

Senate Finance Committee

Deb Martone 271-4980

SB 115-FN, making an appropriation for regional drinking water infrastructure.

Hearing Date: February 4, 2025

Time Opened: 1:19 p.m.

Time Closed: 2:00 p.m.

Members of the Committee Present: Senators Pearl, Gray, Innis, Birdsell, Lang, Rosenwald and Watters

Members of the Committee Absent: Senator Carson

Bill Analysis: This bill makes an appropriation to the department of environmental services to fund regional drinking water infrastructure.

Sponsors:

Sen. Abbas

Sen. Avard

Sen. Innis

Sen. Watters

Sen. McGough

Sen. Rosenwald

Sen. Fenton

Sen. Carson

Sen. Pearl

Rep. DeSimone

Rep. Doucette

Rep. Nelson

Who supports the bill: Sen. Daryl Abbas; Sen. Daniel Innis; Sen. Donovan Fenton; Rep. Deb DeSimone; Rep. David Love; Rep. Stephen Pearson; Rep. Joe Sweeney; Janet Lucas; Natch Greyes; Roy E. Sorenson; Fred Wallace; Cristina Guilford; Margaret Byrnes; Daniel Richardson; Philip Croasdale; Joseph Devine; Brian Chirichiello.

Who is neutral on the bill: DES Commissioner Bob Scott; Mike Unger

Summary of testimony presented in support:

Senator Abbas, Prime Sponsor

- This bill allocates \$28 million to the Department of Environmental Services for the purpose of continuing Phase 2 of the Southern New Hampshire Regional Water Pipeline. This bill originates from SB 393-FN from the previous legislative session. Additional ARPA money has been allocated to Phase 2A. Phase 2B has a real chance to move this project in the right direction. Once complete, it will service up to 30,000 future users.
- This project will provide an additional 1.2 million gallons of water per day to the town of Salem, which already owns the water rights. Much of the piping for the project was already installed in Phase 1. Senator Abbas credited his predecessor, former Senator Chuck Morse, for having the foresight to include this installation in Phase 1.

- The majority of Phase 2 involves the development of pumping stations to deliver water, which will be located in the town of Derry. Derry will benefit fiscally from hosting these water pumps. Other communities, such as Plaistow and Windham, will also benefit from the plan. There is a Phase 2C, not part of this bill, that stands to benefit Atkinson and Hampstead as well. Phase 2 is particularly important for Hampstead due to the location of Hampstead Hospital and the soon-to-be-established youth detention center, which will have water needs.
- The appropriations in this bill will be used to increase the amount of water flowing out of the project by 2 million gallons per day.
- The water is coming from Manchester Water Works, so there is a fiscal benefit to Manchester as well.
- The cost of this project, as it stands, is rising faster than inflation. The longer we wait, the more expensive the project will become.
- Salem is committed to economic development. Simply saying “let’s build more and change zoning” will not solve the housing crisis without the necessary municipal services of water, sewer, and electricity. Salem has more than delivered on its commitment to solving the housing crisis, pointing to the Tuscan Village project, the housing and hotels in the town, and the businesses currently operating there. Additionally, 300 units are being built above the Whole Foods in town, and a medical supplier and research company moving to Salem will bring 500 jobs.
- All of these developments require water, and the water supply in Salem is at its limit. Eventually, something will have to give. Currently, the majority of the town's water comes from Canobie Lake and Arlington Pond. Arlington Pond supplies water to the town beginning at the end of October and early November each year. In recent years, Arlington Pond has had issues with signs of bacteria, which delays the switch from Canobie Lake. This creates an issue where some of the development may be halted without this project.
- Another issue is in northern Salem where there is no water or sewer. Much of the area relies on septic systems and wells, specifically in the areas around Arlington Pond. SB 115-FN does not provide any infrastructure resources to bring water and sewer to northern Salem. Conversations about addressing these issues at the local level cannot even begin without the water supply in place. Currently, there is a two-acre lot size requirement in this area, and there are discussions among the town to change some of the zoning at the local level. If water and sewer were available, along with a one-acre lot size requirement, it would entice people to build new homes or sell land, which they could profitably do.
- These opportunities are not possible without the water supply.
- Senator Abbas believes this project puts the Southern New Hampshire region on a path toward continued development, but he stressed that without the water supply, it will not work. He is confident the money spent on this project will be returned to the state and more in perpetuity, through the revenue generated by ongoing developments in housing and other commercial activities. A community committed to this development needs these services. Senator Abbas argued while water infrastructure could be provided to other communities, the question remains whether they will fully maximize the opportunity as southern New Hampshire has.
- Continuing this project is a critical step in the right direction.

