Is this really worth looking into?

These two items are reason enough to form this advisory committee. Because whether or not you think that these towers need to be there, or whether you suppose that they will be removed in the near future due to advances in technology - whatever you believe - the fact still remains that **no one has proved to anyone that these towers needed to be erected**, and that means that your **constituents are not being accorded their right to accountability that our constitution guarantees them** in article eight.

In my opinion, testimony opposing this bill shouldn't focus on why safety communications are important, why the towers are good or why they should remain, but solely on whether the public **should or should not** have these questions satisfactorily answered by a legislative body after two and a half years of asking.

Is it perfect?

Could this bill be improved? It certainly could. The scope of this bill should have included an examination of all the tower siting decisions in the state deployment. The issues here are of statewide importance: abuse of power, right to accountability, violation of trust, etc. Attempting to rectify these issues using Kearsarge alone is a dangerous gamble and leaves other communities with a stake in the outcome out of the deliberation. That tactic does not recognize the contributions that other communities have made to the Kearsarge effort nor the hard work that they have done on the state towers in their own communities.

To understand the degree to which this system is overbuilt, we should long ago have seen a statewide map of the propagation patterns for the towers. Currently, Safety has only regional maps, copies of which are refused to RSA

91-A requestors. These regional maps make it difficult to determine the areas of overlap in the system. This committee should use an independent analyst to produce that statewide map for the tower heights that we have, and another for the existing fire towers, or for alternate locations. One likely outcome is that the analysts determine that there is no significant difference between them. In that case we are done. The towers are deemed unnecessary, and an advisory statement is issued.

What don't we know? Alot.

I have a copy of a comprehensive briefing packet that the Blue Job Mountain group assembled for the governor and council meeting of November 19, 1997. In it is a summary of questions about this deployment. As I read through this almost three-year-old document the other day, I realized that not one of these questions has **yet to be comprehensively answered**. RSA 91-A requests, hearings, and litigation have not made a dent. The irony is that the answers are as close as our own state employees. Your legislative authority can finally help citizens to understand how decisions that affect our communities and public lands have been made.

I have excerpted over a dozen of these questions in my written testimony, but in the interest of time I will just share a few with you:

1. Are there alternatives to the towers? Were there specific private sites that were evaluated that could have been used at less cost to the taxpayers, and with less violence to our state parks?
2. The DRED policy requires that telecommunication facilities should "have the least physical disturbance" and the "minimum impact to public enjoyment". Could that have been better achieved?
3. If the mountains were 100 feet taller, could the towers be 100 feet shorter? Why not?
4. There is a partnership between the winner of the system bid (Motorola) and the corporations that would ultimately apply for commercial space on the towers. Was this relationship disclosed to state agency representatives prior to deployment?
5. DREDs policy requires a minimum impact on the mountain tops, and yet the towers are built to the greatest height permitted by that policy. Doesn't that constitute the "maximum" possible impact?
6. DRED's self imposed first priority on these sites is to maintain aesthetics. To what degree was this priority reflected in the RFP for the deployment?
7. To what degree was the design planned to accommodate commercial interests, and what is the minimum required for the governmental use?
8. Is the state sponsoring unfair competitive advantage to some corporations by allowing them to circumvent the gauntlet of local zoning laws that companies not sited on state towers must run?
9. Are we trading the pride and identity of our state's natural environment and tourist attractions either for the benefit of a few corporations or because a few state agencies did not do their homework?
10. Does an independent analysis of the system show that the towers need to be 180 feet tall, or would existing firetowers have been adequate in some or all cases?
11. If DRED was confident that this deployment was justifiable, then why did they seek "to avoid a general notice and abutter notification" as indicated in a DRED internal memo?
12. Who pays for taking these towers down whenever they do become obsolete? Is there any difference between the cost to the state to disassemble them now vs. the cost to disassemble them thirty years from now?
13. Why does the public seem to feel such a deep violation of trust if this is all for our own good?
14. Does the "DRED Policy on Mountaintops " with which they justify the erection of these towers constitute de facto rulemaking?

The sheer quantity of these questions are the reason that this bill should pass.

Finally, you should understand that both the Department of Safety and DRED have repeatedly testified that **the corporations that designed and continue to profit from these deployments were the only ones to analyze this system and to dictate the locations and the heights.** Our state agencies, the guardians of our interests, **never verified those claims.** An advisory committee could and should do so.

