Bill as Introduced

2001 SESSION

01-2038
08/09

HOUSE BILL ***1355-FN-LOCAL***

AN ACT relative to merging unincorporated places with abutting municipalities in Coos county.

SPONSORS: Rep. Guay, Coos 6; Rep. Rozek, Coos 7; Rep. Gallus, Coos 7

COMMITTEE: Municipal and County Government

ANALYSIS

This bill requires Coos county to develop a plan to allow annexation of unincorporated areas by abutting municipalities.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

01-2038
08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

AN ACT relative to merging unincorporated places with abutting municipalities in Coos county.

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

1 North Country Municipal Expansion Board. There is hereby established the North Country municipal expansion board which shall be comprised of the commissioners of Coos county, a representative of each municipality which is adjacent to an unincorporated area in Coos county, and the members of the general court with districts in unincorporated areas in Coos county and municipalities adjacent to those unincorporated areas. The board shall develop a comprehensive plan to annex all unincorporated areas into adjacent municipalities within the county, and recommend legislation to the general court no later than November 1, 2004.

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

LBAO
01-2038
9/19/01

HB 1355-FN-LOCAL - FISCAL NOTE

AN ACT relative to merging unincorporated places with abutting municipalities in Coos county.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill as it is awaiting information from an agency.

Amendments

Rep. Guay, Coos 6
January 29, 2002
2002-2363h
08/01

Amendment to HB 1355-FN-LOCAL Not Used

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

AN ACT establishing a commission to study and determine the ownership of unlocated land in Coos county.

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

1 Commission Established. There is established a commission to study and determine the ownership of unlocated lots in Coos county.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house.

(b) Two members of the senate, appointed by the president of the senate.

(c) Six members from Coos county, appointed by the Coos county delegation chair commissioners.

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

3 Duties. The commission shall research records and deeds from any source to determine ownership and disposition of unlocated land in the unincorporated areas of Coos county.

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

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2002.

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

2002-2363h

AMENDED ANALYSIS

This bill establishes a commission to study and determine the ownership of unlocated land in Coos county.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1355 FN LOCAL Date Jan 15, 12

Committee Municipal & County

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

Name	Address	Phone	Representing	(check one) Pro	Con
CHARLES NIEBLING	CONCORD	224-9945	SOCIETY FOR PROT. NH FORESTS		X

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 1355

BILL TITLE: relative to merging unincorporated places with abutting municipalities in Coos county.

DATE: January 15, 2002

LOB ROOM: 301 **Time Public Hearing Called to Order:** 2.08p.m.

Time Adjourned: 3.30p.m.

(please circle if present)

Committee Members: Reps. Patten, Brundige, Griffin, Akins, Lockwood, R. Eaton, Fairbanks, Lachance, Twombly, Boyce, M. Fraser, Dumaine, Guinta, N. Johnson, Bellavance, M. Cooney, Goodwin, Scovner and W. Johnson, Quandt.

Bill Sponsors: Rep.Guay, Coos 6; Rep. Rozek, Coos 7; Rep. Gallus, Coos 7.

TESTIMONY

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

Rep. Guay, Coos 6, spoke in favor of the bill.

Coos County has problems with the national forest. Wants tenant-in -common of state with national forest. Also wants tenant-in-common with unincorporated places. Most of the unincorporated places are in conservation easements. A study committee could determine how land could be used. Unincorporated places were land grants. We have 24 in Coos County. They are mostly owned by the paper companies or national forests. The status of public lands is a concern of the unincorporated places. We need a comprehensive plan before doing any legislation.

Rep. Gallen, Coos 7.

Would like to see some study done on the effects of unincorporated places on Coos County. Determine whether these places should be annexed. Study the tax system in these places.

Sarah fellows, N.H. Department of Education, spoke in favor of the bill.

Supports this study. Would be willing to provide any technical support. About a dozen children live in these unincorporated areas.

Jason Stock, Timberland Owners Assoc, spoke in opposition to the bill.

Opposes the bill. See the handout. This bill is ultimately aimed at developing these areas. The cost of development generally outweighs the benefits. Keeping working forests has benefits without large costs.

Leo Lessard, N.H. Association of Counties spoke in opposition to the bill.

County Commissioners in Coos County oppose this bill. The County is the governmental body in unincorporated places. Development would increase the property taxes. N.H. association of Counties also opposes this bill. "If it ain't broke, don't fix it".

Kevin Evans, Darthmouth College Woodlands spoke in opposition to the bill.

Owns an unincorporated town and has owned it for over 100 years. Does'nt support this bill. Revenue from the town supports the school(Darthmouth) and pays school taxes. See the handout.

Barbara Reid, DRA, supported the bill via the telephone.

Respectfullty submitted,

Priscilla P. Lockwood

Priscilla p. Lockwood,
Clerk

Testimony

Etta Sweatt	Hartley	Opposed
Rena Gauvin 482-7711	Cambridge Lake Umbagog	Opposed
Ron Pellitier	Cambridge	Opposed
Ricky Blais 636-1000 (W) x 1244 682-3834 (H)	Errol	Opposed
Paul Ouelette	Cambridge	Opposed
Maurice Ouellette	Cambridge	Opposed
Sylvia Ouellette	Cambridge	Opposed

"They would like things to stay the way they are."

Karen Harrigan Centinel
1-800-521-5501 centinel@moose.ncia.net



Pinkham Notch, Box 278, Gorham, N. H. 03581
Since 1854 603-466-3988

Room 301
LOB

January 23, 2002

New Hampshire House of Representatives
Municipal & County Government Committee
Betsy Patton, Chairperson

RE: HOUSE BILL FN-1355-LOCAL

Greetings:

I have recently been made aware of this bill being introduced for consideration in this session. As a business owning land in unincorporated places as well as owning and operating the Mt Washington Auto Road and Great Glen Trails Outdoor Center, we wish to go on record as being opposed to this legislation.

