# Bill as Introduced

**SB 70 – AS INTRODUCED**

2003 SESSION

03-0475
06/10

SENATE BILL ***70***

AN ACT creating the Great Bay Estuary district and making an appropriation therefor.

SPONSORS: Sen. Green, Dist 6; Sen. Prescott, Dist 23; Rep. Keans, Straf 67; Rep. Newton, Straf 67

COMMITTEE: Environment

---

ANALYSIS

This bill establishes authority in the department of environmental services for a Great Bay Estuary district for the construction and maintenance of interceptor sewer lines and an outfall delivery pipeline to be used for the disposal of wastewater from the municipal sewerage treatment plants in the Great Bay Estuary area.

---

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03-0475
06/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Three*

AN ACT creating the Great Bay Estuary district and making an appropriation therefor.

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

1 New Subdivision; Great Bay Estuary District. Amend RSA 485-A by inserting after section 57 the following new subdivision:

Great Bay Estuary District

485-A:58 Authority to Acquire, Construct, and Operate.

I. The department is authorized and directed to acquire, plan, construct, and operate, to serve certain municipalities within the Great Bay estuary district (including, but not necessarily limited to Rochester, Exeter, Durham, Newmarket, Somersworth, and Stratham) any and all sewage disposal facilities (meaning only those facilities eligible for state aid) in accordance with estuary and regional needs consistent with federal and state requirements.

II. The word "construction" shall include all engineering services in addition to the construction of new sewage pumping stations, outfall delivery and intercepting sewers, except those intercepting sewers and facilities retained by municipalities; or any other associated work, or both, the intent being to include within the department area of responsibility all construction work considered eligible for state financial assistance under the provisions of RSA 486, and including any necessary land acquisition, easements and rights-of-way.

III. To achieve a high degree of reliability and to provide for efficient layout, construction and maintenance of the disposal facilities, the department is authorized to locate sewer and related facilities in all public roadways, whether owned or controlled by a municipality or the state subject to RSA 236:9.

IV. The department is also obligated to restore the public roads, when disturbed for the purpose indicated in paragraph III, to a condition acceptable to local and state highway authorities.

V. Nothing in this section shall be construed to impair or repeal the authority conferred upon municipalities, under RSA 149-I, to construct main drains and common sewers. Nothing in this section shall be construed to impair or repeal the authority conferred upon municipalities under RSA 147 to make and enforce regulations concerning disposal of wastes and abatement of nuisances. The municipalities served under this chapter may, by ordinance or regulation, increase the 100 foot distance contained in RSA 147:8 and RSA 147:11. Such regulations shall apply to the municipal sewerage system and to the regional facilities located within the municipality.

VI. Nothing contained in this section shall be construed to entitle municipalities to receive state aid in excess of their entitlement as provided for in connection with construction as defined in RSA 486.

VII. To produce maximum benefits with the least expenditure of federal, state, and local funds, the department, or any municipality served under this subdivision, is authorized, under terms mutually agreed upon, to accept full responsibility for the planning of sewerage projects involving a mixture of eligible and ineligible facilities as defined in RSA 486. The department and the particular municipality involved will bear their pro-rata share of the associated costs for the work performed under such an agreement.

485-A:59 Administration. To administer the provisions of this chapter and to perform such other related duties as may be required, the department of environmental services is designated as the agency to receive and utilize any federal or other aids which may at any time be made available in the interest of water pollution control in the estuary district. The department is empowered to hire consulting engineering firms for purposes of project design and to employ such professional, technical, clerical, accounting, or other staff or consulting personnel as are required to implement the provisions of this subdivision. Any personnel, other than consultants employed by the department, shall be subject to the personnel laws of the state. This subdivision shall in no way impair or render null and void existing contracts between municipalities, contractors or other parties, or any of them, in connection with pollution control projects or sewerage, sewage or waste service contracts within the estuary district. Nothing in this subdivision shall be construed as prohibiting future sewerage or waste service contracts otherwise authorized by law between municipalities directly connected to the regional facilities provided for by this subdivision and other persons, including but not limited to municipalities, served or to be served by such facilities but not directly connected to such facilities. All such future contracts, however, shall be submitted at least 60 days in advance of their effective dates to the department, which is empowered to disapprove the terms of any such future contract in whole or in part when in its judgment the efficient administration or the purposes of this subdivision would be adversely affected, and such contract shall not be valid to the extent it is disapproved. In any such contract, unless otherwise specifically provided in the contract, the person or persons served by such regional facility but not directly connected to such facility shall have strict responsibility for the accurate measurement of the amount of sewage or waste disposed of by such person or persons and shall be liable to the municipality directly connected to such regional facilities for the entire amount of sewage or waste, as measured, if any inaccuracy is in favor of such municipality, and for the actual amount of sewage or waste, as estimated, if any inaccuracy is in favor of such person or persons. The commissioner is authorized to adopt, pursuant to RSA 541-A and after public hearing, such rules as are necessary to implement the provisions of this subdivision.

485-A:60 Expenditures.

I. With the approval of the governor and council, the department may use state, federal or other funds accruing to the department for the design and construction of a deepwater pipeline for discharge of the treated wastewater into either the Atlantic ocean or the Piscataquog river, whichever the department determines is most consistent with the policies of RSA 485-A:3, pumping

stations and intercepting sewers, inclusive of operation and maintenance of same; the terms operation and maintenance shall include maintenance of all buildings, equipment, supplies, and administrative costs associated with the management of the interceptors, pumping stations, and outfall pipeline, and for such other purposes as may be involved in the operation of an effective regional pollution control program. The department may purchase, take and hold for the state such materials, lands, easements and rights-of-way as may be required for the purposes of this subdivision. If the department is unable to purchase lands, easements or rights-of-way at what is deemed reasonable compensation, the department shall request the governor and council to appoint a commission to assess the damages sustained by the owner, and thereupon proceedings shall be conducted in the same manner and in accordance with provisions of RSA 230.

II. There is hereby appropriated the sum of $1,000,000 for the preliminary design, layout, and final design for the purposes of this act. To provide funds for said appropriation the state treasurer is authorized to borrow upon the credit of the state not exceeding the sum of $1,000,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

III. The payments of principal and interest on the bonds issued under paragraph II shall be made when due from the special fund established by RSA 485-A:61, VI.

485-A:61 Municipal Assessments.

I. The department shall annually, at the beginning of each fiscal year, assess each municipality served by the regional sewage disposal facilities provided for by this subdivision, a sum sufficient to recover its proportional share of the total in relation to the total costs estimated to be incurred during said fiscal year in transporting and disposal of sewage of the communities served and those to be served; the proportional share of each community shall be determined by the procedure provided for in paragraph IV.

II. The department shall annually, at the beginning of each fiscal year, assess each municipality served or to be served by the regional sewage disposal facilities provided for by the provisions of this subdivision the costs estimated to be incurred during said fiscal year in administering this subdivision, plus a charge for amortization charges on such costs of all facilities amounting to 5 percent of the total amortization charges, meaning principal and interest, on such charges. The proportional share of each community's costs shall be determined by the procedure provided for in paragraph IV.

III. The respective share of the assessments made in paragraphs I and II shall be paid to the department by each municipality quarterly on July fifteenth, October fifteenth, January fifteenth and April fifteenth of that fiscal year. After the close of each fiscal year, the department shall ascertain its actual total expenses in accordance with the foregoing provisions, and then shall adjust the assessment for the first quarterly payment of the new fiscal year for each such municipality served for any under-payment or over-payment by each such municipality served for the prior fiscal year.

IV. The assessments provided to be made by this section shall be made by taking into account the volume and distance traveled of the industrial, domestic, commercial, and all other waste discharges or the estimated volume and distance traveled of the industrial, domestic, commercial and all other waste discharges to be transported by the system. Proportional costs as determined by the department, associated with transporting treated sewage through a major interceptor from a municipality at which it is generated or is to be generated to the point of or discharge shall be allocated to the municipality which uses or will use the interceptor on the basis of volume and distance traveled or estimated volume and distance traveled. In determining said assessments for each municipality, the department shall abide by federal regulations which govern the allocation of costs and receipt of payments by industry for industrial discharges. Any operating and maintenance costs over and above what has been determined to be proportional by the department shall be an obligation of the state.

V. The municipality may recover charges assessed by means of user charges, connection fees, or such other techniques as may be utilized under state and local law, including sewage, sewerage, and waste service contracts, except that municipalities with industrial waste must abide by federal and state regulations which govern recovery of costs from said industries.

VI. All funds collected by the department by virtue of the assessments authorized under this section shall be paid to the state treasurer who shall keep the same in a special fund.

VII. Any municipality aggrieved or dissatisfied with any annual assessment levied against it under the provisions of this section may file a motion for reconsideration by the department control in the same manner and as provided in RSA 485-A:40.

VIII. The charges assessed by the department shall be made against the municipalities which are directly connected to the regional facilities provided for by this subsection and shall include:

(a) Any sewage or waste generated within the municipality and transported by such regional facility, and

(b) Any sewage or waste generated outside the municipality and being transported through such municipality's sewage system. Such municipality may recover the charges assessed in accordance with paragraph V.

485-A:62 Replacement Fund Established.

