Bill as Introduced

HB 1294-LOCAL - AS AMENDED BY THE HOUSE

29march00.....3790h

2000 SESSION

00-2270
08/10

HOUSE BILL ***1294-LOCAL***

AN ACT relative to regional planning commissions.

SPONSORS: Rep. Hamel, Rock 10; Rep. Moran, Hills 15; Rep. Gleason, Rock 13; Rep. Dwyer, Hills 43; Rep. Wall, Straf 9; Sen. J. King, Dist 18; Sen. D'Allesandro, Dist 20; Sen. Russman, Dist 19

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill:

I. Retitles the chapter concerning regional planning commissions.

II. Provides that the office of state planning may adjust the boundaries of planning regions after consultation with the respective regional planning commissions.

III. Encourages consultation by regional planning commissions with agencies and institutions.

IV. Provides that regional planning commissions shall have status as political subdivisions of the state.

V. Allows regional planning commissions to borrow funds and establish lines of credit.

VI. Repeals the authority of regional planning commissions to provide assistance to urban renewal projects or blight removal activities.

VII. Gives the director of the division of motor vehicles the authority to prescribe special rules relative to registration of vehicles owned by regional planning commissions and issue permanent number plates for such vehicles.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

00-2270
08/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to regional planning commissions.

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

1 Regional Planning Commissions; Chapter Title. The chapter title of RSA 36 is repealed and reenacted to read as follows:

REGIONAL PLANNING COMMISSIONS

2 Regional Planning Commissions; Purposes. Amend RSA 36:45 to read as follows:

36:45 Purposes. The purpose of this subdivision shall be to enable municipalities and counties to join in the formation of regional planning commissions whose duty it shall be to prepare a coordinated plan for the development of a region, taking into account present and future needs with a view toward encouraging the most appropriate use of land, such as for agriculture, forestry, industry, commerce, and housing; the facilitation of transportation and communication; the proper and economic location of public utilities and services; the development of adequate recreational areas; the promotion of good civic design; and the wise and efficient expenditure of public funds. The aforesaid plan shall be made in order to promote the health, safety, morals and general welfare of the region and its inhabitants. To promote these purposes the office of state planning shall delineate planning regions for the state so that each municipality of the state will fall within a delineated region and shall have the opportunity of forming or joining the regional planning commission for that planning region. In determining these regions the office shall consider such factors as community of interest and homogeneity, existing metropolitan and regional planning agencies, patterns of communication and transportation, geographic features and natural boundaries, extent of urban development, relevancy of the region for provision of governmental services and functions and its use for administering state and federal programs, the existence of physical, social and economic problems of a regional character, and other related characteristics. To accommodate changing conditions, the office may adjust the boundaries of the planning regions, ***after consultation with the respective regional planning commissions.***

3 Formation of Regional Planning Commissions; Representation of Not-For-Profit Agencies and Institutions. Amend RSA 36:46, III to read as follows:

III. Each municipality which shall become a member of a regional planning commission shall be entitled to 2 representatives on said commission. A municipality with a population of over 10,000 but less than 25,000 shall be entitled to have 3 representatives on said commission and a municipality with a population of over 25,000 shall be entitled to have 4 representatives on said commission. Population as set forth in this section shall be deemed to be determined by the last

federal census. Representatives to a regional planning commission shall be nominated by the planning board of each municipality from the residents thereof and shall be appointed by the municipal officers of each municipality. Representatives may be elected or appointed officials of the municipality or county. In any county or counties in which a regional planning commission has been formed, the county may, by resolution of its county commissioners, become a member of said regional planning commission and shall be entitled to appoint 2 representatives on said commission. The terms of office of members of a regional planning commission shall be for 4 years, but initial appointments shall be for 2 and 4 years. In municipalities entitled to 3 or more representatives, initial appointment shall be for 2, 3 and 4 years. Vacancies shall be filled for the remainder of the unexpired term in the same manner as original appointments. Municipalities and counties may also appoint alternate representatives. A representative to a regional planning commission shall, when acting within the scope of his official duties and authority, be deemed to be acting as an agent of both the regional planning commission and of the municipality or county which he represents. ***In addition, regional planning commissions are encouraged to, at their discretion, consult with agencies and institutions operating within the region whose activities influence planning and development in that region.***