The benefits to be derived from the passage of this bill remain unknown and unimaginable at this point. One thing would seem to be certain - upon it's passage, our taxes would go up, perhaps dramatically, with little chance of a corresponding increase in services given our somewhat remote location relative to the nearest town services which are 8 miles away. We provide many jobs for the North Country, revenue for the State of NH and valuable national exposure for the State through the uniqueness of the Auto Road. We require little in the way of municipal services. Additional taxes will make it all the more difficult to run a profitable business and remain competitive in an already very tight tourism market.

Sincerely,

Howie Wemyss
General Manager

"The Road to the Sky"

WILDCAT MOUNTAIN

pure vertical fun

January 22, 2002

New Hampshire House of Representatives
Municipal & County Government Committee
Betsy Patton, Chairperson

Re: House Bill FN-1355-LOCAL

I am the General Manager for Wildcat Mountain Ski Area, which is located in the unincorporated area known as Pinkham's Grant. We are alarmed and very concerned just becoming aware of this bill on January 22, 2002. Our concerns are that by being included in a municipal government, our taxes would increase dramatically without any increase in services. Wildcat is located approximately ten miles from the nearest town. We are opposed to the bill.

There are no known benefits provided to us with this legislation. The adverse burden of additional taxes would severely hamper our efforts to be a profitable business. We struggle to employ thirty people on a year round basis, with up to 200 during the winter peak season. We play an important role in providing economic stimulus to Carroll and Coos County. Additional property tax burdens will impare our ability to continue to remain in business.

Thomas M. Caughey
General Manager

TC/mks

www.skiwildcat.com
P.O. Box R, Route 16 Jackson, NH 03846
Business Phone: 603-466-3326 ❋ e-mail: thccat@skiwildcat.com ❋ Fax: 603-466-5813
Snow Phone: 1-888-SKI-WILD ❋ Information & Sales: 1-800-255-6439



The BALSAMS
Grand Resort Hotel

To: All Land-owners in the Unincorporated Places of Coös County

From: Stephen P. Barba, President and Managing Partner
The BALSAMS, Dixville Notch, NH 03576
603/255-3400

Date: January 15, 2002

Re: House Bill: 1355-FN-LOCAL — An Act relative to merging unincorporated places with abutting municipalities in Coös County.

As one who represents a corporation that owns thousands of acres of land in an unincorporated place, I am very concerned about the adverse affects this proposed legislation would have here in Dixville. I am writing all land-owners in similar situations so as to urge you to contact your representatives in the New Hampshire legislature and others to voice your objection to this bill.

The sponsors of this bill are Representative Larry Guay (R), Mike Rozek (R), and John Gallus (R), all members of the Coös delegation.

A copy of the bill is enclosed for your information, and I have provided a list of all the elected representatives in the Coös County delegation and on the County Commission.

You also should know that several years ago Representative Guay filed similar legislation to form a study committee on this same issue. That legislation passed, and I served on that study committee. Throughout the entire schedule of hearings I can recall no one who testified in favor of pursuing this course of action, and the study committee concluded with a majority opinion that this proposal was inexpedient to legislate. Only the chair, Representative Guay, did not support that conclusion.

At that time, the majority of land in the unincorporated places was owned by healthy and active paper companies. All of their representatives and many others gave convincing testimony at the hearings in opposition to the premise of annexation. Who will join that good fight this time around?

If you believe as I do that this proposal's effects would make it all the more difficult for us land-owners to keep and hold large open tracts of land without eventually having to subdivide, sell, and develop — then you need to step up to the plate today and voice your objections to House Bill 1355 directly to our legislators and officials.

Thereafter, even more of an organized vocal opposition may be necessary. Are you interested in participating? Contact me.

Sincerely,

Stephen P. Barba
President & Managing Partner
The BALSAMS Grand Resort Hotel

NEW HAMPSHIRE TIMBERLAND OWNERS ASSOCIATION

NH Timber Harvesting Council

Co-Sponsor

54 PORTSMOUTH STREET • CONCORD, NEW HAMPSHIRE 03301
PHONE (603) 224-9699 FAX (603) 225-5898

January 15, 2002

The Honorable Betsy Patten, Chair
House Municipal and County Government Committee
Room 301,Legislative Office Building
Concord, NH 03301

RE: **HB 1355,** *AN ACT relative to merging unincorporated places with abutting municipalities in Coos county.*

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to speak to HB 1355 on behalf of the New Hampshire Timberland Owners Association (NHTOA). Amongst NHTOA's 1500 members several own land in unincorporated places within Coos county and many more rely on the timber harvested upon those lands to run their forest products businesses and support their families.

NHTOA opposes HB 1355 for several reasons:

- Fair taxation – Despite no public schools Coos county's unincorporated landowners already pay the full portion of the statewide education property tax. Therefore, these landowners are already making tax contributions in excess of the services the state is providing them.

- Working System – The current management and taxation system for these lands works and provides adequate oversight.

- Open Space/Working Landscape – With the annexation of these lands into adjoining townships the likelihood they will be developed increases. As undeveloped, working forest these lands already provide jobs and economic benefits to the state's economy without the added municipal costs and burdens that accompany subdivision and development.

Thank you for the opportunity to comment on this legislation.

Sincerely,

Jasen A. Stock
Executive Director
New Hampshire Timberland Owners Association

WAGNER FOREST MANAGEMENT, LTD.