Everyone believes that the state needs adequate communications technology. **But if they can get that without defiling public land and alienating the very people they are there to serve, shouldn't they do so?** This advisory committee can help to make that happen, and the decision to form it is at this time, in your hands. Bring accountability back to our government and help to close this embarrassing episode.

The spirit of this bill is critical to restoring public faith in equitable state management of public lands, and so I respectfully suggest that you recommend that this bill ought to pass. Thank you for considering my testimony.

FILE
#14

Testimony of Patricia Novak in favor of SB 132
House Committee on Resources, Recreation and Development
April 26, 2000

The Department of Resources and Economic Development has designated Mt. Kearsarge as a scenic area. It is the dominant natural feature of Merrimack County, and countless eyes are lifted to it each day. Kearsarge has traditionally been a hiker's mountain for people of all ages. Because of its immense popularity, there are now four trails leading to the summit

The presence of a tall lattice tower and its equipment building is totally inconsistent with public enjoyment of Mount Kearsarge. They do not have to be there. They exist to accommodate commercial users. Essential public safety antennas need not be mounted on such an obtrusive structure. There are alternative mounts available that could be used for public needs. The large building is there to house U. S. Cellular's equipment.

Public enjoyment of this designated scenic area has been so severely diminished by the presence of these structures that many people now avoid going up there. Where peace and serenity once existed, there is now an intrusive whine of wind blowing through the lattice work; in the building, noisy cooling fans cycle on and off all summer. Where there once was a sense of solitude and majesty, a 180 foot monstrosity looms overhead and dominates the scene.

People feel their mountain has been taken away. They feel betrayed by state officials who did this with no public notification or input. Since October, 1997 this pain has only grown worse. There is a wound that needs to be healed.

SB 132 could help heal this wound and restore people's faith in their state government . The advisory committee described in this bill would give a voice to all affected parties. Alternatives could be explored, and hopefully a compromise could be reached that would provide for public services on the mountain while restoring some of the visual and aesthetic qualities that have been destroyed. State officials may not have been aware of available alternatives in 1997. Perhaps their only advice came from the telecommunications industry. The proposed advisory committee could consult with independent communications engineers as well.

I see this bill as a positive step. It could be a win/win situation for everyone.

Patricia Novak
Wilmot, NH
526-4135

FILE

Its unfortunate that we have to be here today discussing a bill to correct something that should never have happened.

We wouldn't be here today if the State had built a tower specific for public sector communications on Mt. Kearsarge. It would have been a much smaller, less obtrusive facility. Instead, the State decided to get into the tower business and they built a facility much larger then they needed. They didn't just build an oversized tower on Mt. Kearsarge, but they did so on numerous other mountains, such as Sunapee, Blue Job, and Pack Monadnock. Their intention was to rent out the extra space on the towers, turning our scenic mountains into a revenue source. No where in the DRED's "Policy on Use and Management of Mountaintops for Communication Facilities" does it authorize the State to do this.

We wouldn't be here today if the State had been open about their plans about the Mt. Kearsarge tower and involved the impacted communities, but they didn't. In fact they purposely avoided notifying the abutting towns, and told the town of Warner where the tower is located only two days before the tower was erected, weeks after the footings were in place. The Attorney General's office later had the audacity to say that notification wasn't necessary, that the 180 ft. tower constructed mainly for commercial purposes "wasn't a substantial new use".

We wouldn't be here today if the State had been willing to compromise in the last two and a half years since the tower was constructed. Instead they have resisted all attempts at resolving the conflict, necessitating concerned groups to find satisfaction through the courts and legislation.

This bill isn't about removing a tower, it is about restoring trust in government.

Don Novak
Wilmot

Richard P. Brewster
17 Cilleyville Road
Andover, NH 03216
Email BBRSTR@TDS.NET

April 22, 2000

Resource, Recreation & Development
Committee
107 No. Main St.
Concord, NH 03301
Attn: Charles H. Royce, Chrman

Dear Chairman Royce:

It would seem that SB 132 calling for a study of the tower on Mount Kearsage would be a good idea. It would hoped that the members of this study would be drawn from a cross section of those who are opposed to the tower, those who are willing to accept it in it's present form and those who currently have no opinion.

TO HAVE A GROUP FORMED WITH ONLY THOSE WITH ONE AGENDA OR ANOTHER WOULD BE NO STUDY AT ALL.