4 Regional Planning Commissions; Finances. Amend RSA 36:49 to read as follows:

36:49 Finances. A regional planning commission shall determine on a reasonable and equitable basis the proportion of its costs to be borne respectively by each municipality or county which is a member of said commission. A commission may accept and receive in furtherance of its functions, funds, grants, and services from the federal government or its agencies, from departments, agencies and instrumentalities of state, municipal or local government or from private and civic sources. Such funds may be used in conjunction with other funds from federal or state governments or from gifts, grants or contributions available for such work. Municipalities or counties are hereby authorized to appropriate funds to the use of a regional planning commission and to furnish a regional planning commission legal or other services which it may deem reasonable. Failure upon the part of any municipality or county to pay its proportionate annual share of the cost as determined by a regional planning commission shall constitute a termination of such municipality's or county's vote in the commission's affairs until such annual share is paid. Municipalities or counties are hereby authorized to enter into contracts with a regional planning commission for the furnishing of funds or services in connection with the preparation of a comprehensive regional master plan and any special planning work to be done by a regional planning commission for any member municipality or county. Within the amounts appropriated to it or placed at its disposal by gift, grant, or contribution, a regional planning commission may engage employees, contract with professional consultants, rent offices, and obtain such other goods, or services ***and incur short-term operating debt, not to exceed a term of one year and/or a line of credit secured by the assets of the commission,*** as are necessary to it in the carrying out of its proper function. ***Member***

municipalities and counties shall not be liable for any debt or line of credit incurred by a regional planning commission. Any private gifts or funds when received shall be deemed a contribution to the regional planning commission for a public purpose within the meaning of any federal or state laws relative to tax exemptions.

5 Regional Planning Commissions. Amend RSA 36:50 to read as follows:

36:50 Relationship To Local Planning Boards. A regional planning commission may assist the planning board of any municipality within the delineated region to carry out any regional plan or plans developed by said commission. A regional planning commission may also render assistance on local planning problems. A regional planning commission may make recommendations on the basis of its plans and studies to any planning board, to the legislative body of any city and to the selectmen of any town within its region, to the county commissioners of the county or counties in which said region is located and to any state or federal authorities. Upon completion of a comprehensive master plan for the region or any portion of said comprehensive master plan, a regional planning commission may file certified copies of said comprehensive master plan or portion thereof with the planning board of any member municipality. Such planning boards may adopt all or any part of such comprehensive master plan which pertains to the areas within its jurisdiction as its own master plan, subject to the requirements of [~~sections 13, 14, and 15, chapter 36 of the Revised Statutes Annotated~~] ***RSA 674:1-4.***

New Section; Regional Planning Commissions; Status as Governmental Units. Amend RSA 36 by inserting after section 49 the following new section:

36:49-a Status As A Political Subdivision. Regional planning commissions are political subdivisions of the state. However, regional planning commissions have only that power and authority expressly provided for in RSA 36.

7 Motor Vehicles; Registration and Plates of Publicly Owned Vehicles. Amend RSA 261:92 to read as follows:

261:92 Publicly Owned Vehicles; Nonprofit Corporations. The director shall have the authority to prescribe special rules relative to registration of vehicles owned and driven by the government of the United States, the state, or by any county, city, town, ***regional planning commission,*** school district, volunteer fire department, eligible nonprofit corporation operating transportation under contract with the department of transportation for the public or for elderly or disabled persons, or public or private educational institution used for the purpose of student driver training, and may issue permanent number plates for such vehicles. Said vehicles displaying said number plates shall be deemed to be properly registered under the provisions of this title and may be driven upon the ways of the state without further registration or subsequent number plates.