P.O. Box 160 • 150 Orford Road
Lyme, New Hampshire 03768

TELEPHONE (603) 795-2002 FACSIMILE (603) 795-4631

January 21, 2002

The Honorable Betsey Patten, Chair
Municipal and County Government Committee
Room 301
Legislative Office Building
Concord, New Hampshire
03301

Dear Ms. Patten:

Re: Proposed House Bill 1355-FN-LOCAL

This letter is written to provide you and the other members of the Municipal and County Government Committee (the "Committee") with my opinion that proposed House Bill 1355-FN-LOCAL will be detrimental to both the local economies and the health of forests in unincorporated areas in New Hampshire.

Wagner Forest Management manages thousands of acres of timberlands residing in unincorporated areas in northern New Hampshire. The current structure of local governments in unincorporated areas abutting municipalities in Coos County serve those areas well as the public services provided to the areas are completely adequate and the attendant costs of such services are appropriate to maintain properties in those areas as large, undeveloped properties.

Annexing or merging unincorporated areas to or with Coos County municipalities presents no apparent opportunity to lower public service costs or to improve such services without increasing their costs in either unincorporated areas or Coos County municipalities. On the other hand, owners of forestlands in unincorporated areas can prudently anticipate that if the proposed annexation of unincorporated areas to abutting municipalities in Coos County does occur, the costs of forestland ownership in the unincorporated areas will increase.

International recessions have affected global prices for commodity products such as paper especially hard while the demise of Pulp & Paper of America has significantly decreased demand for timber products within our region. To take an action that will potentially increase the costs of forestland ownership at a time when markets for forestland products have eroded is to exacerbate that problem as well as to encourage the subdivision and development of the forests of unincorporated areas. Subdivision and development will be detrimental to the health of the forests. Subdivision and development will also be detrimental to the forest products and recreational industries' infrastructures in the unincorporated areas as well as in Coos County municipalities.

I sincerely hope that you and the members of the Committee will not vote in favor of passing proposed House Bill 1355 onto the House for further discussion. Thank you for your consideration.

Respectfully,

Walter Malmquist

Enclosures: 19 copies for distribution to Municipal and County Government Committee Members

Coös County Commissioners' Office
P.O. Box 10
West Stewartstown, N.H. 03597
603-246-3321
fax: 603-246-8117

January 14, 2002

The Honorable Betsey L. Patten, Chair
Municipal and County Government Committee
NH House of Representatives
Legislative Office Building
Concord, NH 03301

RE: HB1355

Dear Representative Patten and Members of the Committee:

The Coös County Commissioners respectfully submit our comments in opposition to HB1355 relative to merging the unincorporated places with abutting municipalities in Coös County.

As we all know, Coös County is unique in many ways. In addition to being the largest of New Hampshire's ten counties and the one with the smallest population, it also has 23 unincorporated places. These are geographic entities with no formal town government. The County is the local government to these diverse places. Prior to 1988 both the state and the county shared jurisdiction over these places. But legislation passed in 1988 and 1989 (HB842 and HB531) transferred all responsibility to the County.

The goal that the Commissioners adopted for the management of these places was to assist the property owners to maintain historical ownership patterns – large land holdings that support the timber industry as well as support the recreation and tourism industry by providing free public access to vast tracts of undeveloped land. The incentive for large landowners to continue to own these lands has been low property taxes. Each unincorporated place where private landowners exist and in those places where citizens reside (total population of all 23 unincorporated places is 77) has its own individual budget. Each unincorporated place pays its own expenses and collects is own revenue. In those places where timber tax revenue is substantial, there may be little or no property tax and that is the incentive for the large industrial landowners to continue ownership of their lands.

As stated above, there are only 77 residents of the unincorporated places. Taxes would surely be higher if there were more residents, as it is people and their need for services that necessitate most property taxation.

COMMISSIONERS
THOMAS R. CORRIGAN, LANCASTER · A.M. SUE TROTTIER, BERLIN · BURNHAM A. JUDD, PITTSBURG

The idea of abutting the unincorporated places to neighboring communities would surely destabilize the goal of keeping taxes low for large landowners who support both our timber based economy and the tourism/recreation sector of our economy. These lands would now have to support through property taxation municipal services and schools of the communities that annex them.

On Saturday, January 12, 2002 a joint House-Senate hearing was held in Pittsburg on a bill that would appropriate state funds towards the purchase of the International Paper Lands. It was obvious from testimony at that hearing that the residents of New Hampshire value as priceless public access to open land and are willing to support legislation that guarantees that these large tracts of land stay in private ownership with easements that allow for timber harvesting in conjunction with continued public access. Coös County, through its goal of keeping property taxes low for large landowners in the unincorporated places, is encouraging large paper companies not to sell their lands like International Paper is. International Paper Company has substantial land holdings in Odell, an unincorporated place, and did not put these lands up for sale.

If the unincorporated places lands become a part of organized towns and cities, the incentives the County created will be lost and it is more likely that the legislature will once again be faced with a large tract of undeveloped land being up for sale. Can the State afford to go down this road again?

To date, the pressure to develop, sell or subdivide this great forest resource in Coös County's unincorporated places has been averted. In no section of New Hampshire is there a greater love of the land than in the Great North Woods of Coös County.

The Coös County Commissioners urge you to work to make sure that the County's unincorporated places continue to exist as the truly special places they are in New Hampshire for this generation and the generations to come.