I. There is established a nonlapsing, revolving fund to provide capital for repair and replacement of major components of the water pollution control facilities administered under this subdivision which cannot be absorbed as regular budgetary items. The replacement fund is to be capitalized by contributions from the members served by the facilities based on each member's projected usage of the facilities.

II. The fund shall equal 5 percent of the equipment and other depreciable assets of the facilities. The value of the equipment and other depreciable assets shall be computed every 5 years, beginning in 2005, and shall be based on current replacement costs.

III. Each member's share of the total fund shall be contributed over a period of 10 years after the initial establishment of the fund and shall be paid as a yearly surcharge to the member's operating charges. Thereafter, each member's surcharge shall be prorated as membership and design changes require.

IV. Once a member has fully funded its share of the replacement fund, the member shall make no further contributions until the fund is utilized for repair or replacement of a facility used by that member. Expenses for which the fund is used shall be proportionally charged against each member's contributions to the fund for the facility utilizing the fund, which will subsequently be reimbursed by the member in successive years in addition to the member's yearly contribution to the fund, until the member's share of the fund is fully restored.

V. If a repair or replacement cost exceeds the value of the fund established for the facility, the repair cost shall be paid by the state, which shall recover its costs out of future reimbursements to the fund. Reimbursement to the fund shall always be assessed back to members based on their projected usage of the facilities needing repair.

VI. As new facilities, if any, are added to the system, additional assessments shall be made to the members benefiting from these facilities, prorated on the basis of projected use.

VII. If a new member joins the system, the assessments shall be modified to reflect the new member's benefit from the facilities, and excess prior payments made by other members, if any, shall be credited to their accounts.

VIII. All contracts paid for using the fund shall be submitted to the governor and council for approval.

IX. This nonlapsing, revolving special purpose fund is continually appropriated to be used by the department in accordance with this subdivision. All moneys shall be deposited with the state treasurer who shall keep this money in a separate fund, notwithstanding RSA 6:12. The state treasurer shall invest the moneys deposited as provided by law. Interest received on investments made by the state treasurer shall also be credited to the fund. All such interest shall be added to each member's share of the fund based on each member's contribution to it.

485-A:63 Advisory Board Established. There is established a Great Bay estuary advisory board consisting of one member from each community, appointed by the board of selectmen of a town or the city council of a city involved. The term of office of each member shall be one year commencing July 1, 2003, and each member shall serve until his successor shall have been appointed. The advisory board shall annually elect a chairman by majority vote of its members, and the board shall meet at least quarterly upon the call of the chairman or at least 3 members of the board in order to consider matters properly coming before it for attention. The advisory board shall meet with the department at suitable intervals to review matters of mutual concern. An annual budget shall be submitted to the advisory board by the department, for review and comment, 60 days prior to the beginning of the new fiscal year. Members of the advisory board shall receive no per diem but shall be entitled to

reimbursement for expenses including mileage when in the performance of duties required under this subdivision. Each municipality shall provide funds necessary to reimburse its members to the advisory board.

485-A:64 Enforcement and Penalties.

I. The department may issue an order to any person in violation of this subdivision, a rule adopted under this subdivision, or any condition in any contract or permit issued or entered into under this subdivision. This order may require such remedial or corrective measures as may be necessary. Any person to whom such an order is directed may appeal in accordance with RSA 21-O:14.

II. If the department determines that the discharge to any state-owned facility presents an imminent threat to the environment or to the operation of the facility, the department may issue an order requiring such action as may be necessary to meet the emergency, or may take necessary action to block the public sewer to prevent the discharge of the waste into the facility. Any order issued under this authority shall take effect immediately. A person to whom such an order is issued or any person affected by action taken by the department under this paragraph may appeal to the commissioner or designee for a hearing on such order or action, which shall be held within 2 working days after receipt of the request for the hearing. The person may appeal the decision on such hearing pursuant to RSA 21-O:14.

III. Any person who violates any of the provisions of this chapter, or any rule adopted or order issued under this subdivision, shall be subject to a civil penalty not to exceed $10,000 for each violation, or for each day of a continuing violation.

IV. Any violation of the provisions of this subdivision, or of any rule adopted or order issued under it, or of any condition in any permit issued or contract entered into under the authority of this subdivision, may be enjoined by the superior court upon application by the attorney general.

V. The commissioner of environmental services, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed $2,000 for each offense upon any person who violates any provision of this subdivision, any rule adopted under this subdivision, or any permit or contract entered into under the authority of this subdivision. Rehearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this subdivision. The proceeds of administrative fines levied pursuant to this paragraph shall be deposited by the department in the replacement fund established pursuant to RSA 485-A:62. The commissioner shall adopt rules, under RSA 541-A, relative to:

(a) A schedule of administrative fines which may be imposed under this paragraph for violations of this chapter as provided above.

(b) Procedures for notice and hearing prior to the imposition of an administrative fine.

2 New Subparagraph; Great Bay Estuary District Replacement Fund. Amend RSA 6:12, I by inserting after subparagraph (lllllllll) the following new subparagraph:

(mmmmmmmmm) Moneys deposited in the Great Bay estuary district replacement account under RSA 485-A:62.

3 Effective Date. This act shall take effect July 1, 2003.

LBAO
03-0475
2/14/03

# SB 70 FISCAL NOTE

AN ACT creating the Great Bay Estuary district and making an appropriation therefor.

## FISCAL IMPACT:

The Department of Environmental Services has determined this bill will increase state, county and local revenue and expenditures by an indeterminable amount in FY 2004 and each year thereafter.

This bill authorizes in FY 2004, $1,000,000 in bonds to be paid for by a special fund consisting of assessments on user municipalities.

## METHODOLOGY:

The Department of Environmental Services has stated this bill establishes the Great Bay Estuary District located within the Department of Environmental Services for the construction, operation and maintenance of interceptor sewer lines and an outfall delivery pipeline to be used for the disposal of wastewater for the municipal sewage treatment plants in the Great Bay Estuary area. With the exception of the $1,000,000 bond authorized for the preliminary design, layout and final design for the project, it is not possible to determine any revenue or expenditures for state, county or local governments for the following reasons:

- The actual number of community or county members of the Great Bay Estuary District is unknown;
- No district boundaries have been determined so the amount of interceptor sewer is unknown;
- The total scope of the project is unknown. Including length and size of interceptor sewers, number and size of pump stations (if any) that are required, whether treatment beyond secondary will be required and the length and size of the outfall;
- The district as it is proposed is not eligible for low interest loans or state aid grants;
- If the district is established as part of the Department of Environmental Services, it is unknown how much of an increase in staff will be required to oversee construction and the operation and the maintenance of the facilities;
- This bill establishes two new funds: one for assessments on municipalities to pay for the bond authorized in the bill and the other to provide capital for repair and replacement of major components of the facilities. The replacement fund is capitalized by contributions from members served by the facilities; and

- The $1,000,000 appropriated in this bill is likely insufficient to conduct a preliminary design, layout and final design, but an appropriate amount cannot be determined.

# Committee Minutes

SB

Date: February 12, 2003
Time: 11:56 a.m.
Room: 104 LOB

The Senate Committee on Environment held a hearing on the following:

SB70 creating the Great Bay Estuary district and making an appropriation therefor.

Members of Committee present: Senator Carl Johnson
Senator Burt Cohen
Senator Jack Barnes
Senator Russell Prescott
Senator Clifton Below

---

The Chair, Senator Carl R. Johnson, opened the hearing.

Senator Carl R. Johnson, D. 3: I call on the prime sponsor, Senator Green. Now I can say good afternoon.

Senator Richard Green, D. 6: Now you can say good afternoon. Is that what it is? I don't know what time it is. I haven't been around here for a while, I don't worry about the time anymore.

Mr. Chairman, members of the committee, I am very happy to join you today and discuss with you the intent and content of SB 70. This Bill basically is an attempt to create a district. That if we create this district it would have a positive effect on the Great Bay Estuary area. It will also have a very positive effect on the local communities who currently have treatment facilities and that their waste, treated waste, goes into the Estuary in one form or another. Mainly through rivers. Some of these rivers are designated as wild life rivers at a federal level and they all have issues that we are all concerned about. This is not a new issue. This is a major issue that has been around for a while. It just has never come to a head in terms of being able to generate the cooperation of the communities and the amount of revenue necessary, funds necessary to get something done. We currently have a study going on which monies were raised both in terms of cash, and in time, by the rapid regional planning, and Rockingham planning to study the estuaries. It is a small study, it is currently going on. It will be completed some time in early summer which lends itself to what we are doing here. This Bill also

SB

recognizes the reality that you don't get these kinds of projects accomplished without the need to make a financial commitment. There is a one million dollar appropriation in this Bill. It should have an FN on it. It will have an FN on it as it is required. That amount of money is basically there to start with the formal aspect of feasibility and looking at a layout and looking at early planning stage and design stage of any kind of facility that would be created. When we are talking about this, what brings us mainly to an issue for the local communities, which mine is one of them, our permitting at the federal level, as all of you have at waste water treatment facilities, is tied to the receding waters. The waters in which the waste goes into. It is those receiving waters that determines the type of permit that you get and the restrictions and the type of treatment you have got to provide. The greater the restrictions, the greater the treatment, the greater the cost. Obviously. My community went through basically about a 15 to 16 million dollar upgrade just recently. That upgrade could have been actually, that would not have had to take place if this kind of operation had been available to us at the time. All of the communities in the seacoast, especially those that go into the estuary, are looking at upgrading permitting that is going to come their way. You are probably hearing the rumors of it. It has been around for a while. The next level of treatment is going to be for heavy metals. Let me just tell you. We have just put about 15 or 16 millions dollars into our plan and I am sure some of these other communities are on the verge of putting upgrades in because of meeting permitting requirements at the federal level. If they require us to treat the heavy metals, there are two things we are looking at. A major, major cost and secondly, there is no technology that can really do it at this point which also adds to the confusion. So, when I say major costs, depending on the amount of treatment and the body of water that it is going into, those costs could double what it costs us to put our upgrade in. So, only in my community. So, there isn't only an environmental reason, which is a very strong reason for this bill, but there is also a very economical reason for the local communities who are doing these upgrades and are now trying to get their permitting. If this project was to go forward, you would do two things, you would allow the community and by the way, it is voluntary by the communities they are not required to join but I am going to guarantee you, the best I know, that when given the options, of meeting the new standards and the cost upgrade of their own facilities versus hooking into this system, which would go either into the mouth of this guys water or out into the ocean, the decision making body would decide very quickly which is the most cost effective because it is going to be very much more cost effective to join this operation.