- Senator Watters noted when former Senator Morse and others began working on this, the funding for water mainly focused on mitigating PFAS and other issues. This case seems to be more of a development issue. He asked what the impact would be on local municipalities if state funding was unavailable and they had to cover the costs themselves. Senator Abbas stated there are PFAS issues in southern New Hampshire. He shared he is a resident of Salem, and has town sewer but not town water, as a pump was not deemed economically viable on his dead-end road. He explained he had to remediate his own well, which he believes is about 150 feet from Canobie Lake. He believes the PFAS levels in Canobie Lake were lower than in his well. He emphasized the issue is not just water supply for development, as others are in similar situations, but that there is also an economic benefit to the plan.
- Senator Abbas stressed Salem is not the only town benefiting from this project. Plaistow, Windham, Atkinson, and Hampstead will all receive water. The project also involves other towns, such as Derry, which will host the pumping station. Expecting a single town to fund \$28 million worth of infrastructure is unrealistic.
- Senator Birdsell explained her understanding of former Senator Morse's original thought process regarding funding the project. This involved the municipality, the developer, and the state each contributing one-third of the cost. Senator Birdsell asked if any thought had been given to this approach. Senator Abbas clarified Salem will still be responsible for the infrastructure in northern Salem. With 2 million gallons of water flowing per day in this phase, if that water is not used, the numbers will not work for anyone. As for developers, asking them to contribute millions for infrastructure when their projects are already approved is a difficult request. He argued that it is not in the state's best interest to ask developers to pay. The revenue the state will make from this project, along with its contribution to addressing the housing crisis, justifies the expense. He also believes there is no appetite among developers to pay, especially when Phase 2C of the project has not even begun. If the entire project were funded at once, it would be an easier sell. He emphasized that since the projects are already approved, asking developers to contribute is not the best approach, although he did not rule it out.
- Senator Birdsell asked Senator Abbas to clarify whether the planning boards approved the projects without enough water, expecting the state to cover the costs.
- Senator Abbas argued they were not expecting the state to pay, but noted the water supply varies from year to year. He mentioned there is ongoing talk about housing in the state, and that putting a community in the best position to solve this problem is key. He stated that the state is still contributing to the funding under either plan, and there is likely no appetite in his community to foot the entire bill.
- Senator Lang asked if there had been any discussion about developers and impact fees.
- Senator Abbas explained there have been discussions about future developments having impact fees or something similar. He emphasized that these discussions pertain to future developments, not those currently in progress.
- Senator Abbas believes Salem is at its limit regarding developments, but he also thinks that southern New Hampshire as a whole has focused on the phased

implementation of this project. No one would have done Phase 1 without Phase 2, and the intention was to spread Phase 2 out into three parts.

- Senator Lang referenced inflow versus outflow to the system and asked if there was a septic system in place to handle the increased inflow. Senator Abbas' understanding is the town sewer in Salem is capable of handling the new inflow. He had not heard any community express concerns about this issue. For areas in northern Salem that are not on town sewer or water, the change would occur simultaneously through separate legislation. He emphasized that such a conversation cannot even begin until this part of the project is complete.
- Senator Lang stated he was curious to see what the next funding request would be.
- Senator Gray asked if the planning board had identified this project as one with regional impact and forwarded it to the state. Senator Abbas was unsure.
- Senator Gray emphasized he needed that information because it is the planning board's responsibility to ensure that the surrounding communities are considered. Based on Senator Abbas' testimony, other communities will be affected, so it needs to be confirmed that this process was done.
- Senator Abbas clarified he was emphasizing the potential for development. While the specifics of that development are speculative, it would not be possible without water.

Brian Chirichiello, Derry Resident, Derry Town Counselor

- Mr. Chirichiello explained he is not speaking on behalf of the Town Council but rather based on the knowledge he has as a Town Counselor.
- A few years ago, former Senator Morse reached out to the town of Derry to solve a problem in Plaistow. He did this after contacting Haverhill, Massachusetts, asking to connect to their water system. Haverhill told him they would not give Plaistow an economic benefit since they were somewhat competing over the state line. Former Senator Morse then approached Derry, which responded with a similar answer to Haverhill's, asking what the benefit to Derry was in the deal. Derry has a long-term contract with Lake Massabesic for wholesale water. The idea came up that the state would pay for the infrastructure so the town would not have to. In reference to the earlier question about whether the towns could pay for the infrastructure, Derry could not, because they operate under a tax cap. The state ended up funding the infrastructure, and the benefit to Derry was that they were supplying water to neighboring communities such as Windham, Salem, Atkinson, and Plaistow. Derry liked the idea because they were sharing regionally. Derry also makes money in perpetuity based on how much water flows through the pipes.
- Senator Birdsell sponsored a bill that allowed any excess money in an enterprise water fund to be used for economic development, which greatly benefited Derry. Some of this excess is being used in Derry to fund a sewer system. With these funds, they can bring water to the many car lots in town and rezone them to increase their value.
- Mr. Chirichiello believes this is a good plan. He understands that everyone in the state is struggling with finances, but regionally, this project affects six or seven towns in southern New Hampshire, which is the economic engine of the state. As a