Sincerely,

Thomas R. Corrigan
Commissioner

A.M. Sue Trottier
Commissioner

Burnham A. Judd
Commissioner

glazed \'glāzd\ *adj* (15c) **1 :** covered with or as if with a glassy film ⟨~ eyes⟩ **2 :** marked by lack of expression
gla·zier \'glā-zhər, -zē-ər\ *n* (14c) : one who sets glass — **gla·ziery** \'glā-zh(ə-)rē, 'glā-zē-ə-rē\ *n*
glaz·ing \'glā-ziŋ\ *n* (1677) **1 :** the action, process, or trade of fitting windows with glass **2 a :** GLASSWORK **b :** GLAZE **3 :** transparent material (as glass) used for windows
[1]gleam \'glēm\ *n* [ME *gleem*, fr. OE *glǣm*; akin to OE *geolu* yellow — more at YELLOW] (15c) **1 a :** a transient appearance of subdued or partly obscured light ⟨the ~ of dawn in the east⟩ **b** (1) **:** a small bright light ⟨the ~ of a match⟩ (2) **:** GLINT ⟨a ~ in his eyes⟩ **2 :** a brief or faint appearance ⟨a ~ of hope⟩ — **gleamy** \'glē-mē\ *adj*
[2]gleam *vi* (1508) **1 :** to shine with or as if with subdued steady light or moderate brightness **2 :** to appear briefly or faintly ⟨a light ~*ed* in the distance⟩ ~ *vt* **:** to cause to gleam ***syn*** see FLASH
glean \'glēn\ *vb* [ME *glenen*, fr. MF *glener*, fr. LL *glennare*, of Celtic origin; akin to OIr *doglenn* he selects] *vi* (14c) **1 :** to gather grain or other produce left by reapers **2 :** to gather information or material bit by bit ~ *vt* **1 a :** to pick up after a reaper **b :** to strip (as a field) of the leavings of reapers **2 a :** to gather (as information) bit by bit **b :** to pick over in search of relevant material ⟨~*ing* old files for information⟩ **3 :** FIND OUT — **glean·able** \'glē-nə-bəl\ *adj* — **glean·er** *n*
glean·ings \'glē-niŋz\ *n pl* (15c) **:** things acquired by gleaning
glebe \'glēb\ *n* [L *gleba* clod, land] (14c) **1** *archaic* **:** LAND; *specif* **:** a plot of cultivated land **2 :** land belonging or yielding revenue to a parish church or ecclesiastical benefice
glede \'glēd\ *n* [ME, fr. OE *glida*, akin to OE *glidan* to glide] (bef. 12c) **:** any of several birds of prey (as a kite of Europe)
glee \'glē\ *n* [ME, fr. OE *glēo* entertainment, music; akin to ON *glȳ* joy, and perh. to Gk *chleuē* joke] (bef. 12c) **1 :** exultant high-spirited joy **:** MERRIMENT **2 :** a part-song for usu. male voices
glee club *n* (1844) **:** a chorus organized for singing usu. short pieces
gleed \'glēd\ *n* [ME, fr. OE *glēd*; akin to OE *glōwan* to glow] (bef. 12c) *archaic* **:** a glowing coal
glee·ful \'glē-fəl\ *adj* (1586) **:** full of glee **:** MERRY — **glee·ful·ly** \-fə-lē\ *adv* — **glee·ful·ness** *n*
gleek \'glēk\ *vi* [origin unknown] (1590) *archaic* **:** GIBE, JOKE
glee·man \'glē-mən\ *n* [ME *gleman*, fr. OE *glēoman*, fr. *glēo* + *man* man] (bef. 12c) **:** JONGLEUR
glee·some \'glē-səm\ *adj* (1603) *archaic* **:** GLEEFUL
gleet \'glēt\ *n* [ME *glet* slimy or mucous matter, fr. MF *glete*, fr. L *glittus* viscous; akin to L *gluten* glue — more at CLAY] (14c) **:** a chronic inflammation (as gonorrhea) of a bodily orifice usu. accompanied by an abnormal discharge; *also* **:** the discharge itself

January 15, 2002

The Honorable Betsy Patten, Chair
House Municipal and County Government Committee
Room 301,Legislative Office Building
Concord, NH 03301

RE: **HB 1355,** *AN ACT relative to merging unincorporated places with abutting municipalities in Coos county.*

Mr. Chairman and Members of the Committee,

Hello my name is Kevin Evans, I am the Director of College Woodlands for Dartmouth College, owners of The Second College Grant, a 27,000 acre Unincorporated Town north of Errol. We have owned this parcel for 195 years. We believe that the administration of the Unincorporated places by the County works very well and therefore do not support the annexation plan outlined in House Bill 1355.

Our land is managed for timber production, recreation, as well as education and research for the Dartmouth community. The land, managed is this way, has provided millions of dollars for the College to support education, and hundreds of thousands of dollars to support the County government. This revenue to the County adequately covers our share of the statewide education property tax, and the land requires virtually no municipal services.

The County's administrative structure, in the context of land ownership patterns of Coos County, provides the critical foundation of a successful timber economy, an economy which now needs all the support it can get. Additionally these undeveloped lands offer recreational opportunities for residents and visitors which in turn supports business growth in the neighboring towns. This is where development should be encouraged and guided, using the unincorporated places as the rural backdrop. Also, the land in unincorporated areas is appropriately regulated by the County through their extensive Zoning laws administered by the Planning Board. They have done an excellent job in protecting these lands while supporting their proper management as timber lands.

I can see no benefit to this proposed bill to annex unincorporated places into neighboring towns. Instead it may threaten the already unstable timber economy, and change the landscape of the north country in negative ways. I urge you to defeat this proposal.