Now, what is this operation as we are proposing it. Basically, it is a pipeline is what it is. The local communities continue to treat their own waste. But, their permitting changes because of the body of water the waste goes into. If

it goes into the ocean, the permitting is almost gone. We would have one permit to the consortium of communities based on the total amount of volume going into the system and where it is being deposited. At the current time, based on the current standards and I believe, even with the metals requirement, if that becomes an issue, that you would be dealing with secondary treatment which most of our communities already have. My community went from secondary to advanced treatment. Tertiary is what they call it. That of course, went way above the standard we are required to go into this pipeline. We spent the money, we are doing it, we got to continue with it. We can't go back but the reality is a lot of the communities still have to face those issues, would have a different alternative to go forward at less cost to their communities and their uses. That is the impetus of this Bill. Now, I want to remind you, this is not a new idea, this has been around for a while. I was talking about this kind of thing 15 years ago and finally it has gotten to the point where we have got to do something. If we don't you are going to have all of the communities in the seacoast screaming and hollering about their new permitting requirements and the cost to them as individual communities. I am suggesting there is a better way to do it. There is a million dollars in here. Is that enough to do the job? No, it is not. It is seed money basically, but it also puts us in a position for match for federal dollars and there is two issues on the federal level that I think will make this go. Number one, the estuary issue and the environmental issue is one that has been around for a long time. The federal government and our reps, both our Senators and our Representatives are well aware of the issue. It is not something that they have got to. The learning curve will be very quick on this issue because it is consistent with a lot of studies that have already been done. The second issue, of course, for them. They have a list of priorities and this is one of the priorities that I think that they will pay attention to and in a way it will show a good leadership in terms of saying we, as a State, are willing to put some money into this to make this happen. I think it is a better argument to go down and argue for funds at the federal level. That is my testimony, thank you very much. I will answer any questions.

Senator Carl R. Johnson, D. 3: Senator Barnes.

Senator John S. Barnes, Jr., D. 17: Thank you Mr. Chairman. I bet this million dollars isn't in the Governor's budget address tomorrow.

Senator Richard Green, D. 6: No, I bet it isn't but it is capital item not an operating item.

Senator John S. Barnes, Jr., D. 17: Okay. How many people if everyone signed on, how many users would there be in this system?

Senator Richard Green, D. 6: Total number of people, individual people.

Senator John S. Barnes, Jr., D. 17: Yea, how many?

Senator Richard Green, D. 6: I do not know. I mean, it depends on how many communities, but I will tell you the communities, you have some listed in here but it would be thousands of users.

Senator John S. Barnes, Jr., D. 17: I guess where I am coming from is that instead of putting that million dollar cost on the State, why couldn't we put it on the user? If it would only be pennies a person?

Senator Richard Green, D. 6: Eventually that will happen. Let me tell you how that happens. When you deal with user fees, it has to do with them using it at the time and you don't know who the users are going to be right now until you know which communities are in it. The way this thing is set up, the users themselves will end up paying for whatever the cost of that treatment facility or this whole system is going to end up costing. I think we need to have some good faith up front money as a State to recognize the issue and the number of communities that are effected by this problem. It seems to me that you have two things here that are going for the State to step forward. One, if you agree that there is a concept that makes sense for the State to be a player, a partner, not complete, a partner. This is going to take a partnership. State, the local communities and the federal government to make this happen. I recognize that and I am saying let's do a good, let's make a good faith effort right now to have somebody step up to the plate.

Senator Carl R. Johnson, D. 3: Follow up.

Senator John S. Barnes, Jr., D. 17: Thank you. Senator Green do you think it would be possible for this committee to get some sort of number from you of the communities that might be interested in going along with this? Is that an impossible task at this time?

Senator Richard Green, D. 6: It is only impossible in terms of, part of what we are going to do is the feasibility. The feasibility part of this operation is to identify those communities who will participate. But, let me just say, from my opinion, that is all I can give you at this point, I know the communities that are in this Bill are communities that are wrestling with this. Do I know of every community in the seacoast that is going to participate? No, but you know what, they are all going to have to face the decision at some point very soon of whether they participate in this or they go out on their own, and then it is going to become a question of economics because they aren't going to be able to go into the estuary very much longer anyway or they are going to get

barred out of their because it is getting very difficult in terms of environmental issues.

Senator John S. Barnes, Jr., D. 17: Those clams that are growing too big.

Senator Richard Green, D. 6: Whatever. They are growing very good.

Senator Carl R. Johnson, D. 3: So, if you had more aggregation, the overall cost would be less to everyone.

Senator Richard Green, D. 6: In terms of operating. Not in terms of, you have two pieces, you have the capital piece, which is to build the system. To build the system it is going to require the State, the Feds, to really step up to the plate because that is where the money is going to be. The locals cannot do this job as a capital. As an operational, then they are all going to participate as partners. That is the way I view it at this point.

Senator Carl R. Johnson, D. 3: I guess without this having an FN on it, and we decided that, let's say what if we did pass the Bill as a policy decision, you would have no problem that if on the floor, we said because this did not have an FN we are only addressing it as a policy issue because it would eventually have to go to finance right?

Senator Richard Green, D. 6: Exactly.

Senator Carl R. Johnson, D. 3: So, would you have any problems with that?

Senator Richard Green, D. 6: No, as long as the vote is in favor of approving it, I wouldn't have any problems at all.

Senator Carl R. Johnson, D. 3: Any further questions for Senator Green?

Senator Clifton Below, D. 5: Yes.

Senator Carl R. Johnson, D. 3: Yes, Senator Below.

Senator Clifton Below, D. 5: Thank you Mr. Chairman. Senator Green are there any other examples of this kind of aggregation of sewage and emptying it to the ocean?

Senator Richard Green, D. 6: Yes there are. We have somebody from DES here that I think can really address that kind of issue because that is something that they deal with. But to answer the question, yes there are

examples. There are many different ways, many different cooperatives, different formats. We will look for the format that works best for us.

Senator Carl R. Johnson, D. 3: Any further questions? Thank you Senator.

Senator Richard Green, D. 6: You are welcome. Thank you.

Senator Carl R. Johnson, D. 3: I call on John Bush from DES.

John Bush, DES: Thank you. Good morning. My name is John Bush. I am the Administrator of the Waste Water Engineering Bureau within the Department of Environmental Services. We are here today to testify on SB70. Basically, the Department does support the need for further evaluation for a regional system in the estuary district. However, we don't believe at this time that it should be set up as it is proposed in the Bill and I will get into the reasons why in a minute on that. As Senator Green testified, this project has been discussed for a number of years. I think it goes back to at least 1995. It has never been able to get enough communities interested and money put forward to do a proper study of this. Until last year, there was money generated, I think it was a 41,000 dollar project that was money from two regional planning commissions in the area, Strafford and Rockingham, a couple of communities pitched in. I think it was Exeter and New Market and there was some in kind services for a study that is ongoing now and it is expected to be completed in June of this year. It is being done by the Strafford Regional Planning Commission and the study is to do a number of things.