8 Repeal. The following are repealed:

I. RSA 36:51, relative to assistance to urban renewal by municipalities and other public bodies.

II. RSA 36:52, relative to workable programs.

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

Committee Minutes

Date: May 10, 2000
Time: 1:15 p.m.
Room: 104 - LOB

The Senate Committee on Public Affairs held a hearing on the following:

HB 1294 relative to regional planning commissions.

Members of Committee present:

Senator Trombly
Senator Disnard
Senator Eaton
Senator Krueger
Senator McCarley
Senator Roberge

The Chair, Senator Rick A. Trombly, opened the hearing by calling on prime sponsor Representative Hamel.

Representative Hamel not in attendance.

Senator Rick A. Trombly, D. 7: Representative Moran? Representative Gleason? Did you want to just do this bill for us?

Representative John Gleason: If I may, Senator. For the record, Representative John Gleason, Rockingham/13, co-sponsor of **1294-LOCAL.**

I would like to indicate the thrust of this bill is rather administrative in nature. . .more of a housekeeping type of bill that needs some things to change the existing law on planning commissions. I think the technical aspects can be very well addressed by the executive director for the southern New Hampshire planning, Mohni Sharmer. However, it really needed to clear up ambiguities that Mr. Sharmer has tried to address. I would **strongly that we do consider these changes** and I would defer to some questions you folks in the Senate might have. I'm not sure there are too many technical questions I can answer on, but I'm very convinced it needs to be done.

Senator Rick A. Trombly, D. 7: Thank you very much. Questions for Representative Gleason? Thank you very much.

Representative John Gleason: Thank you, Senator.

Senator Rick A. Trombly, D. 7: Senator D'Allesandro?

Senator Lou D'Allesandro, D. 20: Thank you very much, Mr. Chairman. For the record, I'm Lou D'Allesandro, the senator who represents District 20 which includes Manchester Wards 3, 4, 10, and 11 and the town of Goffstown, and I come **in support of HB 1294 as amended**.

It's with a great deal of pleasure that I come to support this legislation because I've had dealings with the Southern New Hampshire Regional Planning Commission and its Executive Director, Mohni Sharmer, who, aside from being an excellent public servant, is on top of details is a wonderful amenity to people who are looking for information. The changes that are made in this piece of legislation enhance the ability of the Regional Planning Commission to do their job more effectively.

If you look at the first change. . . . .To accommodate changing conditions, the office **may adjust the boundaries of the planning regions after consultation with the respective regional planning commissions**, which I think is appropriate given what's happening in our state at this time.

The **other changes purely enhance the ability of the planning commission to do its job and to do it well**. There are those here who can give you much more expert testimony on the actual functionings of the regional planning commissions, but I, as a public servant, have found them to be extremely helpful in terms of generating data that's been beneficial to me, to my community, in terms of the decision-making process. So, I **strongly support the bill** and hope that the Senate will see fit to do that. I thank you very much for your attention.

Senator Rick A. Trombly, D. 7: Thank you.

Senator Disnard?

Senator George F. Disnard, D. 8: Roman Numeral IV under Amended Analysis, does this permit taxation?

Senator Lou D'Allesandro, D. 20: I think. . .I don't believe that that's true. It doesn't permit taxation, and Mohni can address that more specifically; but as I understand it, they have only that power and authority

that's expressly provided in **RSA 36**. Now, Mohni or someone else may be able to address that.

Senator George F. Disnard, D. 8: **On Line 18 of the amendment. . .A regional planning commission shall determine on a reasonable and equitable basis the proportion of its costs to be borne respectively by each municipality. . .**

Senator Lou D'Allesandro, D. 20: But it further says, Senator. . . **Member municipalities and counties shall not be liable for any debt or line of credit incurred by a regional planning commission.**

Senator George F. Disnard, D. 8: There's a difference between the debt and the line of credit with the taxation. I just want to know, can they force the communities to pay an amount of money?

Senator Lou D'Allesandro, D. 20: An assessment you mean?

Senator George F. Disnard, D. 8: Yes.