Sincerely,

Kevin Evans
College Woodlands Director
Dartmouth College

PUBLIC LOTS IN THE UNINCORPORATED AREAS OF NEW HAMPSHIRE

Spring Term 1984

Lori Armbrust Howell

Advisor: Sarah E. Redfield

Franklin Pierce Law Center
Concord, New Hampshire

PUBLIC LOTS IN THE UNINCORPORATED AREAS OF NEW HAMPSHIRE

INTRODUCTION

This paper describes the status of certain reserved lands within the unicorporated places of New Hampshire and reviews the history of northern New Hampshire land grants along with the conditions on which the grants were made. Analogous provisions in Maine land grants are examined and possible courses of action for New Hampshire are suggested. The question of who owns properties in unicorporated places is the principle focus of this paper.

The impetus for this paper was a research request by New Hampshire legislative representative Lawrence J. Guay, of Coos County. Representative Guay is currently chairman of the Joint Committee to Study the Unicorporated Places. The committee, effective June 18, 1983, is responsible for addressing the following questions:

A. Who owns properties in the unincorporated places?

B. What services are currently provided to unicorporated places by towns, cities, counties and the State?

C. What potential exists for development in unicorporated places in the areas of mining, energy, and recreation?[1]

This committee also reviews, investigates, and evaluates issues

> germane to the feasibility of merging unicorporated places with abutting towns,

---

[1] Chapter 295, New Hampshire Laws 1983, HB 578.

> *including but not limited to, the effect of such mergers on abutting towns, on industrial development in said towns, and on state taxes.*[2]

DESCRIPTION OF UNINCORPORATED PLACES

Twenty-four unincorporated places and two unorganized places exist within New Hampshire. Twenty-four of these areas are located in Coos County (see Figure 1) and the other two lie in Grafton and Carroll Counties. These unicorporated and unorganized places comprise the majority of the land in New Hampshire north of the notches.

In 1965, the New Hampshire Department of Resources and Economic Development estimated the population of Coos County at just under 35,000 persons. Approximately 25,000 of these reside in the incorporated towns of Gorham, Berlin, Littleton, and Lancaster. The remaining 10,000 persons reside in scattered population centers throughout the over 300,000 unincorporated acres.[3]

An unincorporated place refers to an area which has been organized by its residents under a township body, but is not incorporated. McQuillan, in his treatise entitled Municipal Corporations, *states that*

> *incorporated towns have been defined as public corporations created by the legislature for*

---

[2] *Id.*

[3] *Coos County, New Hampshire, Comprehensive Plan Summary, Phase 1. (New Hampshire Department of Resources and Economic Development. 1965).*

> political purposes. The political powers are to be exercised for the public good in the administration of civil government. A town created under township organization has been held not an 'incorporated town', within the meaning of such words as used in a particular statute.[4]

An unorganized place is an area that has neither been incorporated by the legislature nor organized by its residents, which makes the residents individually autonomous and responsible for their own needs.

HISTORICAL PERSPECTIVE AND PURPOSES OF THE GRANTS

During the New Hampshire colonial period, some of the unincorporated and unorganized places (hereinafter referred to as unincorporated places) were granted by the King of England to individuals and organizations for the purpose of settling and populating. Later, the New Hampshire General Court, which was the precursor of the modern New Hampshire Legislature, took over responsibility for granting as well as selling off parcels of the unincorporated places. The areas sold after 1831 were sold pursuant to Chapter LI of the New Hampshire Laws.

Of historical interest are the varying purposes of the grants. Low and Burbank's grant, which is typical of other grants, was granted for the purpose of repairing and improving the road from the easterly line of Jefferson, through Kilkenny, Randolph and Shelburn.

---

[4]McQuillan, Law of Municipal Corporations, 3d. Ed. 1971.

The Second College Grant was granted to Dartmouth College in 1807 for the support of the College and the "aquirement of science, the cultivation of good habits, and procuring a public education in all the higher branches of literature at small expenses."[5] This grant was particularly designed to educate the sons of the more needy and indigent citizens of New Hampshire. In 1809, the Senate and the House of Representatives saw fit to grant 13,000 acres, in equal shares to Gilmanton and Atkinson academies.[6] The revenue from this tract of land was to be equally divided between the academies and was to be appropriated by the trustees of the schools for their use and benefit forever.[7]

Finally, several grants were given as personal favors as is the case with Martin's Location, for bravery in the "late war". Martin's Location was granted to Captain Thomas Martin in 1763 by George the Third.

RESERVATIONS OR CONDITIONS OF THE GRANTS

Most of the grants were made subject to several conditions. The grant of Cambridge is representative of others. The full text of the conditions may be seen at Appendix A. In essence, it was typically stipulated that a road of a specified width must be built if so directed, all pine trees suitable for masts must be preserved for the Royal Navy, an acre of land must be allotted to each grantee, and payment of one ear of indian corn must be made as rent if demanded.

---

[5] Second College Grant, original charter, 1807

[6] A question of interest, not addressed by the scope of this paper, is whether Atkinson Academy, which is no longer a private schoo still receives support from this land.

[7] New Hampshire Laws of 1809.

Furthermore, settlers must pay one shilling per one hundred acres owned to the the original grantee. The deed stated that the grant must not interfere with any other grant, flax and hemp must be grown on ten out of every one hundred acres, six families must be settled within two years, and that sixty persons must be settled within seven years. Several grants reserved land for specified purposes. The deeds granting Success, Millsfield, Cambridge and Dixville contained such an additional condition. For example, the charter of Cambridge granted the following:

> One equal right to the first settled minister of the gospel in this township. One equal right for the use of a school in this township, forever. One equal right for a glebe[8] for the Church of England in this township forever.

The grant provided that the land was to be divided into 67 equal shares; 64 grantees plus three public benefit lots.