Sincerely,

Ricchard P. Brewster,
Representative
Merrimack, District I

STATE & LOCAL

TOWERING
New Hampshire's SUMMITS

■ Mount Kearsarge becomes the focal point in a statewide battle over how to regulate the proliferation of communications towers.

By ADOLPHE V. BERNOTAS
The Associated Press

NEW LONDON — When James Cleveland died three years ago, the retired congressman's ashes were scattered on a pasture with a view of majestic Mount Kearsarge.

Cleveland used to say he loved the mountain, which he could see from his house in New London, and how he missed the view when he served in Washington from 1963 to 1981.

If he were alive today, he might think otherwise.

Last October, with virtually no public notice, helicopters plunked down a 15-story steel communications tower atop the state-owned mountain in a deal involving the state and United States Cellular.

Those who live near the 2,937-foot mountain, revered by New Hampshire's European settlers for its beauty and by indigenous people for its spiritual significance, say Kearsarge has been desecrated.

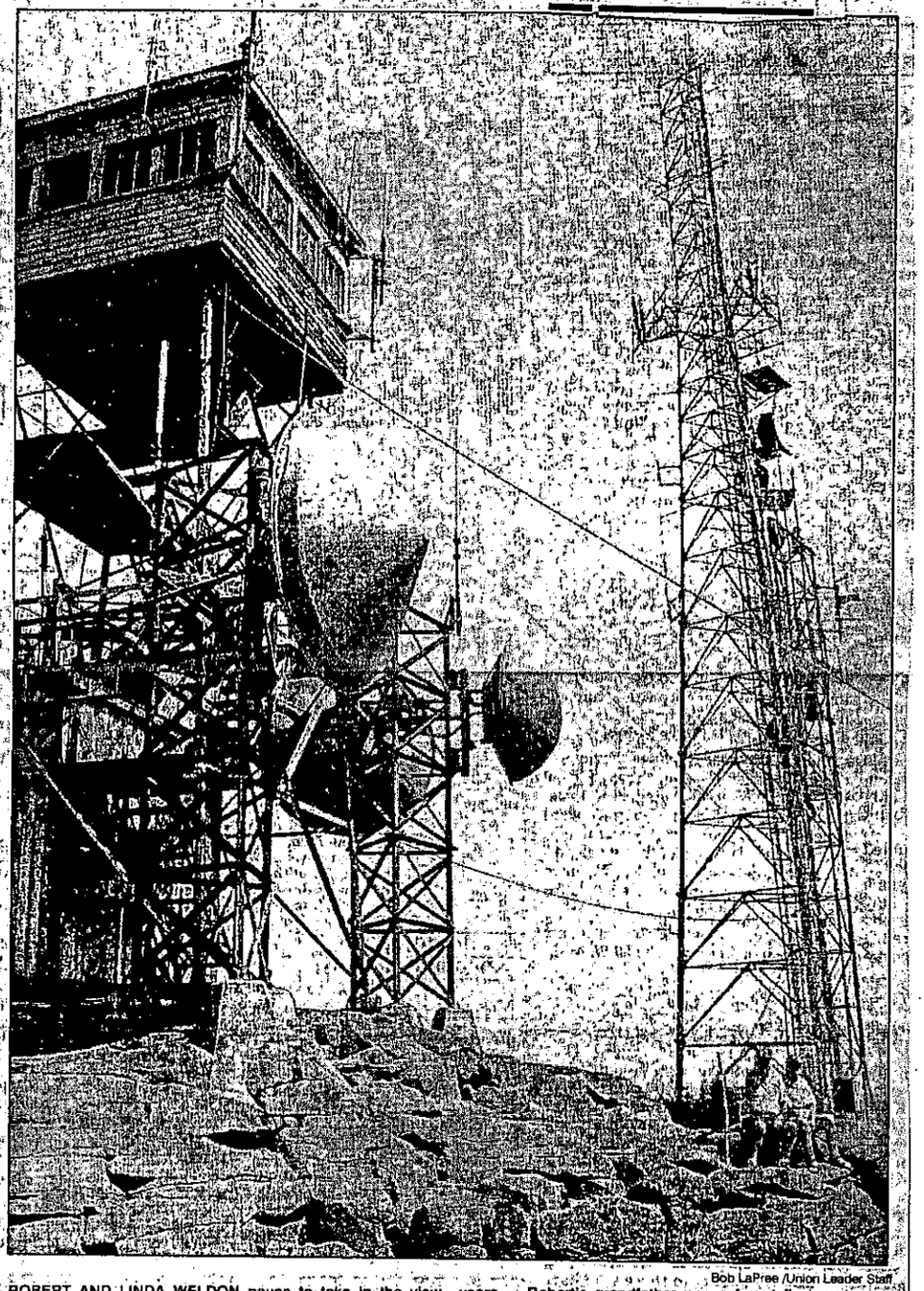
They also say the tower is illegal, setting the stage for yet another battle in the war over communications towers, which pits the nation's 61 million cellular phone users against communities that value natural beauty.