Senator Lou D'Allesandro, D. 20: I don't believe that that's true, but we have members of other planning commissions who can give you that exact. . . Thank you, Senator.

Senator Rick A. Trombly, D. 7: Representative Simon?

Representative Anthony Simon: Thank you, Mr. Chairman and members of the committee. For the record, my name is Tony Simon, Representative from Hillsborough/District 40, which is Ward 4 in Manchester.

I appear here today **in support** of the bill and as a member of the House Municipal & County Government Committee. We spent a considerable amount of time working on this bill when it was over in the House. Senator Disnard, if I may follow up and, again, I will defer to the people from the Regional Planning Commission if they need to fill in after I speak, but I will tell you that the committee was very concerned about exactly that issue that you raised, and that was a lot of the reason for the time that spent with the bill. We were satisfied after we were done with our work with the bill and with the amendment, but it did not provide any independent taxing authority for regional planning commissions. We were very concerned that we were creating another layer of government, which we did not wish to do.

Likewise, when we were finished, we were convinced that we were not doing that, that we were simply maintaining regional planning commissions with the limitations that they've had. . .as I understand it. . .since they were originally created. So, it was not our intent to expand their power in any way, create another level of government, or give them any taxing power; and I'm satisfied that we achieved our goal. . . .so I would answer your question with a very short, clear no.

Perhaps the other big issue relatively in this bill was that, as it came to us, it provided for the appointment of nonvoting members of regional planning commissions. After a great deal of discussion of the proper balance of influence, if you will, it was never proposed (as I said) to have nonvoting members. The proposal was nonvoting members, but after a great deal of discussion about getting all the input that was out there to be had and should properly be considered by regional planning commissions, but concerned about the balance between the private sector and the public sector, for example, we developed a language that you see before you which is at the **bottom of Section III, and that's the consultation language.** Everybody was satisfied with that after we worked with it, because they thought it would satisfy the concerns that had led to the original proposal.

With that, I would say that the rest of the changes are technical in nature. We put the language in about short-term debt and/or lines of credit to cover those situations where regional planning commissions are contracted to do some work but they don't get paid until they've completed the work, and they may need short-term borrowing capacity in order to pay their bills while they're waiting to the completion of the task and their payment. So, that really is a technical change. We believe that were told that some planning commissions do that already, but it's a question of bank interpretation in some cases, so we wanted To make it clear that we thought that was proper to happen. The other changes are even more technical, I've probably gone on too long. I'd be glad to try and answer any questions that you might have.

Senator George F. Disnard, D. 8: On the **bottom of Page 2,** it indicates regional planning commissions may. . . . . **"incur short-term operating debt,"**. . . .and at the **top of Page 3** it says. . . ."**shall not be liable for any debt. . . .**" Is there a conflict there? I'm not that familiar with municipal operations.

Representative Anthony Simon: No, I think the difference is. . .I don't think there's a conflict, Senator. . . .I think the difference is that. . . .I'm sorry, I'm looking at a different version than you have which is part of the reason why I'm fumbling.

Senator Rick A. Trombly, D. 7: There may be a copy in front of you, I think.

Representative Anthony Simon: Right. I think the reference, Senator is to the municipalities that are members as opposed to the regional planning commission itself; and we did that. . .We put that line within specifically again to maintain the existing balance. If a member community. . .(inaudible). . .existing statute doesn't pay its share, it ceases to be a member of the commission, but we wanted to make sure that the short-term debt that we were adding was very clearly understood not to be a municipal responsibility but to be a planning commission responsibility.

Senator Rick A. Trombly, D. 7: Thank you. Any other questions? (No response)

Jim Dodge?

Jim Dodge, Grasmere, NH: My name is Jim Dodge; I'm from Grasmere, which is the best part of the town of Tilton. I've been in town government up there since about the 1950's. Therefore, I'm very familiar with Tilton's relationship with area planning. . .I've been on planning boards, zoning board of adjustment, and so forth. We're very leery about state planning, what is happened. They have regional planning. . .what is happened is when there's been something that would come into our town that would affect the larger town to the North, we get in an adversarial position with a planning board. Sometimes they go all out and use all their force to bring about what they want. Several times, when they've gotten rather heated argument with me, they've expressed that they had to have the rule of order and they were going to get it.