One, is to increase the understanding in the municipalities in the area and kind of do an inventory and this will address Senator Barnes question. Try to do an inventory of what communities would be interested in this project going forward. Another would be develop a strategy for project funding. As Senator Green indicated, this first million dollars is only a minor step. It is going to be very expensive if the project goes forward and their needs to be a study to determine the best way to get that funding to maximize State funding and Federal funding. Also, another item in this study is to provide public education for the coastal zone communities on what this project will do. What it will, how it will benefit them in the future. Finally, and probably the most important item in this study that is ongoing now, is to prepare a scope of work in order to determine what has to be studied in a facilities plan. In fact, any waste water project in the State, if it is going to receive funding from either the State grant program or the State revolving loan program, needs to have a study completed that studies all of the alternatives and finds if it is cost effective to do this or not. In order to do that, on this scale, there needs to be some serious work in preparing a scope of work to study all of

those issues. That is what this 41,000 dollar study is supposed to produce. Once that scope of work is completed, then the intention is to raise money to do the facilities plan. That is where Senator Green's Bill comes in. That million dollars would be sufficient to do the planning for this regional system. The way the agency is set up in the Bill, is very similar to the Winnipesaukee River Basin project. Senator Below asked about this. I am not sure of any projects that a regional project is discharged to the ocean but the Winnipesaukee River Basin picks up all the communities around the lake and discharges it to the Merrimack River. Unfortunately the way it is set up in this Bill, they would not be eligible for State revolving loan funds. This is EPA money and I have been in contact with headquarters and they basically they say that the Department cannot loan money through itself and that is the way the Bill is set up now. This would be a Bureau within the DES. There are other alternatives to look at. One would be something similar to the Pease Development Authority. That authority is eligible for loan money but it isn't eligible for State grant money. It has to be a mixture and we believe a committee should be set up to study this and come up with the correct entity to maximize the funding both on a State level and a Federal level. We very much agree that this has very good potential of saving money in the communities on the coast if it is built.

I will be willing to answer any questions.

Senator Carl R. Johnson, D. 3: Any questions? Senator Barnes.

Senator John S. Barnes, Jr., D. 17: Thank you Mr. Chairman. I guess you are testifying against this piece of legislation as it sits now.

John Bush, DES: Yes as it sits now.

Senator John S. Barnes, Jr., D. 17: Okay so my second question to you is Senator Green you remember the former Mayor of Rochester, I am sure he has been involved with this as he has in the last fifteen years. Something very important to him and the communities. Is there some way you can work with Senator Green in getting something in this piece of legislation that we can get to maybe have more satisfaction? What do you think Senator Green?

Senator Richard Green, D. 6: Not a problem.

Senator John S. Barnes, Jr., D. 17: You think you and the DES can sit down and polish this up a little bit?

John Bush, DES: I would be happy to.

Senator John S. Barnes, Jr., D. 17: Because it looks like it is a good thing and it would be too bad to lose the opportunity to do something with it.

Senator Richard Green, D. 6: We are really talking about details here. Two things. Number one, who administers and maximizes the availability to getting funding to this. Any time anyone wants to talk about those issues, I am very interested in talking to them.

Senator John S. Barnes, Jr., D. 17: Thank you very much.

Senator Carl R. Johnson, D. 3: Any further questions?

John Bush, DES: Thank you.

Senator Carl R. Johnson, D. 3: Representative Spang, do you wish to speak?

Representative Judith Spang, D. 72: Yes.

Senator Carl R. Johnson, D. 3: Oh okay. You didn't check it so I wasn't sure.

Representative Judith Spang, D. 72: Thanks. Heavy day in resources today. I am Judith Spang. I represent District 72 which is Durham, Lee and Madbury. I have also been involved in a study of Oyster River as a project manager and one of the issues that we were dealing with was the Waste Water Treatment Plant in Durham which is out of compliance. The first thing I would like to say is that whatever happens, I think has to happen right quickly. Durham, and I think other communities are limping along trying to apply band-aid approaches to their failing waste water treatment plants. They have to know whether this is going to go forward within a time line that is going to enable them to meet EPA deadlines, or whether they are going to have to just start almost immediately implementing upgrades of their existing facility. The second thing I wanted to say is that I think that whatever authority is set up should be set up in a way that allows the communities to continue to have a meaningful input into the way it is organized, funded, and how various concerns are dealt with. The third thing is I know that a similar effort occurred in the outflow pipe in Massachusetts which offers us some information about how this works. I am very concerned that local treatment plants will stop trying to control the quality of the water that they are putting into this pipe because they know that there is an infinite delusion at the other end. There is not only things that they can do at their plant to continue to make their output cleaner, but they can take measures that they might only be induced to take if they didn't have this

option to control what is coming into their plant. I think particularly with things like heavy metals, you know, what kinds of controls are they going to be placing on the uses of the contributors to their plants. How are they going to be dealing with their storm drains so that pollutants aren't getting into their storm drains. I don't think it would be wise for us to remove the incentives for these municipalities to put the cleanest possible water through their systems. Finally, I think that we really should be looking into what has actually happened in the Cape Cod Bay outfall. I understand that the Senator coastal studies in Provincetown is saying that they are seeing deleterious impacts upon the ecosystem in Cape Cod Bay that were not unexpected to them but the people that are analyzing the potential impacts had minimized at the time. So, it offers us an opportunity to take a look at it and maybe avoid some of the problems that came up as a result of that pipe. Thank you.

Senator Carl R. Johnson, D. 3: I guess that what I heard, that it certainly was not going to be a quick fix. It will be a lot of detail effort that will have to take place before that.

Representative Judith Spang, D. 72: Senator, I also wonder whether, and I realize I am dumping more problems than suggestions here. At a certain point there is going to be a cost benefit here and is it going to be more beneficial for us to be doing all of these feasibility studies and not to mention the construction rather than putting the same money into upgrading each of these individual plants. I think that that is something that ought to be looked at as well.

Senator Carl R. Johnson, D. 3: Thank you. Senator Below.

Senator Clifton Below, D. 5: Thank you Mr. Chairman. Representative Spang there is something about the Cape Cod, that serves Cape Cod, it is a group of sewage treatment plants that have combined outflow.

Representative Judith Spang, D. 72: No Senator Below, it is an outfall gathering of waste from the City of Boston.

Senator Clifton Below, D. 5: Oh and some of the towns around it.

Representative Judith Spang, D. 72: Right.

Senator Clifton Below, D. 5: Okay.

Senator Carl R. Johnson, D. 3: Thank you Judy. I call Representative Keans.

Representative Sandra Keans, D. 67: Thank you. I am Representative Sandra Keans from District 67. I am actually from Rochester and Senator Green and I have spent a number of years working together on sewer treatment and I am sorry, I missed his testimony but the long and short of it is, we just basically opened up a 21 million dollar sewer treatment plant and our affluent is extremely clean according to all the tests but we are still being pressured to be looking down the road in a short period of time to do some further upgrading and how I see this Bill operating is all of these communities that can't afford the ten, twenty, the thirty million dollars separately might be able to find some economy of scale by combining together and looking at the system. I don't have any specific recommendations about this even whether, I am somewhat familiar with the Winnipesaukee Basin but there may be other suggestions here that were great suggestions. I have no comment on those. I just think that communities have got to look together and it is just another way of trying to look for a stream of economies of scale that is all.

Senator Carl R. Johnson, D. 3: Thank you. Any questions.

Representative Sandra Keans, D. 67: That is it. Thank you.

Senator Carl R. Johnson, D. 3: Thank you. Russell McAllister. Good afternoon.

Russell McAllister, City of Rochester: Good afternoon. Thank you Senator and members of the committee. My name is Russell McAllister. I am the City Manager in Rochester and people are well represented today. I have actually lived around the Great Bay. Literally every town around there has been my undergraduate career going to UNH. Worked in the north country, and dealt with sewer issues up there in Colebrook. I came down to North Hampton. We didn't have the sewer but we had septic and of course that presented its own set of problems. In Rochester, it is the same thing. We have the sewer system there as well and I know we are talking about the treatment portion of this but then there is the infrastructure cost as well, the pipes and all the things that are in the road. We are particularly concerned about the amount of money that we will probably have to spend to be on the permitting requirements for heavy metals. That is money that we could use for other things like economic development down town and it is right along the Cocheco River, the very place that we are discharging into. We would like to be able to save some money actually and use it for other things rather than just sewer. Regionalization, I think as everybody knows is one of the ways you are going to save money because you are better off putting the pieces together. Funding sources, you create more partnerships among the

localities within the State and also at the Federal level so if we can get a conduit of money to come in. All these rivers do go to Great Bay. Either you are going to clean it up or keep discharging down there. The chromium levels are fairly high down there because of the old shoe shops that were located on the various rivers. We are still working with those effects. I don't know when the time will come when we will have to do an upgrade to our plant. The cost benefit is going regional or individual plants. I cannot say what those numbers are. I think we will save money if we regionalize. . . .(END OF TAPE 1 Side 1)

.....of the discharges right now, you know we can discharge into the Cocheco but it depends upon the flow. During the levels of real low flow, we have to make sure we have enough capacity in our lagoons so that we can have like a holding tank, if you will, until the levels go back up. It is just part of the permitting process and that increases our cost of actually treating the stuff and running the plant. That is a cost that we pass on of course to the taxpayers. So, they don't just pay the property tax, they also have a sewer bill and water bill and which those give it a certain level. It dampens economic development and business profits tax and all that sort of thing and there is that whole kind of spill over effect. I am speaking in support of this with some modifications so that we can make the best of what funding partnerships are out there both at the State and Federal level.

I think everybody else has said close to what needs to be said about it. I will take any questions if you have any.

Senator Carl R. Johnson, D. 3: Thank you for coming up we appreciate it. Any questions? Thank you.

Russell McAllister, City of Rochester: Thank you.

Senator Carl R. Johnson, D. 3: Bill Hounsell. Good afternoon Bill.

