Bill as Introduced

HB 1287 – AS INTRODUCED

2000 SESSION

00-2204
03/01

HOUSE BILL ***1287***

AN ACT relative to the membership of the water council.

SPONSORS: Rep. Kibbey, Sull 4

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill authorizes designees for ex officio members of the water council and requires members of the water council to take an oath.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1287 – AS INTRODUCED

00-2204
03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to the membership of the water council.

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

1 Department of Environmental Services; Water Council; Ex Officio Members; Designees; Oath. Amend RSA 21-O:7, I(b) to read as follows:

(b) The remaining 5 members shall include:

(1) The commissioner of the department of health and human services, ***or designee***;

(2) The executive director of fish and game, ***or designee***;

(3) The director of parks and recreation, ***or designee***;

(4) The director of the office of state planning, ***or designee***; and

(5) The commissioner of safety, ***or designee***.

(c) Each member of the council, before entering upon his or her duties, shall take an oath to administer the duties of office faithfully and impartially, and such oath shall be filed in the office of the secretary of state.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Senate Executive Departments and Administration
March 9, 2000
2000-3727s
03/09

Amendment to HB 1287

Amend the bill by inserting after section 2 the following and renumbering the original section 2 to read as 3:

2 Water Management and Protection Compacts; Water Pollution Control Compact; Commissioners. Amend RSA 484:19 to read as follows:

484:19 Commissioners. The governor, with the consent of the council, shall appoint 5 commissioners to the New England Interstate Water Pollution Control Commission. These commissioners shall include [~~the commissioner of the department of health and human services or his designee,~~] the commissioner of environmental services or his designee[~~,~~] and [~~3~~] *4* other persons to be nominated by the commissioner of environmental services. All commissioners, except [~~the commissioner of the department of health and human services and~~] the commissioner of environmental services, shall serve 4-year terms. A vacancy shall be filled for the remainder of the unexpired term.

2000-3727s

AMENDED ANALYSIS

This bill authorizes designees for ex officio members of the water council, requires members of the water council to take an oath, and removes the commissioner of the department of health and human services from mandatory membership on the New England Interstate Water Pollution Control Commission.

Committee Minutes

Date: March 7, 2000
Time: 1:55 pm
Room: 101 LOB

The Senate Committee on Executive Departments Administration held a hearing on the following:

HB 1287 relative to the membership of the water council.

Members of Committee present: Senator Cohen
Senator Francoeur
Senator Brown
Senator D'Allesandro
Senator Trombly

The Chair, Senator Gary R. Francoeur, opened the hearing.

Senator Gary R. Francoeur, D. 14: Representative Kibbey.

Representative David Kibbey, Sullivan, D. 4: For the record my name is David Kibbey, Sullivan District 4. Thank you for the opportunity to speak on HB 1287, which was requested by the Water Council. Just to clarify some issues of the department heads and appointing representatives to serve on the Water Council.

Just to clarify that in fact they can be there legally and they are appointing representatives now. There has been some debate so this was to clarify that. DS has a very nice letter put together. Probably should just let them go. There is an amendment that DS wants to add to this bill. I guess I give my blessing to that amendment. So I will end.

Senator Burton J. Cohen, D. 24: Questions from the committee? Thank you very much. Russell Nylander.

Russell Nylander: I have a letter from Commissioner Varney here. **(See Attachment A)** Mr. Chairman, members of the committee my name is Russell Nylander. I am Chief Engineer of DES' Water Division. Councilor

Kibbey be explained the purpose of the bill for you. So in the interest of time I will not elaborate. The amendment that we would like to see is somewhat related and has to do with membership on the New England Interstate Water Pollution Control Commission. That commission consists of 5 commissioners from each New England State plus New York.