Communications towers have been around for decades; since 1950, Mount Kearsarge has had transmitters on its 35-foot fire tower, now dwarfed by the 180-foot behemoth installed last fall.

But the towers have proliferated since passage of the Federal Telecommunications Act of 1996, which allows local control over a tower's location and appearance, but prohibits communities from banning them altogether.

"The state claims it needs the towers for state police, but what it really is doing is accommodating commercial interests, selling New Hampshire."
— Brad Anderson, anti-tower activist

TOWERS, Page 7B



Bob LaPree /Union Leader Staff

ROBERT AND LINDA WELDON pause to take in the view from the 2,937-foot summit of Mount Kearsarge in Warner last week. The Weldons have visited the summit for many years — Robert's grandfather was a forest fire warden on the summit in 1918 — and said they were surprised to see the new cellular phone tower that was installed last fall.

■ *The Fair Begins*



Heroes Abound After Saturday

■ Hooksett, Manchester crashes leave drivers injured and trapped in their vehicles as fire threatens.

By CHRIS HERBERT
Sunday News Correspondent
and SHAWNE K. WICKHAM
Sunday News Staff

Heroism was the order of the day yesterday



Critics: State Kept Tower Plans Under Wr

TOWERS
(Continued From Page 1B)

Legal battles around the country are still clarifying the law's reach. A lawsuit over the Mount Kearsarge tower is the first challenge in New Hampshire since the law was passed.

The Society for the Protection of New Hampshire Forests acquired the land on Mount Kearsarge in 1935 and deeded it to the state in 1949, to be held in trust as a forest reservation.

Both the forest society and the newly formed group Save Our Mountain say the tower violates that deed. Save Our Mountain has sued to get it dismantled, and the society also is considering legal action.

Two weeks ago, the Society for the Protection of New Hampshire Forests, challenged Resources and Economic Development Commissioner Robb Thomson in a letter to cite a legal authority that supersedes the deed for the land — or take the tower down.

In Thomson's reply last week, he noted that the society erected the first tower — the fire tower — on the summit in 1949 and "reserved its right to the rental income from that tower."

The state claims the Kearsarge tower is essential to a new state police communications system. It has mounted six such towers on state land.

Save Our Mountain disagrees, saying the state could have built a shorter tower that blends in better.

But what especially angers Kearsarge-area residents is the lack of public notification before the tower went up. Shortly afterward, a Department of Resources and Economic Development memo surfaced that said too much public notice regarding communication towers would be impoliti

The memo also said the politically powerful Bass family complained that a proposed tower in Peterborough would ruin its view of Pack Monadnock Mountain. Later, the tower was shortened. Members of the family, which includes U.S. Rep. Charles Bass, R-N.H., said they used no influence beyond that of ordinary citizens.

"We want the Bass deal!" cried Save Our Mountain, which ran newspaper ads with a drawing of a tower sprouting from the Old Man of the Mountain, the granite profile in New Hampshire's White Mountains that is the state's emblem.

Thomson has said the affected towns got copies of correspondence with state police about the towers.

But the six towns surrounding Kearsarge overwhelmingly approved town-meeting resolutions this spring denouncing the state for failing to notify or consult the towns before putting up the tower. The Legislature also passed a law requiring the state to give earlier, more detailed notice to communities where towers would be erected on state land.

New Hampshire also faces a lawsuit over another of its 180-foot state police communications towers.

Brad Anderson, of Strafford, has interrupted his work as a computer programmer to lead a group bent on dismantling the tower on Blue Job Mountain in Farmington.