real estate agent, he understands that without water, there is little value in property.

- Senator Watters confirmed Derry makes revenue on the water that flows through the town and also confirmed Derry is the host of the new facility. He then asked if they would similarly make money off the additional 2 million gallons of water that would flow through with the completion of this project.
- Mr. Chirichiello stated it is true they will make revenue off the water flowing through the system. He clarified the MOU Derry has with the surrounding towns is based on water flow. The more water that flows through, the more money the town of Derry makes.
- Senator Watters stated one could imagine a model where there is a regional agreement and some bonding authority for such projects, and that a revenue source might be that same flow. Obviously, this is something that needs to be done for the benefit, but it is unclear whether the state can front it or whether the state should guarantee some bonding. There should be some revenue sources, or impact fees that could flow into it.
- Mr. Chirichiello indicated Derry is 85% residential. They have been trying to attract commercial development, but the issue is that commercial entities prefer to go to Manchester, Salem, and the border towns of Massachusetts. Derry is expanding with projects such as the development of exit 4A and the redevelopment of downtown, so the project benefits Derry's water users as well.
- As far as charging developers, Mr. Chirichiello supposed it would be a conversation to have. As far as he knew, there are many wells in the area with PFAS contamination—more than he had originally thought. When it started in Merrimack and spread to Bedford and eventually Londonderry, it became clear that it was present in many places. As a real estate agent, he understands New Hampshire has created very tight standards on arsenic levels, which would not be a concern with town water. He emphasized the importance of viewing the plan as a regional one.

Roy Sorenson, Municipal Services Director, Town of Salem; Chairman, Southern New Hampshire Regional Partners

- The original intent of this project was to alleviate concerns about MTBE as a water contaminant in southern New Hampshire towns. Salem lost a well in the 1990s and early 2000s due to MTBE contamination. That well provided 1 million gallons per day. While the town did have the ability to utilize Arlington Pond as an alternate water source, a DES administrative order notified Salem they needed to find reliable water sources. The administrative order was lifted in approximately 2014, and the town decided to utilize Canobie Lake and Arlington Pond for its water sources.
- At the time this project began, it seemed like “pie in the sky” as no one thought the communities would work together. But the focus of the project would meet its intent to serve water to the southern tier. Phase 1 is complete and accomplished the task.

- Salem is currently receiving 1 million gallons a day over the Derry town line because Salem has taken over a portion of Windham's utilities, becoming their water supplier.
- The Phase 1 allocation for the town of Salem is 300,000 gallons, which they are using every day, while supplying 300,000 gallons to the Hampstead Area Water Company. They are also supplying the town of Windham with 60,000 gallons a day, including the Pennichuck East utility.
- If you look at the federal standards, even though they may be in litigation and possibly pulled back, you will see that Salem struggles with both Canobie Lake and Arlington Pond.
- Summertime usage in Salem is about 3 million gallons a day, but at peak, it can reach 4.5 million gallons a day. The winter average for the town is 1.8 million to 2 million gallons per day. Therefore, one could see how taking in an additional 1.5 million gallons a day might offset or support the current capacity and infrastructure of the town.
- The biggest hurdle for Phase 2 is the large price tag. Mr. Sorenson believes there will still be a gap in funding that will have to be covered by the towns through their own participation and/or development. The basis of the project to collectively involve those entities is going to help Phase 2 get across the finish line.
- Senator Watters asked if there was a current MOU among the communities governing this new phase.
- Mr. Sorenson responded there was indeed a current MOU. In 2019, all of the entities entered into an agreement called the Southern New Hampshire Regional Water Interconnection Agreement. The agreement is subdivided, explaining Phases 1 and 2. All of the towns, including the private entities, are signing members of that document.
- Senator Watters asked if that agreement would be a vehicle for setting up a bonding authority or perhaps a loan from the state so there could be a revenue flow to help mitigate the cash on the table from the state.
- Mr. Sorenson thinks it could be an avenue, as \$28 million is a tall task. Like Derry, Salem also makes money on fees as well as selling water to the Windham franchise area, but that revenue cannot be realized to meet a project number of \$28 million because there is not enough revenue right now, as there is not enough water flowing.
- Senator Gray asked if Mr. Sorenson knew whether the project had been designated as one of regional impact by the planning board.
- Mr. Sorenson replied it had been mentioned by the Salem Planning Board that the project would help regionally.