The grant of Millsfield contained an additional condition which was similar in all other respects except that it granted one equal right to the Incorporated Society for the Propagation of the Gospel in Foreign Parts. The lot was granted to this specific group rather than simply to the first settled minister. Including the three public benefit lots, the grant of Millsfield was to be divided into 82 equal rights. In 1773 Success was granted to 74 grantees. Three equal shares were to go to a grammar school, a glebe, and to the first settled minister.

---

[8] A glebe is the land possessed as part of the endowment or revenue of a church or ecclesiastical benefice.

In 1805 the General Court granted Dixville to Timothy Dix, Jr. The grant contained 29,340 acres. Out of these acres the General Court saw fit to:

> reserve out of said township 300 acres of land of a quality as good as the general acreage of said township for the support of schools.[9]

The charter further stipulated that these reserved lots must be "laid out in lots as near the centre of said township as may be to be of a quality aforesaid.[10]

Overall, the number of acres subject to conditions of this type are as follows:

Dixville.....600

Cambridge.....1037

Millsfield.....848.78

Success.....1187.22

The total number of acres in these four townships which are subject to the conditions is 3,673.

The General Court was known to occaionally send representatives out to granted lands to check if the conditions in the deeds were followed. This practice was more common in the southern counties than in Coos County.[11] However, Grants and Deeds of Unincorporated Places, compiled in 1812 by the New Hampshire State Tax Commission contains evidence that Nathan Gilman was requested to inquire into the title of the land granted to Timothy Dix, Jr. Grants and Deeds contains

---

[9] Dixville, original charter, 1805.

[10] Id.

[11] Andrew Taylor, Division of Records management and Archives; New Hampshire Laws of 1812, p. 293.

several communications between Dix and the General Court. The legislature directed Gilman to bring a suit if he was of the opinion that an action could be supported for the recovery of the land granted to Dix. Finally, on June 16, 1812, the General Court made a resolution to waive one condition of Dix's grant. Dix was no longer required to settle 30 persons as the Court discharged and annulled the condiditon.[12]

PUBLIC LOTS

The status of the public lands is a central concern in this paper. The grant for Dixville reserved 300 acres for a school and 300 acres to the church. A reservation, by its definition creates some new right in the grantor. It retains to the grantor some right upon the property, as an easement. A reservation is always something taken back out of that which is clearly granted, while an exception is some part which is not granted at all.[13]

In arriving at what a reservation in a deed means, the court will look to the four corners of the deed and will decide what the parties intended.[14] The court will often utilize the "rule of reason" as a basis of interpretation. The rule merely refuses to give unreasonable rights or to impose unreasonable burdens when the parties have spoken

---

[12] Dixville, Acts, Vol. 7, p. 405.

[13] Blacks Law Dictionary, 1983; Lewis v. Standard Oil of Cal., 88 F.2d 512 (1937).

[14] Moulton v. Groveton Papers, 112 N.H. 50,289 A2d 68, (1972).

in a general manner.[15] In the case of Dixville and its 600 reserved acres, there are several acts and resolves by the General Court which indicate an intent to enforce the charter in its entirety. One resolve, however, does waive the condition that Dix settle 30 persons within five years. The time and amount of discussion devoted to this one condition, and then finally, its waiver, may be sufficient to imply that the legislature had no intention of waiving any other conditions.

It is generally acknowledged that easements may be created by express reservation or by exception. The grant to Timothy Dix contained an express reservation which a court of law may hold to have the same effect as an easement, and may allow the state to enter the land and set aside lots.[16]

The school, church, and glebe lots in Cambridge, Millsfield and Success were granted as an equal right. The deeds specify that the land set aside for these purposese was to be of an equal quality as the rest of the town, and was to be located near the center of it. An early map of Millsfield[17] is divided into 14 rangeways by 16 rows. Each of the resulting 224 lots is numbered and approximately one half are labeled with the name of one or more of the original grantees. At the center of the map one lot is

---

[15] Sakansky v. Wein, 86 N.H. 337, 169 A. 1, (1933).

[16] Restatement of Property, §472, (1944).

[17] This undated map is located in the archives of the New Hampshire Historical Society, Concord, N.H.

labeled "town lots". To obtain an equal right each grantee would be entitled to 2.73 lots. Only one lot was set aside for town purposes where 8.19 lots should have been set off.

An 1867 map of Success[18] is divided into 50 approximately equal lots. The lots are numbered, but none are labeled. As there were 77 original grantees, each grantee would be entitled to a fractional share of one lot. This includes a fractional share for each of the three public uses.[19]

Although the "town lots" in Millsfield were located, it does not appear that they were given an equal right. The public uses were given only one lot where 8.19 should have been set aside. For the purposes of this paper it will be assumed that the public lots in Dixville, Cambridge and Success are unlocated.[20] A discussion of a similar structure of land grants, including tactics for locating "unlocated" public lots, will be helpful before progressing with the future of the public reserved lands in New Hampshire.

---

[18] This map is located at the Division of Records Management and Archives, Concord, N.H.

[19] Early maps of Cambridge and Dixville were not located.

[20] Before relying upon this assumption it will be necessary to check with other historical societies in Northern New Hampshire, Plymouth State College, as well as other county and state offices.

MAINE: NINE MILLION UNORGANIZED ACRES

This section examines the many similarities which exist between the land grants in Maine and New Hampshire. The public lots in maine were granted for substantially the same purposes as the reserved lands in New Hampshire. As in New Hampshire, many of the public lots in Maine are unlocated. The State of Maine has taken steps toward a restructuring of the unorganized areas.

As of February 1974, the unorganized territories in Maine consisted of 411 townships and tracts without local government.[21] The private land is owned or managed by less than twenty individuals or corporations.[22] One thousand acres were reserved from each township for the use of the schools and the church. This results in approximately 355,000 acres of public lots.[23] However, the grass and timber rights have been sold on approximately 320,000 acres.