"The issue is not technology, but the violation of process. Civic participation was ignored," he said. "The state claims it needs the towers for state police, but what it really is doing is accommodating commercial interests, selling New Hampshire.

"We would have been willing to negotiate a smaller tower," he said. "But the state was so arrogant and so dismissive of any local involvement that we want the tower removed."

In Vermont — whose Democratic U.S. Sen. Patrick Leahy was one of a handful of federal legislators to oppose the 1996 Federal Communications Act — erection of a cluster of towers on 4,393-foot Mount Mansfield, the state's highest peak, has inspired a similar backlash.

Leahy and Sen. James Jeffords, R-Vt., have sponsored federal legislation to repeal the Federal Communications Commission authority that undercuts local control over tower placement.

United States Cellular says it is being blamed unfairly for its role in the New Hampshire towers.

David Klumb, the company's director of network operations, based in Bedford, says he took part in public hearings when his firm erected the Mount Sunapee tower "and we were willing to do the same for Kearsarge. It was the state that said, 'No hearings.'"

Klumb agrees with tower opponents that it could have been shorter. "We could get by at 80 feet, but the state wanted 180 feet," he says. Klumb also says the company saved New Hampshire taxpayers about $250,000 because it built the Kearsarge tower in exchange for a 50-percent discount on rental space for its relay equipment.

Some New Hampshire communities already have enacted restrictions on where cellular towers can be located. But cellular phone companies are fighting back when they believe the restrictions amount to a ban.

Omnipoint Communications is suing Merrimack and Amherst in federal court after being denied permission to build towers at the company's chosen sites.

"I don't like ruining nature and no place is a good place to locate sites," says Anne Patrick, the company's technical director for New England. She adds that "Omnipoint in most areas finds a way to deal with local communities."

Transmission antennas can be camouflaged on rooftops, flagpoles, church steeples, clock or water towers, and silos. They can be disguised as artificial trees or false chimneys. But Patrick says those options sometimes are too costly or technically unfeasible.

Eventually, as cellular telephone use grows, people will accept communications towers much as they accepted telephone poles, says Frank Marino, U.S. Cellular's area general manager.

"When I came to work today I looked at the power lines alongside the road. They're not particularly attractive," he said. "But I'm glad we have air-conditioning this summer."

New Hampshire has an estimated 100,000 cellular phone users, and the number is growing, he said.

"I've had a woman call me and thank me for improving cellular service along the I-89 and I-93 corridor. She has a sick husband and now has service. Before the Kearsarge tower, she didn't," Marino said.

"We owe it to our customers to provide service."

Who's Got Towers on State Hills

By The Associated Press

The 16 state-owned mountains or fire towers in New Hampshire with communications structures, their original date of service and their users:

1. Belknap Mountain, Gilford, 1951: Lakes Region Mutual Aid, Belknap County Sheriff's Department, U.S. Marshal's Service, New Hampshire Marine Patrol, Department of Environmental Services, Department of Transportation, Department of Forests and Lands; Public Service Company of New Hampshire, Lakes Region Community Services Council; Community TV.

2. Blue Job Mountain, Farmington, 1952: State Police, Fish and Game, Transportation, Lakes Region Mutual Aid, Department of Resources and Economic Development, Forests and Lands.

3. Cannon Mountain, Franconia, 1964: State Police, Transportation, U.S. Border Patrol, Grafton County Sheriff, New Hampshire Public Television, Twin-State Fire Mutual Aid, Bell Atlantic, Appalachian Mountain Club, New England Power Co., WMUR-TV.

4. Federal Hill fire tower, Milford, 1950: Forests and Lands, Milford Area Communications.

5. Holden Hill, Stewartstown, 1972: Fish and Game, Transportation, Coos County Sheriff, Town of Pittsburg, Public TV, Resources and Economic Development.

6. Hyland Hill, Westmoreland, 1981: State Police, Transportation, Southwest Mutual Aid, Office of Emergency Management, Forests and Lands, Keene Fire Department.

7. Jordan Hill, Concord, 1974: Concord Police, Concord Hospital.

8. Mount Kearsarge, Warner, 1950: State Police, Transportation, Fish and Game, Public TV, FBI, Secret Service, Army Corps of Engineers, Merrimack County Sheriff, Capital Area Fire Mutual Aid, Forests and Lands, New England Power, New Hampshire Electric Cooperative, Public Service, Bell Atlantic, Rinker Communications, WMUR-TV, Yankee Microwave, United States Cellular.