Bill Hounsell, Rochester: Good afternoon Senator. Thank you Mr. Chairman and Senators. For the record my name is Bill Hounsell, I am representing the City Manager, City of Rochester but also many other clients around the estuary. I am a subcontractor for Camp Dresser and McKee, Inc. and my role is a facilitator and sometimes a lobbyist. I just want to take a moment. I won't be very very long, to congratulate you all on you sharing your name and bipartisan effort to co-sponsor the estuary Bills (plural). We, I think, are facing now one of the greatest opportunities for that whole region. Through the planning initiatives that NH is famous for, to justify why the federal government should be a huge partner in cleaning up this estuary. It is on the national estuary list and if we can put a billion dollars

into the everglades, we can do no less for the Great Bay Estuary and the Gulf of Maine. There are 19 towns right around the Estuary itself and 16 waste water, secondary waste water treatment facilities. Right on the same river is Salmon Falls in Berwick, South Berwick and then Kittery. So this will be an interstate Bill. When you are looking at the Gulf of Maine and start to look at interstate regionalization, based on a national agenda to clean up that estuary. I believe that if we start this in the communities at the local level, and build it up with a partnership with our State, we will be in a great position to make the federal government return a greater share of our people's own money back to New Hampshire on environmental issues. I think, I would urge you to hold this Bill until we can work the amendments out that Senator Green has concurred with John Bush of the Department of Environmental Services and hear the second estuary bill that is coming before you on March 5th I believe. Senator Prescott is the prime sponsor and Senator Cohen is on, Senator Johnson is on and there are many house people on it. So, not only is it bipartisan between the senate and the house but it is an agenda. I think, one of the biggest issues of this session, I congratulate you all on it. I believe that communities that are involved will take the leadership initiative on this. I do believe that, in conclusion, that of the seed money to help them do a feasibility study is a key increment to anything and I would tell you that because in order to apply, get on the list, and fight for any federal grants, that is one of the conditions. If you put that to Senate finance as a starting point you will have a lot of exploration opportunities as to how to leverage that money in its own right and it being a capital cost. It could be put over a long period of time and we have had the opportunity to see, if in fact, how much leverage we can do to get matching monies to come in on the communities to help maybe reimburse that. I do believe, it certainly is a good way for the State to look at kick starting this financially for these communities. Thank you.

Senator Carl R. Johnson, D. 3: How much awareness to you think the congressional delegation has of this project?

Bill Hounsell, Rochester: I talk a lot too about it. I just think right now we have got a new Senator and we have a Senator on appropriations for sure and Congressman Bradley is in a new position and Jeff Rose knows about the estuary, I have worked with him a great long time. I think in this broad team representing our Washington level of elected lobbyist approaches, let's say, that we are in a wonderful position. We need to get the local blessings of the communities, partnered with the State and then go out there without any political baggage to that team and see what we can do and I think we can do great things. I think I have found in the 25 years I have been doing this on mostly the local level that the action plan really happens on the local level. You will need to get those communities to

see their way to vote two thirds bond or under SB260 percent model to have an action plan. Then you can get them together which this language that Senator Prescott's got coming will show a way to do that. Show them the funding mechanisms. That they can afford it. Don't ask them any more than that. Then they will put their blessings on what they can afford conditional on the State grants that are in place and conditional on the federal loan. So, you are not buying a pig in the poke but you are positioning yourself where this can happen if you return our own money back which otherwise would be an unfunded mandate from the federal government. When you take an estuary project, we still have the argument that you put a billion dollars into the Everglades, this Great Bay, the Gulf of Maine and this is just as important. Senator Gregg has brought a lot of money into the University of NH. The Jackson Estuary and Laboratory and some money into the Estuary project but not much, not what it takes. Enough to get a lot of data in place but I think we are positioned now for the big thing and that is the action plan.

Senator Carl R. Johnson, D. 3: Thank you Bill. Any questions for Bill. Okay, Senator Green if we were to hold this piece of legislation until next Wednesday, would you get together with others and bring an amendment back to the committee. What would be your thoughts on this?

Senator Richard Green, D. 6: Ah, I will do it any way you want. I think it would be appropriate that you hear Senator Prescott's Bill so you will see what that is. I would, at that point, suggest that you as a committee buy into the policy and the concept that you send whatever you want to send to us to finance and I will work with DES, with Senator Prescott and any other sponsor of the legislation that would want to participate and we will work out a common Bill that we can bring to the floor, if that works for your committee. If you people want to hold it in this committee and have us do those changes in this committee, that is fine with me. I think that it would take a little longer than a week. I think you need to see all the pieces before we try and figure out how to put it all together.

Senator Carl R. Johnson, D. 3: Senator Prescott, is your Bill coming here?

Senator Russell E. Prescott, D. 23: Yes Senator.

Senator Carl R. Johnson, D. 3: And that is scheduled when?

Senator Russell E. Prescott, D. 23: March 5th.

Senator Richard Green, D. 6: I will do it any way you want. I am very amenable to work either with this committee or send them both over together

as a package and we will work them out with DES and bring it in all together with the fiscal note straightened out and the whole business at the same time. It would seem to be more efficient that way but I will do it any way you want.

Senator Carl R. Johnson, D. 3: Okay, does that sound alright with the committee?

Senator John S. Barnes, Jr., D. 17: Is it okay with the sponsor?

Senator Richard Green, D. 6: Yes, I am fine, yes. Just let me say a couple of comments just for clarification. Representative in Durham, there were a couple of issues that you raised. I want to just make sure that I was just trying to address and so you will know what the thinking is. All the treatment will stay at the local level. They will maintain their own treatment facilities. If they decide they want to put different standards on their plant, they will be able to do that. We do in our own community. We already do what the requirement of industry does. Industrial pre-treatment. We have a local ordinance that requires industrial pre-treatment before it goes it our plant. We are taking nothing out of their hands. What will be in the hands of the District will be testing the affluent that is coming into the pipe itself and that will be decided by that regional group, whatever we end up calling it and whatever powers they have under the legislature. Her concerns locally, they will still have the authority to deal with their own treatment facility. In fact they may have to deal with some things that they want to deal with because the pipe won't require them to do it, what we are putting in the pipe. Okay. Thank you very much for your time.

Senator Carl R. Johnson, D. 3: Having said that, we will close the hearing on SB70.

Closed the hearing at 12:10 p.m.

Respectfully submitted,

Susan A. Bridge
Senate Secretary
February 27, 2003

# Speakers

# SENATE ENVIRONMENT COMMITTEE

Date February 12, 2003 Time 11:15 a.m. Public Hearing on **Bill #** **SB70**

*creating the Great Bay Estuary district and making an appropriation therefor.*

*(Please print)* ***Please check box(es) at left that apply.***

| SPEAKING? | FAVOR | OPPOSED | NAME | REPRESENTING |
|---|---|---|---|---|
| ✓ | ☒ | ☐ | Russell McAllister | City of Rochester |
| ✓ | ☒ | ☐ | Dick GREEN ✓ | Senator |
| ✓ | ☒ | ☐ | John Bugs ✓ | NH DES |
| ✓ | ☑ | ☐ | Bill Hemmerle | City of Rochester |
| ✓ | ☐ | ☐ | Judith Spang ✓ | District 72 |
| ✓ | ☐ | ☐ | SANDRA KEANS ✓ | DIST. 67 |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |
| ☐ | ☐ | ☐ | | |

# Testimony

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

February 12, 2003

The Honorable Carl R. Johnson, Chair
Senate Environment Committee
Room 104
Legislative Office Building
Concord, NH 03301

Re: **SB 70, creating the Great Bay Estuary district and making an appropriation therefor**

Dear Senator Johnson:

Thank you for the opportunity to comment on SB 70, which establishes authority in the department of environmental services for a Great Bay Estuary district. This district would be for the construction and maintenance of interceptor sewer lines and an outfall delivery pipeline to be used for the disposal of wastewater from the municipal sewage treatment plants in the Great Bay Estuary area.

The Department of Environmental Services (DES) supports the need to further evaluate the potential cost effectiveness of a major treated-sewage interceptor system and ocean outfall to address the wastewater disposal needs of the Great Bay/Piscataqua River watershed. However, we believe that it is premature to conclude that a state-owned facility operated by DES is the best management approach should this be determined to be a cost effective sewage disposal solution.

In January 2002, the Strafford Regional and Rockingham Planning Commissions along with several municipalities recognized the potential benefits that a regional outfall system could provide to the coastal communities. With funding from the New Hampshire Coastal Program, the Towns of Exeter and Newmarket, and in-kind services from the Strafford Regional and Rockingham Planning Commissions, preliminary planning activities were initiated in August 2002 to:

- Increase municipal understanding and support for a critical examination of the concept of a regional outfall system;
- Develop a strategy for project funding;
- Provide public education in coastal zone communities for wastewater treatment issues; and
- Prepare a scope of work (SOW) for a detailed facilities plan to address all significant issues, including technical, environmental and financial, related to the project.

This work is expected to be completed by June 2003. The second planning phase, using the SOW developed during the first phase, is expected to be the preparation of a

detailed facilities plan at an estimated cost of between $350,000 and $600,000. Actual facility plan costs will be dependent on a number of considerations including the methodology, data collection needs, and modeling requirements. More accurate costs for the facilities plan will be available when the first phase is complete and the policy, financial, technical and environmental issues have been more clearly identified.