Now, I'm talking about one regional board because that's all that I am familiar with, but this has gone since about 1970 when they showed up. Now, the thing I treasure the most, other than my children, is New Hampshire's government. I think it's best in civilized world. It's a volunteer citizen's democratic government, and our little towns practice that; and I think we run our towns well. We have more trouble with these fellows with their Ph.D.'s from a college afar with their textbooks because we have the practical experience. There's something from a book, it's the first book ever printed. . .for I know mine and mine know me, and anybody in town government better keep that in mind. . . . . and I think in our towns we do.

I realize that probably in this, if they can go into debt and nobody has to come up with the money to pay it. . . .it says here so the towns won't pay it. All I can wonder about is they'll go deeply in debt and by God they will. Who

comes up with the money? Have they got a bottomless pit? They haven't. Who is left? You know that when you work with the school problem. The money has got to come from the people. So, what is the answer to that? Another thing that disappoints me greatly about this is that, since I got my hands on it, I haven't found any town in the area, planning board or anybody that ever heard of it. They didn't go to the people that pay their dues; they came here with it. To hell with the people that they're set up to help. So, what does that mean about their attitude? Is there any other place in the state rather than the towns where they can work other than perhaps the grants way up North.

If they were truly interested in this, we would have known this; they would be checking with them, and we would have talked it over and we'd tear it down a lot more than it is. Why we make reference in here to county government, I don't know. They started out feeding the sheriff's horse in house for a court, and they're expanding so far up our way that they're duplicating our services. Now, why should county get into planning? They don't have to plan anything much more than the county farm, but they would bring them into it. . . . .and I have also discovered (because I go to many, many county hearings) that they have no idea of local government.

I got very distressed at a hearing once because it was a budget hearing, and I wanted to hear the entire budget, and they were keeping out a large section of it and were going to wait and have a supplemental budget later on. I said we selectmen have to go to town meeting, and we try to tell our people what to expect on their tax bills. How are we going to know if you're unwilling to tell us? The response we got was. . .Well, that's easy, just postpone your town meeting. They didn't know that the town meeting's been the Tuesday in March for as long as we've been. . . .So you've heard my idea. . . .Vote against it . . .(inaudible). . .

Senator Rick A. Trombly, D. 7: Does anybody else wish to testify on this legislation? Yes. Would you come up and identify yourself?

Mohni Sharmer – Executive Director for Southern NH Planning Commission: I did not want to testify before. My name is Mohni Sharmer; I'm with the Southern New Hampshire Planning Commission. Some of the comments that were made by my previous speaker and the Senator was asking. . .it seemed he did not get the answer he was looking for.

In the first place, I agree with this gentleman who spoke before me from Tilton, that all of us, including I being the new transplant (only I was transplanted 30 years ago in this state), . . . all of us enjoy and cherish the home rule; and in this amendment, there is no shred of evidence that that is

being thwarted. It is not; it is just a housekeeping function. If the town of Tilton or the city of Manchester, or city of Portsmouth, or any other municipality chooses not to belong to any regional planning commission, they can do so. It is not mandatory. . .it is voluntary. And, just for the record, in spite of this being voluntary, out of 234 municipalities in this state, with the exception of few towns here and there, I think the membership now is close to 226 or close to it. . . .over 90 percent. So, this goes to prove that 290 or 90 percent of the municipalities must find some good benefit. Others do not spend their dollars. So, I hope that puts that to rest. We are not trying to thwart the local government functions, and we are not imposing anything on you.

Regarding his comment on county. . . . . .There are only two RPA's, and that's the game. As for **Chapter 36**, Merrimack county and Strafford county. . .they have joined the regional planning commissions. Not all of them in our instance or in. . .Hillsborough county has not joined, and so that provision is in the law. If they so choose, they can do it. That's how they're doing it.