9. Milan Hill, Milan, 1951: Towns of Milan and Dummer, U.S. Forest Service, Forests and Lands.

10. Oak Hill fire tower, Loudon, 1977: Public TV, New Hampshire Public Radio, Merrimack County Sheriff, State Police, Merrimack Valley High School, Forests and Lands.

11. Pack Monadnock, Peterborough, 1964: Border Patrol, Public Radio, Federal Aviation Administration, Transportation, State Police, Emergency Management, Resources and Economic Development, Massachusetts Institute of Technology, Adelphia Cable, Peterborough Broadcasting.

12. Pitcher Mountain, Stoddard, 1951: Transportation, State Police, Fish and Game, Resources and Economic Development, Forests and Lands.

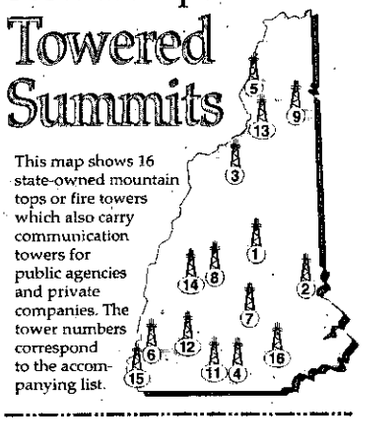
13. Prospect Mountain, Lancaster, 1951: Coos County Sheriff, State Police, Transportation, Emergency Management, Public TV, Forests and Lands, Town of Lancaster, Public Service.

14. Mount Sunapee, Newbury, 1990: State Police, United States Cellular, Mobile Media, Bell Atlantic Mobile.

15. Wantastiquet Mountain, Hinsdale, 1961: Vermont Department of Safety, Vermont Emergency Management, Warner Cable.

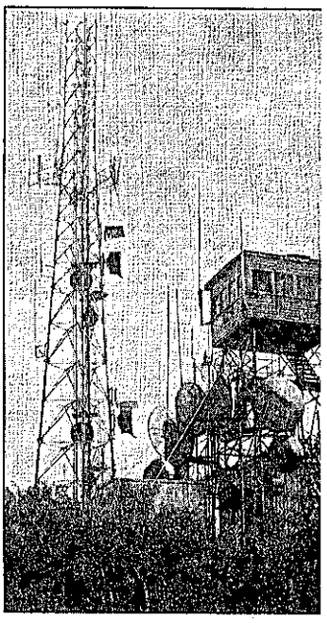
16. Warner Hill fire tower, Derry, 1971: Transportation, State Police, Forests and Lands, Derry Fire Department.

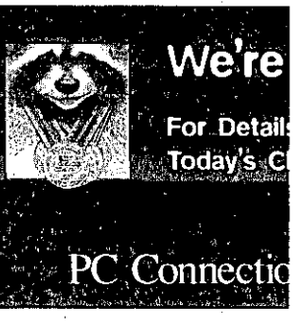
New Hampshire's Towered Summits



This map shows 16 state-owned mountain tops or fire towers which also carry communication towers for public agencies and private companies. The tower numbers correspond to the accompanying list.

Source: Associated Press





Union Leader Aug. 2, 1998

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Voting Sheets

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on SB 132

BILL TITLE: **(New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium untill July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.**

DATE: 5/9/00

LOB ROOM: 305 & 307

Amendments:

Sponsor: Rep. Royce — OLS Document #: 2000 4363h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

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

Moved by Rep. Fortnam
Seconded by Rep. Lawton
Vote: 15-2 (Please attach record of roll call vote.)

Blanchard Amendment:
L 14, P 1 to L 14, P 2
Straw Vote: 10-7

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

Moved by Rep. Whalley
Seconded by Rep. Fields
Vote: 13-3 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stephen G. Avery, Clerk

HOUSE COMMITTEE ON RESOURCES, RECREATION AND DEVELOPMENT

EXECUTIVE SESSION on SB 132

BILL TITLE: **(New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium untill July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.**

DATE:

LOB ROOM: 305 & 307

Amendments:

Sponsor: Rep. Royce — OLS Document #: 2000-4363h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

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

Moved by Rep. ~~Whalley~~ Fontaine
Seconded by Rep. ~~Fields~~ Lawton
Vote: 15-2 (Please attach record of roll call vote.)