Prior to the Articles of Separation the Massachusetts legislature required that the towns use the public lots for the purposes for which they were originally reserved, ie, schools, ministry, etc. As the townships became incorporated, title to the public lots vested in the inhabitants of the town in accordnace with what is now 13 MRSA 3161. In 1853 Massachusetts conveyed all of its right, title and interest in the public lots to Maine. The deed stated that the lots

---

[21] Preliminary Draft Report of the Committee of Public Lands, Maine, Feb. 4, 1974.

[22] Id.

[23] Id.

were to be held in accordance with the Articles of Separation. However, since 1832, Maine towns have been required to use the public lots for the support of the schools, regardless of the purposes for which they were originally reserved.[24]

The State of Maine perceived numerous problems regarding the governance and management of the unorganized areas. The State was concerned that the residents of the unorganized territories were being deprived of their constitutional right to participate in local government. In 1981 these concerns led to the enactment of a bill entitled "An Act to Organize the Unorganized and Deorganized Territories of the State and to Provide Management of the Public Reserved Lands." The Act is intended to effect changes in the manner in which, and the purposes for which the public lots are owned by the State of Maine.

Prior to its enactment, the legislature submitted questions regarding the constitutionality of the Act to the Supreme Judicial Court for an advisory ruling. The following section is a discussion of the concerns of the legislature.

Constitutionality of the Act

Section 5 of the proposed Bill amends 13 MRSA 3161 such that title to the public lands would vest in the inhabitants of all towns in existance on January 1, 1973. After this date, title title to the public lots would no longer vest in the inhabitants of towns which may in the future become incorporated. Section 7 of the Act directs that the public lots be used for the benefit of the State of Maine. The legislature questioned whether these sections would violate the Articles of Separation or the due process clause of either

the State or Federal constitutions. The justices stated that none of these provisions would be violated, but they emphasized that the public lots must be held and preserved for the generalized public uses which were contemplated by the Articles of Separation.

Section 14 of the Act required the Forest Commissioner to consider such qualities as scenic and recreational value in locating the unlocated lots. Section 15 requires that the public lots be used and managed as multiple use state forests. This section gives the commissioner the power, in some instances, to sell, purchase, and exchange public lots without retaining a public lot in each unincorporated township or tract in order to assemble larger contiguous quantities of land. The legislature advanced conecrns identical to those for sections 5 and 7. The court again dispelled the concerns and emphasized that Article X of the Maine Consitution establishes the limitation only that the state hold and preserve the public lots for the general class of public use. Rearrangement of the public lots to obtain larger tracts are subject only to the provision that this rearrangement is done to promote the beneficial public uses and purposes for which they were reserved.

Finally, the Supreme Judicial Court approved section 16 of the Act which discontinues the practice of depositing income from the lands into the state treasury to await incorporation of the town. This income is currently used for management of the public lots and for acquisition of additional land.[25]

---

[25] Opinion of the Justices of the Supreme Judicial Court, 308 A2d. 253, (Maine, 1973).

FUTURE OF PUBLIC LOTS IN UNINCORPORATED PLACES IN NEW HAMPSHIRE

The future of the land north of the notches may follow trends in industry and travel much as the town of Success has followed these trends. Success followed the growth and decline of logging in the area. In 1870 there were only 40 acres of improved land in Success. But by 1900 the town had been filled by over 220 lumbermen and their families.[26] The lumber which could be cut profitably was rapidly depleted and people left the town. Brown Paper Company purchased much of the land in Success, but even so, the population of the town stood at 1 in 1960.[27]

The 1965 Comprehensive Plan of Coos County strongly suggests that tourism may be the most feasible route to revitalization of the North Country. In preparing for a possible upswing in the tourism industry, the state must evaluate the status of its holdings in the county. One question which must be determined is the possible scope of uses allowable.

Permitted Uses of Public Lots in Other Jurisdictions:

The Maine Court in Union Parish Society v. Upton,[28] and again in Opinion of the Justices, supra, has indicated that the uses enumerated in the grants are not intended to serve as specific limitations. Rather, the specified uses are intended to be illustrative of a more comprehensive

---

[26] Blanchard, Fessenden S., Ghost Towns of New England, Dodd Mead and Company, N.Y. 1960.

[27] Id.

[28] 74 Maine 545 (1883).

"assemblage" of beneficial powers. The only obligation on the part of the sovereign is to hold and preserve the lands for public use.[29] Title is held by the state as a trustee.[30]

Another case involving the allowable use of a plot of land which had been reserved to the schools is City of Newark v. Watson.[31] In this case Chief Justice Beasley of New Jersey pointed out that there was no difference between the appropriation of public land as a municipal graveyard or its use in providing support for the schools in the town.

Suggestions for Further Research

Currently the majority of land in Coos County is owned by a handful of paper companies. It is difficult to research the quality of title in these areas for several reasons. First, the paper companies themselves have a large number of the original documents and deeds in their files.[24] Second, the Coos County Registry of Deeds was destroyed in a conflagration in 1886. Although a small percentage of documents were re-recorded, most searches must end with 1886. Third, It is not possible to do a meaningful search of the public lots in towns in which they are unlocated, and finally, the differing methods of record keeping and the large number of repositories for information makes it difficult to do comprehensive research.

---

29 State v. Cutler, 16 Maine 349, (1839).

30 Dillingham v. Smith, 30 Maine 370, (1849).

31 56 N.J.L. 667, 29 A. 487 (1894).