Neutral Information Presented:

Bob Scott, Commissioner, and Mike Unger, Lead Project Engineer, Department of Environmental Services

- While they submitted a letter of testimony on this bill, Commissioner Scott indicated the department takes no position on how the project is funded.

- Although state funding has gone into this project, the towns have their own in-kind match. The projects are managed at the town level, and utilize town resources. The towns are also involved in distribution, such as getting the water lines to the needed homes.
- Derry did mention many benefits of the program, but the town is still on the hook for all of the operation and maintenance of those lines.
- The project has been advantageous for the southern part of New Hampshire, and it is the only project of its kind in the state.
- In addition to some of the PFAS issues mentioned, the state has experienced droughts several times since the plan was developed, and this project has really helped the communities.
- Going to town meetings and asking them to give money to separate towns is a difficult message to push.
- Senator Birdsell asked if there was still money in the MTBE fund.
- Commissioner Scott responded there was, and that some money is available. However, the settlement agreement states it can only be used for MTBE contamination.
- Senator Birdsell explained that in some of the testimony she heard, MTBE was cited as one of the reasons for this project, and asked if some of that money could be utilized for the project.
- Commissioner Scott replied any properties they have found in the development of this project that have MTBE contamination have been leveraged to use this fund. He explained that PFAS is separate and unrelated.
- Senator Rosenwald asked how much money is available in the Drinking Water and Groundwater Trust Fund.
- Commissioner Scott replied he was not exactly sure, but he thought the fund was hovering just shy of \$100 million.
- Senator Rosenwald asked if those funds could be used for this purpose.
- Commissioner Scott explained the fund has been used for this purpose in the past. In getting this project started, a combination of many funds was used, including MTBE funds and community trust funds. He stated there is a potential for those funds to be used here as well, and there is a trust fund commission that would vote on how those funds are used.
- Senator Watters asked if it would be fair to say that the commission spent the last year or so making sure that the amount lasts through the decades needed to address the problems that have been identified, and that the commission also has a very tight process for determining what projects qualify for it.
- Commissioner Scott explained the intent of the legislature was for the trust fund to be ongoing. The trust fund typically issues a combination of loans or grants in an attempt to perpetuate the trust fund itself. It would be negative if you agreed that it should be perpetuated and then took large portions out of it.
- Senator Lang asked relative to water grants given to other communities, which may work through a matching grant, if this would be unique in that 100% of the cost is given to the community.
- Commissioner Scott explained this is unique in that it is a regional project. It is a combination. If the trust fund determines the situation is appropriate, they often

provide a 100% grant. For federal money, it depends on the context, as in the case of ARPA. They were fortunate enough to use over \$200 million of the ARPA funds for water and wastewater projects in the state through a 100% grant. Traditionally, a state revolving loan fund is a loan with potentially a certain amount of loan forgiveness, which would be closer to what Senator Lang was speaking about. It depends on the context.

- Senator Pearl asked who has oversight over the amount of water withdrawn from Canobie Lake. He asked if this would fall under DES' purview.
- Commissioner Scott replied they do regulate it, but ultimately, it's the town with oversight from the state.
- Senator Pearl asked if the town would then have the proper information when considering new projects coming into the area and their potential impact on water supply. He wanted clarification on the process for the planning board to know how far they can go with their current capacity versus when it's necessary to bring in more.
- Commissioner Scott explained any water system should ensure it has the capacity before agreeing to take on new users. DES commissioned a study to look at the water needs in southern New Hampshire, which indicated future needs due to population growth, wanted development, needed development, and contamination issues. He emphasized it is important for a water system to ensure it has the capacity before taking on new users, and that is what DES expects to see.
- Senator Pearl asked if Commissioner Scott felt that Salem was okay with their current usage versus the water supply at their disposal or if it was an urgent need.
- Commissioner Scott explained Salem runs their water system well, so he trusts that they are not taking on new water users. He stated that he has seen systems where they reached capacity and had to implement a moratorium on new use. Salem can service their existing users, but redundancy would be much better for the next pollutant or environmental issue, which seems to keep coming.

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Date Hearing Report completed: February 6, 2025