Blanchard Amdt
L14, pl to L14 P2
Straw vote
10-7

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

Moved by Rep. Whalley
Seconded by Rep. Fields
Vote: 13-3 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stephen G. Avery, Clerk

Blanchard Whalley

Min Report Spath 6

OFFICE OF THE HOUSE CLERK

2000 SESSION

ET 1

RESOURCES, RECREATION AND DEVELOPMENT

Bill #: SB-132 **Title:** KERSAGE

PH Date: __/__/__ **Exec Session Date:** 5/3/00

Motion: AMMENDMENT **Amendment #:** 2000-4363h

MEMBER	YEAS	NAYS
Royce, H Charles, Chairman	X	
Lawton, David M, V Chairman	X	
Whalley, Michael D	X	
Cooney, Richard T, Clerk	X	
Kibbey, David D		
Mirski, Paul M		
Lavoie, Gerard H	X	
O'Connell, Timothy D	X	
Corbin, C David		
Roberts, William E	X	
Fields, Dennis H	X	
Czech, Stanley E	X	
Gallus, John T	X	
Russell, David H	X	
Blanchard, MaryAnn N	X	
Downing, Michael W		
Williams, Carol A	X	
Lefebvre, Roland J	X	
Robb-Theroux, Amy E		X
Fortnam, Janet W		
Glines, Sara B	X	
Spang, Judith T		X

TOTAL VOTE: 15-2

Printed: 3/28/2000

OFFICE OF THE HOUSE CLERK 2000 SESSION

RESOURCES, RECREATION AND DEVELOPMENT #2

Bill #: SB-132 **Title:** _____

PH Date: ____/____/____ **Exec Session Date:** 5/9/00

Motion: _____ **Amendment #:** 2000-4363h

MEMBER	YEAS	NAYS
Royce, H Charles, Chairman	X	
Lawton, David M, V Chairman	X	
Whalley, Michael D	X	
Cooney, Richard T, Clerk	X	
Kibbey, David D		
Mirski, Paul M		
Lavoie, Gerard H	X	
O'Connell, Timothy D	X	
Corbin, C David		
Roberts, William E	X	
Fields, Dennis H	X	
Czech, Stanley E	X	
Gallus, John T	X	
Russell, David H	X	
Blanchard, MaryAnn N	X	
Downing, Michael W		
Williams, Carol A		X
Lefebvre, Roland J	X	
Robb-Theroux, Amy E		X
Fortnam, Janet W		
Glines, Sara B		
Spang, Judith T		X
TOTAL VOTE: 13-3		

Printed: 3/28/2000

Committee Report

MAJORITY
COMMITTEE REPORT

COMMITTEE: **Resources, Recreation and Development**

BILL NUMBER: **SB 132**

TITLE: (New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium until July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.

DATE: May 11, 2000 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, as amended, requires the commissioner of Resources and Economic Development and commissioner of Safety to retain an independent, outside consultant with appropriate expertise to review the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower. The commissioner of Resources and Economic Development and commissioner of Safety shall report on any findings including any funding needs for any plan for removal or alteration to the tower on Mt. Kearsarge to the senate president and speaker of the house on or before November 1, 2001. The original bill required the commissioner of Resources and Economic Development and the commissioner of Safety to undertake a review of the tower on their own, with advice from an advisory committee made up of three members of the senate, three members of the house and ten other members representing five surrounding towns, Merrimack County, the NH State Troopers Association, the NH Fish and Game Department, Save Our Mountain, and the NH Society for the Protection of Forests. Upon completion of their review, the commissioners would report any findings and recommendations for legislative action. To make certain that the study be done without prejudice, the committee amendment replaces the advisory committee with an independent, outside consultant who has the technical expertise, which the advisory committee would not have, to advise the state and the legislature on the issues revolving around the tower on Mount Kearsarge.

Vote 13-3.