What they do is coordinate water quality issues, some training and public communication on water quality issues. The issues run the whole gamut as indicated on the bottom of the first page of the letter. **(See Attachment A)**

That statute that establishes New Hampshire's membership includes the Commissioner of Health and Human Services, Commissioner of DES and 3 other persons nominated by DES commission. The history of this is in a lot of states the drinking water program is in the Health and Human Services area rather than the environmental agency.

So with the agreement of the Department of Health and Human Services and the Vice-Chair of the Water Council on behalf of the Water Council we would like to delete the Commissioner of Health and Human Services, which would allow the DES Commissioner to appoint 4 other persons. This would be more in alignment with the direct and responsibility of the commissioner, the interstate commissioner. I would be glad to answer any questions.

Senator Burton J. Cohen, D. 24: Any questions from the committee? Seeing none thanks very much. Brook Dupee.

Brook Dupee: Good Afternoon Mr. Chairman, members of the committee. My name is Brook Dupee. For the record I am representing the Department of Health and Human Services. I want to add our voice of support both for the bill originally brought before you, which is to allow a designee to serve on the Water...the Water Council it is so called.

Secondly, express our support also for the amendment, which would allow the commissioner of DES to appoint somebody who would be more interested, and knowledgeable and also Interstate Water Pollution Control Commission than we would be. So we will support both pieces of the bill.

Senator Burton J. Cohen, D. 24: Any questions? Senator Francoeur.

Senator Gary R. Francoeur, D. 14: The amendment that you proposed. Have you talked to the House Members about the amendment?

Brook Dupee: Representative Kibbey who is the prime sponsor of the bill is well aware of it.

Senator Gary R. Francoeur, D. 14: House Committee was fine with the amendment?

Representative David Kibbey, Sullivan, D. 4: I haven't gotten that far. It was just given to me yesterday. I haven't had a chance to... I think it will be fine.

Senator Burton J. Cohen, D. 24: Further questions?

Senator Lou D'Allesandro, D. 20: But as the sponsor you have no problem with that?

Representative David Kibbey, Sullivan, D. 4: I have no problem with it no.

Senator Burton J. Cohen, D. 24: Thanks very much.

Brook Dupee: Your welcome sir.

Senator Burton J. Cohen, D. 24: The Chair recognizes Rich McLeod.

Rich McLeod: Good afternoon Mr. Chairman, members of the committee. For the record my name is Rich McLeod and I am the Director of the Division of Parks and Recreation. I am here today to support this legislation. Any time that I am given the opportunity to be able to appoint a designee to take some of the heat of my schedule I do so.

Any questions, I would be happy to answer.

Senator Burton J. Cohen, D. 24: Senator Francoeur.

Senator Gary R. Francoeur, D. 14: How many committees are you statutorily on?

Rich McLeod: Statutorily Senator probably about 25, but unofficially including friends groups and other committees that I am not statutorily appointed it is more than 40.

Senator Gary R. Francoeur, D. 14: So meeting wise a couple a month or a couple a week?

Rich McLeod: Usually all these committees meet once a month. I do have difficulty balancing these appointments. As good example of that is tomorrow there is Water Council meeting and there is also a Governor

Council meeting. It just so happens that the Governor of Council is here in Concord, but if it the Governor of Council meeting were on the road I would have to choose one or the other. Sometimes I don't get to me the choice. Commissioner Bald gets to make the choice. If Commissioner Bald wants me at the Governor of Council I will be at the Governor of Council and not Water Council.

Senator Burton J. Cohen, D. 24: Further questions from the committee? Seeing none thank you very much.

Rich McLeod: Thank you.

Senator Burton J. Cohen, D. 24: Anyone else interested in speaking to HB 1287? Seeing none we will close the hearing.

Respectfully Submitted
Zita-Maria Wescott
Committee Secretary

Attachment A

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982

March 7, 2000

The Honorable Burton J. Cohen, Chairman
Senate Executive Departments and
Administration Committee
Legislative Office Building – Room 101
Concord, New Hampshire 03301

Subject: HB 1287, relative to the membership of the water council

Dear Chairman Cohen:

Thank you for the opportunity to comment on HB1287 which would authorize designees for ex-officio members of the Water Council and requires members of the Water Council to take an oath. The Department of Environmental Services (DES) supports this legislation.