32 Blanchard, 1960, at p. 62.

The public lots in Success, Cambridge, and Dixville are unlocated. In townships where the public reserved lots are unlocated the State of Maine has held that the State is a tenant in common with the inhabitants of the rest of the township.[33] *However, since the amendment of 13 MRSA 3161 title vests with all the residents of the State of Maine.*

The status of the unincorporated areas should be determined before further policy decisions are made. In order to adequately know the current status the legislature must sponsor a larger scale, indepth, funded research project. The size of the project must be upgraded in order to have the research done in a complete and comprehensive manner. Any future project should attempt to gain the cooperation of the land holding paper companies, who have themselves sponsored some title research. The legislature may wish to forward specific concerns to the State Supreme Court for advice on the constitutionality of their proposed actions. This area of the law is so unique that it will be difficult to reorganize the governance of the area without an advisory ruling.

---

33 Hammond v. Morrell, 33 Maine 300 (1851); Mace v. Ship Pond Land and Lumber Company, 112 Maine 420, 92 A. 486 (1914).

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 1355

BILL TITLE: **relative to merging unincorporated places with abutting municipalities in Coos county.**

DATE: 2/5/02

LOB ROOM: 301

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Brundige

Seconded by Rep. Griffin

Vote: 11-1 (Please attach record of roll call vote.)

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

Moved by Rep.

Seconded by Rep.

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

CONSENT CALENDAR VOTE: 11-1

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Priscilla Lockwood, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on {Type BILL NO.} HB 1355

BILL TITLE:

DATE: 2/5/02

LOB ROOM: 301

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

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

Moved by Rep. Brundige

Seconded by Rep. Griffin

Vote: 11 - 1 (Please attach record of roll call vote.)

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

Moved by Rep. _____

Seconded by Rep. _____

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

CONSENT CALENDAR VOTE: unanimous

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Priscilla Lockwood, Clerk

OFFICE OF THE HOUSE CLERK

2002 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 1355 Title: _____

PH Date: 1/15/02 Exec Session Date: 2/5/02

Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Patten, Betsey L. Chairman	11	
Brundige, Robert W. V Chairman	1	
Griffin, Marv E	2	
Akins, Ralph L	3	
Lockwood, Priscilla P. Clerk	4	
Eaton, Richard S		
Fairbanks, Chandler V		
Lachance, Douglas A		
Twomblv, James E	5	
Bovce, Laurie J	6	
Dumaine, Dudlev Daniels		
Guinta, Frank C		
Johnson, Nancv K		
Fraser, Marilvn A		
Bellavance, Paul C	7	
Coonev, Marv R		1
Goodwin, Earle	8	
Scovner, Nancv M		
Johnson, William G	9	
Quandt, Matt	10	
TOTAL VOTE:	11	1

Printed: 12/19/2001

Committee Report

COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 1355**

TITLE: relative to merging unincorporated places with abutting municipalities in Coos county.

DATE: 2/5/02 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill requires Coos County to develop a plan to allow annexation of unincorporated areas by abutting municipalities by establishing a North Country and Municipal Expansion Board. Testimony was received by the committee that a similar board was established in 1988 and its conclusion was not to allow the annexation of the unincorporated places in Coos County. This bill is opposed by the Coos County Commissioners. The committee was inundated by letters, faxes, E-mails and telephone calls all opposed to this bill. The committee agrees that this bill is not necessary at this time and is more appropriate for a Coos County study committee.

Vote 11-1.

Rep. Robert W. Brundige
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Municipal and County Government

HB 1355, relative to merging unincorporated places with abutting municipalities in Coos county. **INEXPEDIENT TO LEGISLATE**

Rep. Robert W. Brundige for Municipal and County Government: This bill requires Coos County to develop a plan to allow annexation of unincorporated areas by abutting municipalities by establishing a North Country and Municipal Expansion Board. Testimony was received by the committee that a similar board was established in 1988 and its conclusion was not to allow the annexation of the unincorporated places in Coos County. This bill is opposed by the Coos County Commissioners. The committee was inundated by letters, faxes, E-mails and telephone calls all opposed to this bill. The committee agrees that this bill is not necessary at this time and is more appropriate for a Coos County study committee. **Vote 11-1.**

~~QUALIFY FOR THIS EXEMPTION~~

HB 1355-FN-LOCAL

RELATIVE TO MERGING UNINCORPORATED PLACES WITH ABUTTING MUNICIPALITIES IN COOS COUNTY

ITL 11-1

THIS BILL REQUIRES COOS COUNTY TO DEVELOP A PLAN TO ALLOW ANNEXATION OF UNINCORPORATED AREAS BY ABUTTING MUNICIPALITIES BY ESTABLISHING A ~~COMMISSION~~ NORTH COUNTRY MUNICIPAL EXPANSION BOARD ~~WHICH SHALL BE COMPRISED OF THE COMMISSIONERS OF COOS COUNTY,~~. TESTIMONY WAS RECEIVED BY THE COMMITTEE THAT A SIMILAR BOARD WAS ESTABLISHED IN 1988 AND ITS CONCLUSION WAS ~~TO~~ NOT TO ALLOW THE ANNEXATION OF THE UNINCORPORATED PLACES IN COOS COUNTY. THIS BILL IS OPPOSED BY THE COOS COUNTY COMMISSIONERS. THE COMMITTEE WAS INUNDATED BY LETTERS, FAXES, E-MAILS AND TELEPHONE CALLS ALL OPPOSED TO THIS BILL. THE COMMITTEE AGREES THIS BILL IS NOT NECESSARY AT THIS TIME AND IS MORE APPROPRIATE FOR A COOS COUNTY ~~LEVEL~~ STUDY COMMITTEE.

Rep Mary Jane Wallner

pep