A number of factors need to be considered before a decision on a management approach. Placing the proposed sewer authority under DES is only one of a range of possible alternatives that should be considered during facilities planning. Other alternatives include a separate state authority similar to the Pease Development Authority or a regional wastewater authority. There are advantages and disadvantages to all of these approaches that need to be carefully weighed. For example, under current federal rules, we believe that state ownership may severely limit eligibility for State Aid Grants or State Revolving Fund low interest loans thus making project costs higher for the local communities.

Therefore, we recommend that the language in SB 70, as proposed, be replaced with legislation supporting the comprehensive examination of establishing a regional sanitary authority to address the wastewater disposal needs in the Great Bay/Piscataqua River watershed.

Thank you again for this opportunity to comment, and please call either me at 271-3503 or John Bush at 271-2001 if you have any questions or need additional information.

Sincerely yours,

Robert Monaco
Acting Commissioner

cc: Senator Green
Senator Prescott
Representative Keans
Representative Newton

# INTERIM REPORT
# CH 236:1, SB 70, Laws of 2003
# Study implementing a recommendation of the New Hampshire estuaries project management plan.

**TO: Governor Benson, Speaker Chandler, and Senate President Eaton**

**FROM: Senator Russell Prescott, Chairman**

---

**Commission Members:**
Senator Russell Prescott
Representative Kurt Roessner
George Berlandi: Department of Environmental Services
Grace Botitta: Town of Exeter
Representative Pierre Bruno: Governor's Office Appointee
John Bush: Department of Environmental Services
Paul Colby: Town of Fremont
Cynthia Copeland: Strafford Regional Planning Commission
Bruce Dearborn: Town of Greenland
Stephen Fournier: Town of Northwood
Jeff Gardner: Town of Rye
Dianne Gilbert: Town of Epping
Representative Thomas Gillick: Town of Hampton
Wesley Golomb: Town of Deerfield
William Herman: Town of New Durham
Jennifer Hunter: Office of State Planning
Raymond Jones: Town of Brentwood
Shep Kroner: Town of North Hampton
Robert Levesque: Town of Durham
Russell McAllister: City of Rochester
Sharon Meeker: Town of Lee
Dean Peschel: City of Dover
Carol Reilly: Town of Barrington
Peter Rice: City of Portsmouth
Doug Scamman: Town of Stratham
Cliff Sinnott: Rockingham Planning Commission
John Skewes: Town of Kensington
Lawrence Smith: Town of East Kingston
David Sweeney: Town of Newington
Representative Janet Wall: Town of Madbury
Jonathon Wood: Town of Raymond

The New Hampshire estuaries project management plan study commission first met on August 14, 2003. Since that time the commission convened for three additional meetings on September 11th, September 30th, and October 23rd.

The commission was charged with the responsibility of conducting a feasibility study to look at the creation of a regional wastewater treatment plan for towns and cities in the Seacoast area. The Capital Budget for FY 2004-05 appropriated $1,000,000 to the Estuary Wastewater Project Study. With these goals and budgetary allowances in mind, the commission created a Request for Proposals (RFP). Throughout the drafting process commission members were encouraged to contribute information, provide commentary, and suggest change. Following weeks of work and several draft reports, the final version of the RFP was accepted by vote at the October 23rd meeting. (Attached please find the approved Request for Proposals)

The RFP will be mailed to 15 pre-qualified engineering firms. Consultants have 60 days to submit their proposals from the time that DES mailed the RFP.

The commission's next meeting is scheduled for January 12, 2004. In the interim, Senator Prescott will be forming a sub-committee of commission members to assume primary responsibility for the consultant selection process. Once the engineering firm has been selected and the feasibility study is underway, the full commission will meet on a bi-montly basis. All actions taken by the hired consulting firm are subject to the commission's approval.

Senator Prescott will also submit an LSR on behalf of the commission in case there is a need for legislative involvement.

Respectively Submitted,

Russell E. Prescott

Senator Russell Prescott, Chairman

# Request For Proposals:
# Feasibility Study For a Regional Outfall Sewer System

## INTRODUCTION

The Department of Environmental Services (DES) requests proposals from qualified consulting engineering firms to provide professional planning and engineering assessment services to the Study Commission (COMMISSION) established by Senate Bill 70.

The project is to conduct a Feasibility Study (Study) to determine the feasibility of constructing a regional interceptor to collect the effluent from the municipal wastewater treatment plants located in the study area (see attachment) and discharge their effluent into the Atlantic Ocean. As part of the Study, the selected consultant (CONSULTANT) shall perform all tasks contained in the Scope of Work, including assessing present and future community wastewater treatment and septage needs, determining the feasibility of a regional outfall system and reviewing other alternatives to addressing the communities' wastewater and septage needs.

## QUALIFICATIONS

1. The CONSULTANT shall provide any and all documentation of experience and ability to perform the Scope of Work. Prior experience with projects involving regionalization of wastewater treatment facilities and modeling of outfalls are necessary for qualification for this work.

2. The CONSULTANT shall have registration and good standing with the Secretary of State, Corporate Division, in order to perform work in the State of New Hampshire.

3. The CONSULTANT shall be listed on DES's Roster of Prequalified Consulting Engineers.

4. The CONSULTANT must demonstrate their ability through present staffing and sufficient assigned personnel to complete the project in the scheduled time as agreed by the Commission and the proposing consultant.

5. The CONSULTANT shall employ or contract with a professional who is a member of the American Institute of Certified Planners and a Professional Engineer who is registered in the State of New Hampshire.

## SUBMITTAL

1. The CONSULTANT shall submit 25 Copies of the Proposal, by mail or in person (no faxes or e-mailed proposals will be accepted) to DES, 29 Hazen Drive, Concord, New Hampshire 03301, no later than close of business 60 days after the Request For Proposal was mailed from DES.

2. Proposals shall be 8 ½" x 11" with foldout inserts as appropriate.

3. Proposals shall include, at a minimum, all of the required tasks listed in the Scope of Work along with a timeline integrating the tasks with milestones.
4. Questions shall be submitted in writing (e-mail address is gberlandi@des.state.nh.us) to DES. Replies will be communicated to all consultants who receive a copy of this Request For Proposal from DES.

5. Costs incurred in the preparation of proposals in response to this Request for Proposal shall be the sole responsibility of the firm submitting the proposal.

## SELECTION OF PROPOSAL

Proposals will be evaluated on their merits in accord with the requirements of RSA21-I: 22. Following a review of proposals submitted for this project, no more than five firms shall be selected for interviews and presentations. The key individuals identified in the proposal that would be assigned to the project must attend the interview.

As a result of the proposal review and interviews, the consultants shall be ranked, and the Department, on behalf of the Commission, will enter into negotiations with the highest-ranked firm for a consulting contract. Should agreement not be able to be reached with this firm, the Department will negotiate with other firms in the order of their ranking.

Please note that our selection of a consultant is subject to approval of the Governor and Executive Council of the State of New Hampshire.

## EVALUATION CRITERIA

A rating matrix (100 points) has been developed and the following criteria will be used to evaluate and select the firms to be interviewed. Please note that CONSULTANTS that do not meet the qualifications listed on page 1 will not be considered for this project:

1. The quality and depth of the Consultant=s proposed individual and project team experience as indicated in resumes and as related to similar projects. (20 points)

2. Understanding of the project and work and how well the proposal describes, in detail, the major tasks necessary to accomplish the project=s objectives. (20 points)

3. Our impression of the firm=s approach, creativity and methodology for completing the project. (25 points)

4. The soundness of the project management plan presented for providing the necessary services and delivering the project. (10 points)

5. Reality of the proposed project schedule. (10 points)

6. Clarity and conciseness of proposal. (10 points)

7. All other relevant facts or matters mentioned in the Request for Detailed Proposal the Commission may consider in making its determination. (5 points)

Based on the information obtained from the matrix above, the COMMITTEE shall select and interview no more than 5 CONSULTANTS.

**Thank you for your interest and consideration in responding.**

# Scope of Services

# Feasibility Study For a Regional Outfall Sewer System

## I. PROJECT BACKGROUND

There are forty-four communities located in the New Hampshire portion of the study area. Seventeen of these communities have municipal wastewater treatment plants (see attachment) that, for the most part, only treat wastewater generated from within their political boundaries. They also, to varying degrees, receive septage from the surrounding towns. These communities are responsible for ensuring that the effluent from their treatment plants meets state and federal regulations. In total, the communities have invested well over $50 million in capital costs and annual operating expenses ranging from $300,000 to $1.2 million per community.

Permit limits for wastewater treatment facilities have become more and more stringent. Further, with new forthcoming requirements for nutrients and sediment, the trend is likely to continue. Additionally, it is becoming more difficult for communities to dispose of their septage. The net effect of these problems is that communities will face significant increases in the capital and operating costs of their wastewater and/or septage treatment facilities.

To address this issue and to determine if there was a better alternative for these communities, other than continuing to address the wastewater/septage problems on their own, the State passed Senate Bill 70. Senate Bill 70 establishes a COMMISSION to study, among other things, the feasibility of collecting the effluent from municipal wastewater treatment plants and discharging the effluent into the Atlantic Ocean.