Rep. Michael D. Whalley
FOR THE MAJORITY

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Resources, Recreation and Development

SB 132, (New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium until July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge. OUGHT TO PASS WITH AMENDMENT

Rep. Michael D. Whalley for Resources, Recreation and Development: This bill, as amended, requires the commissioner of Resources and Economic Development and commissioner of Safety to retain an independent, outside consultant with appropriate expertise to review the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower. The commissioner of Resources and Economic Development and commissioner of Safety shall report on any findings including any funding needs for any plan for removal or alteration to the tower on Mt. Kearsarge to the senate president and speaker of the house on or before November 1, 2001. The original bill required the commissioner of Resources and Economic Development and the commissioner of Safety to undertake a review of the tower on their own, with advice from an advisory committee made up of three members of the senate, three members of the house and ten other members representing five surrounding towns, Merrimack County, the NH State Troopers Association, the NH Fish and Game Department, Save Our Mountain, and the NH Society for the Protection of Forests. Upon completion of their review, the commissioners would report any findings and recommendations for legislative action. To make certain that the study be done without prejudice, the committee amendment replaces the advisory committee with an independent, outside consultant who has the technical expertise, which the advisory committee would not have, to advise the state and the legislature on the issues revolving around the tower on Mount Kearsarge. Vote 13-3.

[redacted]

[redacted]

This bill, as amended, requires the commissioner of resources and economic development and commissioner of safety to retain an independent, outside consultant with appropriate expertise to review the technical requirements for public safety and quasi-public communications on the summit of Mount Kearsarge and alternatives to the existing 180-foot tower. The commissioner of resources and economic development and commissioner of safety shall report on any findings including any funding needs for any plan for removal or alteration to the tower on Mt. Kearsarge to the senate president and speaker of the house on or before November 1, 2001.

The original bill required the commissioner of resources and economic development and the commissioner of safety to undertake a review of the tower on their own, with advice from an advisory committee made up of three members of the senate, three members of the house and ten other members representing five surrounding towns, Merrimack county, the NH state troopers association, the NH fish and game department, Save our mountain and the NH society for the protection of forests. Upon completion of their review, the commissioners would report any findings and recommendations for legislative action.

To make certain that the study be done without prejudice, the committee amendment replaces the advisory committee with an independent, outside consultant who has the technical expertise, which the advisory committee does not have, to advise the state and the legislature on the issues revolving around the tower on Mount Kearsarge.

MDW

HCR 1/49

MINORITY
COMMITTEE REPORT

COMMITTEE: **Resources, Recreation and Development**

BILL NUMBER: **SB 132**

TITLE: (New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium until July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge.

DATE: May 11, 2000 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)

In a straw poll of the committee, a majority supported an amendment to reinstate the original bill's public advisory committee to participate in this study process. Because of committee time constraints, this is now being offered as a minority amendment to the committee amendment. The minority amendment will allow for both the technical expertise and public involvement which should have been brought to bear in the approval of this tower to begin with. The due date of the report is extended to allow more time for the research and the advisory committee will also sunset on that date.

Vote {Type VOTE}.

Rep. Judith T. Spang
FOR THE MINORITY

Original: House Clerk
cc: Committee Bill file

Resources, Recreation and Development

SB 132, (New Title) requiring a review of public safety communications requirements regarding the summit of Mount Kearsarge, establishing an advisory committee regarding the review, and placing a moratorium until July 1, 2001 on new leases, use permits, or extensions of lease or permit terms for telecommunication facilities on the summit of Mount Kearsarge. OUGHT TO PASS WITH AMENDMENT

Rep. Judith T. Spang for Resources, Recreation and Development: In a straw poll of the committee, a majority supported an amendment to reinstate the original bill's public advisory committee to participate in this study process. Because of committee time constraints, this is now being offered as a minority amendment to the committee amendment. The minority amendment will allow for both the technical expertise and public involvement which should have been brought to bear in the approval of this tower to begin with. The due date of the report is extended to allow more time for the research and the advisory committee will also sunset on that date. Vote {Type VOTE}.

Alf Jacobson
Andover
Brewster
Belvin Hillsboro
Leg. services

sunset. Dec 1, 2000

OTP/A

l. 14 p. 1 – l. 22

MINORITY REPORT

In a straw poll of the committee a majority supported an amendment to re-instate the original bill's public advisory committee to participate in this study process. Because of time constraints this committee is now being offered as a minority amendment to the committee amendment. The ~~Minority Floor~~ Amendment will allow for both the technical expertise and public involvement which should have been brought to bear in ~~the begin~~ during the ~~initial~~ approval of this tower to begin with.

The due date of the report is extended to allow more time for the research and the advisory committee will also sunset on that date.

KW

HCLLS9