Regarding Mr. Disnard's comments, Senators. . . .Let me see; of all the revenues we get, Senator. . .say $100,000 a year. . .the membership only accounts for membership dues from the participating municipalities. They account for only 20 percent. . .between 20 and 25 percent. The rest of the money we get from the federal and state governments. Now, there are two types of monies we get from the state. In one instance, the state is the "middleman" because, since we are a small state, some of the federal grants instead of coming to us directly, it comes to the state in the name of governor and then governor's designee becomes the commissioner, depending on the department. If it is an EPA grant, it is Commissioner Varney; if it is a DOT grant, it is Commissioner Kenison. Their agency then writes contract with us. So, 25 percent is local, 75 percent is state contracts. Now, in all contracts there is a clause. . . .we have to do this on a reimbursable basis. We have to do the work first and then we get paid. Now, it is good for you. . .If you are a town, you can go for tax anticipatory notes. Where do I get anticipatory notes? Either we have to use our personal credit card or do something to make the work done first and then get reimbursed. In order to avoid that, and people are having trouble. . . .not everybody, but some agencies has a cash flow problem and, therefore, the short-term loan has been included which has specific limit (within a year) because our fiscal year ends June 30. It is not open-ended.

Secondly, in order to make sure that the other people, either in the House or Senate, or our Municipal Association, municipal members. . .may not misunderstand that we are sticking them with an extra bill; that's why we

added the language that it will be on the base unequilateral or equilateral of the RPC's like computers, properties. . . .anything you have in the form of asset and which the bank can recognize. . .then only do you get the loan. The trouble is, without having this language, the same bank in the Seacoast area refused the particular agency and gave them the commercial loan rate, okay? The same bank on the Monadnock region gave the other RPC because, for some reason, ...No, you are a government agency, we'll give you the government rate. So, I mean it's like some people, some group of lawyers would say, and. . . .Mr. Chairman, please bear with me. . .they'll challenge. . .Where is it written?. . .show me, and the other group will say. . Where it is not written,. . .you show me. So, it all depends whom you have on your side.

Senator Rick A. Trombly, D. 7: Good grasp of lawyering, don't you?

Mohni Sharmer – Executive Director of Southern NH Regional Planning Commission: Just tried.

So, did I answer you now, sir?

Senator George F. Disnard, D. 8: Very completely.

Senator Rick A. Trombly, D. 7: Thank you. Thank you very much.

Is there anyone else who wishes to testify? Seeing no one, I'll close the hearing on **HB 1294.**

Hearing closed at 2:47 p.m.

Respectfully submitted,
Carolyn Carey, Senate Secretary

Speakers

SENATE Public Affairs COMMITTEE

Date 5/10/00 Time 1:15 PM Public Hearing on HB-1294-LOCAL

Appearing in FAVOR (Please print) — Please check box at left to speak

Speaking?	Name	Address	Representing
YES ☒	~~Jim Dodge~~	~~Tilton~~	~~[illegible]~~
☐	Betsey Patten	M+CG	
☒	A.F. Simon	M+CG	
☒	LOU D'ALLESANDRO	SEN. Dist. #20	
☒	John PGleason	Derry	Rock #13
☒	Mohni Sitaraman	SNRPC	
☐			
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Appearing in OPPOSITION (Please Print) — Please check box at left to speak

☒	Jim Dodge	Tilton
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Committee Report

Date: May 10, 2000 Time: 1:15 p.m.

The Senate Committee on Public Affairs held its hearing in Room 104 - LOB, Concord, New Hampshire.

BILL NO.: HB 1294-LOCAL TITLE: relative to regional planning commissions.

Members of the Committee present:

Senator Trombly
Senator Disnard
Senator Eaton
Senator Krueger
Senator McCarley
Senator Roberge

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 Public Affairs

to which was referred House Bill 1294-L

AN ACT relative to regional planning commissions.

VOTE: 6-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Sheila Roberge
For the Committee