## II. GENERAL REQUIREMENT

1. The CONSULTANT shall conduct a Feasibility Study (Study) to determine the feasibility of constructing a regional interceptor to collect the treated effluent from the municipal wastewater treatment facilities in the study area and the discharge of the effluent into the Atlantic Ocean. The Study shall be conducted under the direction of the COMMISSION.

2. The CONSULTANT shall provide all applicable information in the Scope of Work in a format that can be used to complete an environmental analysis or an Environmental Impact Statement.

3. The project's geographic area includes all of the municipalities shown in the attachment. However, the CONSULTANT shall identify and bring to the attention of the COMMISSION, any issues relative to the impact on other communities, whether located in New Hampshire or Maine and, if directed by the COMMISSION, include the additional municipalities in the study area.

4. A Professional Engineer registered in the State of New Hampshire shall prepare and stamp all engineering evaluations and reports.

5. Prior to performing any of the specified tasks outlined in this Scope of Work, the CONSULTANT shall prepare, for the COMMISSION'S approval, a public information program that, at a minimum, includes all meetings required by the Scope of Work and provides timely information to the COMMISSION and other interested parties. Items that need to be considered to be included in this program are websites, public information meetings, public hearings, press releases, newsletters, presentation graphics, support displays and handouts.

6. Prior to performing any of the specified tasks outlined in this Scope of Work, the CONSULTANT shall present, for the COMMISSION'S approval, all models and methodologies that they plan on using for this project.

7. The CONSULTANT shall hold bi-monthly meetings with the COMMISSION to present a status report on the progress of the project.

8. The CONSULTANT shall enter into a negotiated "standard state contract" (Agreement) with DES prior to initiating any work. The CONSULTANT shall begin performance of the services designated in the AGREEMENT promptly upon receipt from DES of a Notice to Proceed.

9. This AGREEMENT does not include the Final Design Stage (consisting of contract drawings, special provisions, specifications, and estimate of quantities and unit-cost items) or the Construction Stage, unless authorized and funded by a Supplemental Agreement.

10. The date of completion for the professional services rendered under this AGREEMENT shall be as agreed to by the COMMISSION and the selected CONSULTANT.

## III. SPECIFIC TASKS TO BE PERFORMED

### PHASE I - Information Meeting

The CONSULTANT shall prepare a Public Notice for publication in newspapers with local circulation in the study area and hold at least 2 public informational meetings in the study area. These meetings shall be held with appropriate local, regional, state and federal agencies, other interested groups, and the public to initiate the coordination process, discuss the project and identify any issues of concern. The CONSULTANT shall be responsible for preparing letters of invitation to all interested parties to these meetings, developing appropriate graphics, making technical presentations, and handling other tasks as necessary.

### PHASE II - Data Collection/Coordination

1. Maps

The CONSULTANT shall prepare a base map, at a scale that clearly shows all pertinent items, such as the wastewater treatment facilities, pumping station locations, existing outfall locations, environmentally sensitive areas, septage sites, surface waters and ground water supplies, drinking water resources, and conservation areas. The base map shall be appropriately enhanced for display purposes at meetings to aid in presentations and the development of the reports described in the Scope of Work.

2. Report Review

The CONSULTANT shall use the *Planning Background Report, Toward Regional Treated Effluent Discharge Policies and Strategies for the Regional Master Plan*, prepared by the Strafford Regional Planning Commission, June 27, 2003, hereinafter referred to as the SRPC REPORT, as background information for the Study.

In addition, the CONSULTANT shall review pertinent references contained in the SRPC REPORT, including the *New Hampshire Estuaries Project- Management Plan, 2000 and A Technical Characterization of Estuarine and Coastal New Hampshire, NHEP, 2000* and incorporate into the Study, to the extent practicable, information relative to this project.

The CONSULTANT shall also review and incorporate, to the extent practical, work and studies developed by other consultants, universities, and local, regional, state and federal agencies relative to this project.

3. Data Collection

The CONSULTANT shall contact each municipality in the study area and, at a minimum, collect the following information:

a. Current Conditions

(1) Existing population, including seasonal trends;
(2) Current land uses;
(3) Description of existing wastewater treatment facilities including such things as, location, service areas, treatment methods, capacity, current wastewater flows and loadings, current septage flows, outfall locations, dilution levels, permit limits, compliance status, management authority, administration, operations, costs, construction/improvement date;
(4) Planned wastewater treatment facility expansions and improvements and associated costs;
(5) Existing surface or ground water quality or quantity problems;
(6) Local and regional issues relative to wastewater/septage treatment and disposal;

(7) Inventory of existing formal and/or informal septage disposal agreements or arrangements between municipalities and wastewater treatment facilities;
(8) Environmental impacts on aquatic life, etc. from the current discharge of treated effluent and/or septage disposal;
(9) Use and availability of surface water and groundwater; and
(10) Water supply sources, needs, and problems.

b. Future Conditions (Note: Any models and methodologies anticipated to be used by the CONSULTANT must be approved by the COMMISSION prior to proceeding.)

(1) Population, geographic distributions, and land use projections for at least a 20-year period;
(2) Wastewater flows for at least a 20-year period;
(3) Septage volumes for at least a 20 –year period;
(4) Future constraints of NPDES permit requirements and state surface water quality regulations;
(5) Future constraints at existing facilities with increase in design flow;
(6) Future environmental impacts on aquatic life, etc. from the discharge of treated effluent and/or septage disposal;
(7) Future constraints, demand and availability of groundwater; and
(8) Water supply sources, needs and problems.

4. Preliminary Findings Report

The CONSULTANT shall schedule and conduct an Informational Meeting with the COMMISSION and other interested parties. At this meeting, the CONSULTANT shall present a Preliminary Findings Report which, at a minimum, shall include a summary of the data collected to date, a discussion of their approach for modeling future populations, land use and flows, a discussion of the environmental impacts of the existing facilities on sensitive resources, such as surface and groundwater quality and quantity, and a list of the proposed alternatives that will be studied.

## PHASE III - Alternatives Development and Screening

1. Alternative(s) Development

Based on all of the available information, the CONSULTANT shall formulate various treatment facility and routing alternatives taking into consideration: discussions with local communities; constructability issues; resource impacts; required right-of-way impacts; capital/construction costs and operation and maintenance costs.

At a minimum, the alternatives shall include:

a. Collecting the effluent from some or all of the existing municipal wastewater treatment facilities and discharging the treated effluent into the Atlantic Ocean;
b. Collecting the effluent from some or all of the existing municipal wastewater treatment facilities and discharging the effluent to land for either recharge to the groundwater (e.g. deep well injection) or for water reuse (e.g. irrigating golf courses);
c. A combination of a. and b. above;
d. Collecting of wastewater and treatment at a regional wastewater treatment facility; and
e. Not taking any action (communities continue to address their own wastewater needs individually).

2. Alternatives Analyses

The CONSULTANT shall fully analyze each alternative developed in the previous task and determine the preferred alternative. The Consultant shall, at a minimum consider the impact of each alternative on:

a. Surface and groundwater quality and quantity;
b. Surrounding land uses (e.g. odor problems...);
c. Environmentally sensitive areas such as wetlands, recreation, ocean research sites, and shellfish areas;
d. Regional growth and land use development;
e. Treatment facility administration / operations / costs;
f. User charges and property tax impact;
g. Economic conditions; and
h. Reliability.

For each alternative, capital construction costs shall be estimated as well as operation and maintenance costs. These costs shall be used to determine a life cycle cost effective comparison for all of the alternatives.

**PHASE IV - Preferred Alternative Report**

The CONSULTANT shall prepare a detailed description of the preferred alternative including:

a. Site Location
b. Area Needed
c. Land ownership/easement requirements.
d. System ownership.
e. Permits needed
f. Capacity
g. Design life
h. Proposed facility (ies)

The CONSULTANT shall describe options for operation and maintenance of the preferred alternative and define responsibilities of municipalities and/or other entities charged for the proposed facilities.

The CONSULTANT shall describe:

a. Cost of implementing the preferred alternative (including operating and maintenance costs);
b. Financial impact on each community and their user charges;
c. Methods of financing.

The CONSULTANT shall describe construction issues such as:

a. Phases
b. Time line
c. Description of how services will be continued until project is complete.

The CONSULTANT shall develop a preliminary engineering design for the preferred alternative, including plans and profiles. The preliminary design shall also address, at a minimum, the location, routes, road crossings or bridge issues, needed right-of-way, constructability issues, utilities, water-quality resources and proposed mitigation projects.

**PHASE V - Final Report**

1. Draft Study Report

The CONSULTANT shall prepare a DRAFT FEASIBILITY STUDY Report (Report) addressing all of the items and tasks required herein, including a list of the actions needed to implement the preferred alternative.

The CONSULTANT shall submit 25 copies of the draft Report for the COMMISSION's review and approval.