The functions of the Water Council are to advise the Director of the Water Division with respect to division policy, programs, goals and operations; to hear and decide appeals from division decisions; and to review rules proposed by the division prior to adoption by the Commissioner of DES.

The membership of the Council includes 5 ex-officio state agency heads, as enumerated in Section 1. of the bill. These ex-officio members must run their respective agencies and are also statutorily designated to serve on numerous councils, boards, and commissions. This creates many competing demands on their time resulting in frequent unavoidable conflicts. Currently, several ex-officio members send designees to the monthly water council meetings on a regular basis to represent them and provide input from their agencies on council deliberations and decisions. However, notwithstanding advice by the Attorney General's office that the designees are able to act on behalf of the named members, both DES and the Council believe that the statute should be clarified to reflect this practice. This clarification would also preclude the potential for frivolous challenges of council decisions on the technicality that because designees are not expressly provided for in the statute, they cannot vote or be counted toward a quorum.

In a related matter, DES is proposing an amendment to the bill relative to New Hampshire's membership on the New England Interstate Water Pollution Control Commission (NEIWPCC) which consists of five commissioners from each New England state and New York. NEIWPCC's mission is to assist states in identifying and addressing high priority issues of regional and national significance for water-related environmental protection and to promote interstate compatibility and media coordination in the management of water quality issues. In order to achieve this mission, NEIWPCC has three broad functions: (1) coordinating interstate water quality improvement efforts in the New England states and that part of New York affecting New England waters; (2) educating and training environmental professionals; and (3) communicating with the public on water quality issues. The Commission and its staff are involved in a wide variety of subjects such as surface and groundwater quality, combined sewer overflows, drinking water supplies, wetlands, non-point source pollution, on-site wastewater disposal and watershed initiatives.

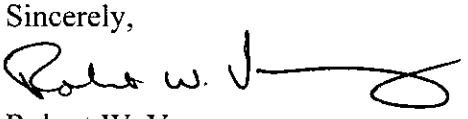
RSA 484:19 establishes New Hampshire's membership on NEIWPCC which includes the Commissioner of the Department of Health and Human Services (DHHS), the Commissioner of the Department of Environmental Services (DES), and 3 other persons nominated by the DES Commissioner. It appears that this statute is intended to ensure that the state drinking water programs which are in health agencies in some states are represented on the Commission. However, given that New Hampshire's drinking water program is housed at DES, all of the Commission's work as described above, encompasses programs and responsibilities associated with DES rather than DHHS. Therefore, having a representative of DHHS participate in NEIWPCC activities is not essential and seems to be a waste of resources.

The amendment would change New Hampshire's membership on NEIWPCC by deleting the Commissioner of Health and Human Services thus allowing the Commissioner of DES to nominate four other persons instead of three. This change will enable the state to provide a broader representation to NEIWPCC more in alignment with the scope and breadth of its missions and goals. Attached is a proposed amendment to RSA 484:19 which would accomplish this.

It should be noted that the amendment has the support of Representative Kibbey (the sponsor of the bill), the Department of Health and Human Services, and the Vice Chairman of the Water Council, on its behalf. Therefore, we would encourage the committee to act favorably on this bill and the proposed amendment.

Thank you again for this opportunity to comment. If you have any questions or need further information, please contact either me at 271-3503 or Harry Stewart at 271-3308.