2. Draft Study Report Public Hearing

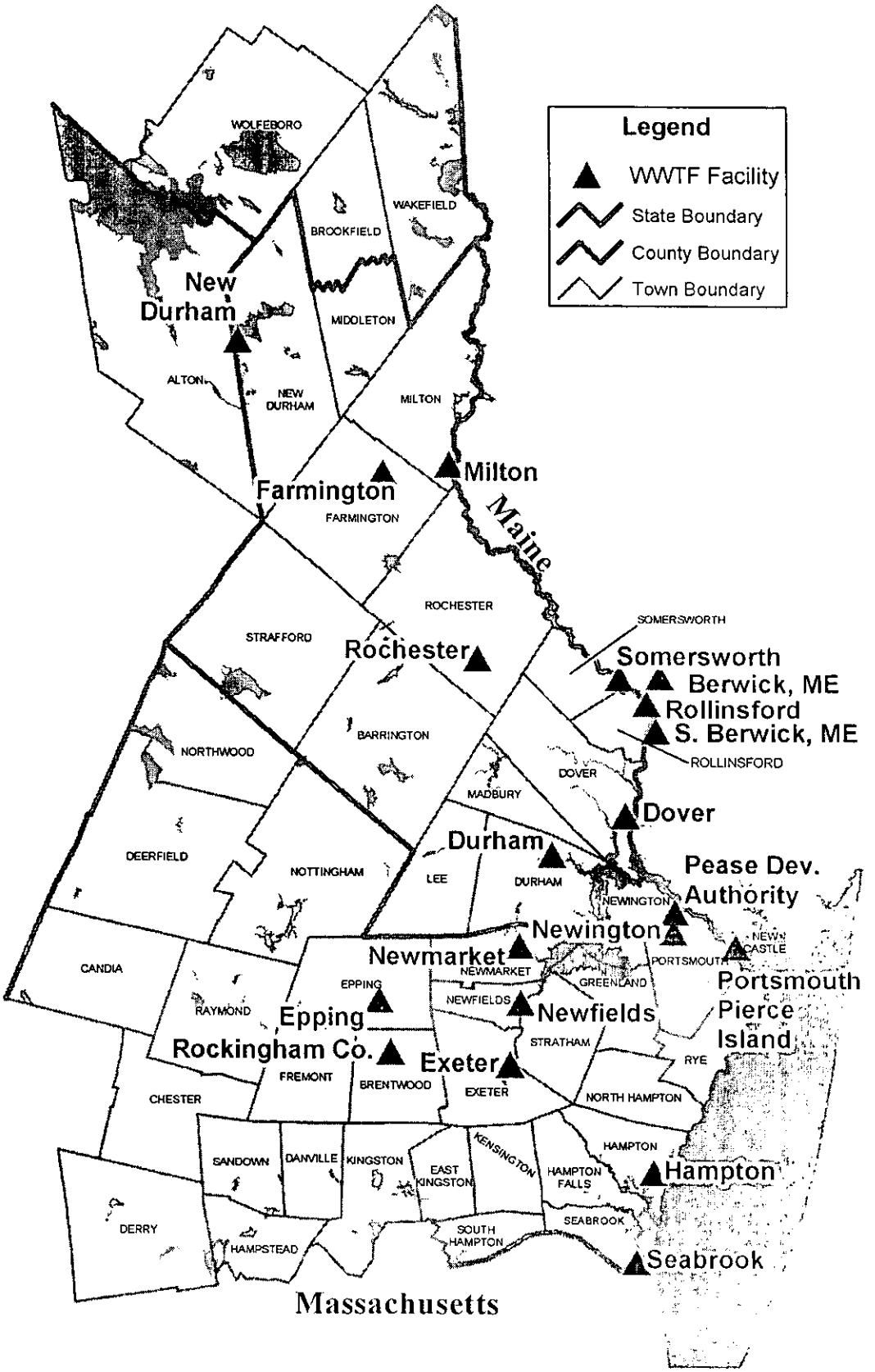
The CONSULTANT shall also schedule and conduct 2 public hearings in the study area to present their findings and receive comments on the draft Report. The CONSULTANT shall be responsible for preparing letters of invitation, developing appropriate graphics and handouts, as necessary, to aid in the presentation.

3. Draft Study Report Final Study Report

The CONSULTANT shall respond in writing to address all of the comments received and supply the COMMISSION with a copy of the comments and responses.

The CONSULTANT shall incorporate the COMMISSION's comments in the Feasibility Study Report and submit 3 copies of the final draft to DES for their review and approval. Upon DES's approval, the Consultant shall prepare 35 copies of the Report for distribution to the COMMISSION.

# STUDY AREA


Legend
WWTF Facility
State Boundary
County Boundary
Town Boundary
WOLFEBORO
WAKEFIELD
BROOKFIELD
New Durham
MIDDLETON
ALTON
NEW DURHAM
MILTON
Milton
Farmington
FARMINGTON
Maine
ROCHESTER
SOMERSWORTH
STRAFFORD
Rochester
Somersworth
Berwick, ME
Rollinsford
S. Berwick, ME
ROLLINSFORD
NORTHWOOD
BARRINGTON
DOVER
MADBURY
Dover
Durham
DEERFIELD
NOTTINGHAM
LEE
DURHAM
Pease Dev. Authority
NEWINGTON
Newington
NEW CASTLE
Newmarket
NEWMARKET
PORTSMOUTH
CANDIA
EPPING
GREENLAND
Portsmouth
RAYMOND
NEWFIELDS
Newfields
Epping
Pierce Island
STRATHAM
Rockingham Co.
Exeter
RYE
FREMONT
BRENTWOOD
EXETER
CHESTER
NORTH HAMPTON
HAMPTON
SANDOWN
DANVILLE
KINGSTON
EAST KINGSTON
KENSINGTON
HAMPTON FALLS
Hampton
DERRY
SEABROOK
SOUTH HAMPTON
HAMPSTEAD
Seabrook
Massachusetts

# Committee Report

# STATE OF NEW HAMPSHIRE

# SENATE

# REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Environment

to which was referred Senate Bill 70

AN ACT creating the Great Bay Estuary district and making an appropriation therefor.

VOTE: 3-0

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

Senator Burt Cohen
For the Committee

# SB70 Docket

Next|Prev|Results List|Main|Bill Status

**Bill Title:** (New Title) establishing a commission to study implementing a recommendation of the New Hampshire estuaries project management plan.

| Date | Body | Description |
|---|---|---|
| 1/30/2003 | S | Introduced and Ref. to Environment; SJ 3, Pg.33 |
| 1/31/2003 | S | Hearing; February 12, 2003, Room 104, LOB, 11:15 a.m.; SC7 |
| 3/7/2003 | S | Committee Report; Ought to Pass [03/13/03]; SC13, Pg.2 |
| 3/13/2003 | S | Ought to Pass, MA, VV; Refer to Finance [Rule 26]; SJ 8, Pg.78 |
| 4/1/2003 | S | Committee Report; Ought to Pass with Amendment{1063},(New Title), [04/03/03]; SC16A, Pg.3-5 |
| 4/3/2003 | S | Ought to Pass with Amendment{1063},(New Title), [Not Voted On]; SJ 11, Pg.244-246 |
| 4/3/2003 | S | Sen. Flanders Moved Laid On Table, MA, VV; SJ 11, Pg.246 |
| 4/10/2003 | S | Sen. Green Moved Remove From Table, MA, VV; SJ 12, Pg.296 |
| 4/10/2003 | S | Ought to Pass with Amendment{1063},(New Title), AF, VV; SJ 12, Pg.296 |
| 4/10/2003 | S | Sen. Green Floor Amendment{1225},(New Title), AA, VV; SJ 12, Pg.296-298 |
| 4/10/2003 | S | Ought to Pass with Amendment{1225},(New Title), MA, VV; OT3rdg; SJ 12, Pg.298 |
| 4/10/2003 | S | Passed by 3rd Reading Resolution; SJ 12, Pg.310 |
| 4/10/2003 | H | Introduced and ref to Res, Rec & Dev; HJ 34, p1144 |
| 4/15/2003 | H | ==CANCELLED==Hearing Apr 23 10:00 RM305,LOB |
| 4/22/2003 | H | Hearing May 7 10:00 RM305,LOB |
| 5/20/2003 | H | Maj Report OTP/AM for May 29 (Vote 11-2;Reg) |
| 5/20/2003 | H | Prop Comm Am{1544}; HC 43, p1380 |
| 5/29/2003 | H | Comm Am, AA VV; Passed with Am VV; HJ 45, p1468 + 1477 |
| 6/5/2003 | S | Sen. Johnson Non Concur With House Amendment Requests Committee Of Conference, MA, VV; SJ 19, Pg.659 |
| 6/5/2003 | S | President Appoints; Senators Johnson, Barnes, Cohen; SJ 19, Pg.659 |
| 6/5/2003 | H | House Acceded to req for Conf Comm, Rep Whalley MA; |
| 6/5/2003 | H | (Spkr appts Reps: Royce, Merrow, Wiley & Spang) |
| 6/11/2003 | S | Committee of Conference; Meeting June 16, 2003, Room 104, LOB, 2:00 p.m. |
| 6/19/2003 | H | Conf Comm Report (No House Am, New Am{2151}) Filed; |
| 6/24/2003 | H | Conf Comm Report Adopted; |
| 6/24/2003 | S | Conference Committee Report{2151}, Adopted, VV; SJ 20, Pg.818 |
| 6/30/2003 | S | Enrolled; |
| 6/30/2003 | H | Enrolled; |
| 7/7/2003 | S | Signed by the Governor on 7/7/2003 Eff- 7/7/2003 Chap- 0236 |

Next|Prev|Results List|Main|Bill Status