Sincerely,



Robert W. Varney
Commissioner

RAN:bdt
cc: Representative David Kibbey

PROPOSED AMENDMENT TO HB 1287

Amend HB 1287 by replacing Section 2 with the following:

2 Water Management and Protection; Water Management and Protection Compacts; Water Pollution Control Compact; Commissioners. Amend RSA 484:19 to read as follows:

484:19 Commissioners. The governor, with the consent of the council, shall appoint 5 commissioners to the New England Interstate Water Pollution Control Commission. These commissioners shall include [~~the commissioner of the department of health and human services or his designee,~~] the commissioner of environmental services or his designee, and [~~3~~] **4** other persons to be nominated by the commissioner of environmental services. All commissioners, except [~~the commissioner of the department of health and human services and~~] the commissioner of environmental services, shall serve 4-year terms. A vacancy shall be filled for the remainder of the unexpired term.

Renumber Section 2 as Section 3.

3-7-00 (1)

HB 1287
GF, RT, MB, BC, LD

1:55 pm

~~GF~~ -

Rep Kibby - David Kibby
Requested by water
Council.
Appting
Apting Reps now
BS
Amendment BS
Blessing to it

BC -

Russell - Health & Human ~~Resources~~ Services
We would like to
Release Commissioners
Health & Human.
Glad to

BC - Brook

Brook - Health + Human Services
Support:
Support for amendment.
More interested.

BC -

GF - Amendment proposed.

Brook -

GF -

Kibby - Haven't got that far.

BC -

RD -

Kibby

BC -

Rich - Afternoon

Directs
Support
I am given opportunity
take Mat off my
Schedule

BC

GF: How many

Rich - 25 Sta
unofficially
More like 40

GF - Couple a month

Rich - Mat once a month
Dr have difficulty
Water Council
Governer Council
Don't get make Choice

BC - Close Hearing
2:05 pm

Speakers

SENATE EXECUTIVE DEPTS. & ADMIN. COMMITTEE

Date 3-7-00 Time 1:50 pm Public Hearing On HB 1287

Appearing in FAVOR: *(Please print)* **Please check box at left to speak.**

Speaking?	Name	Address	Representing
☐	~~Rep Pamela Peterson~~ ~~Brook D~~		
☐			
☑	Russell Nylander	NHDES	
☑	Brook Dupee	NH DHHS	
☑	Rich McLeod	DRED	Dir. of Div. of Parks & Recreation
☐	Rep David Kubiley		
☐			
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Appearing in OPPOSITION: *(Please Print)* **Please check box at left to speak.**

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Voting Sheets

Senate Executive Depts. & Admin. Committee
EXECUTIVE SESSION

HB 1287

Hearing date: 3-7-00 Room: 101 LOB

Motion of: OTP/A

Made by Senator:			*Seconded by Senator:*		
	Cohen	☐		Cohen	☐
	Francoeur	☐		Francoeur	☐
	M. Brown	☐		M. Brown	☑
	D'Allesandro	☐		D'Allesandro	☐
	S. Larsen	☐		S. Larsen	☐
	S. Roberge	☐		S. Roberge	☐
	Trombly	☑		Trombly	☐

6-0

Committee Member	*Present*	*Vote*	*Reported out by*
Senator Burton J. Cohen, Chairman	☐	✓	
Senator Gary Francoeur, Vice-Chair	☐	✓	
Senator Mary E. Brown	☐	✓	
Senator Lou D. Allesandro	☐	✓	
Senator Sylvia B. Larsen	☐		
Senator Sheila Roberge	☐	✓	
Senator Rick A. Trombly	☐	✓	—

*Amendments:

NOTES:

Committee Report

Date: March 7, 2000 Time: 1:55 pm

The Senate Committee on Executive Departments Administration held its hearing in Room 101 LOB, Concord, New Hampshire.

BILL NO.: HB 1287 TITLE: relative to the membership of the water council.

Members of the Committee present: Senator Cohen
Senator Francoeur
Senator Brown
Senator D'Allesandro
Senator Trombly

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☐ Ought to Pass
- ☒ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☐ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Executive Departments Administration

to which was referred House Bill 1287

AN ACT relative to the membership of the water council.

VOTE: 6-0

2000-3727s

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Rick A. Trombly
For the Committee