

Senate Commerce Committee

Aaron Jones 271-2609

SB 55, providing temporary exemptions from the land use change tax for qualifying housing projects.

Hearing Date: January 23, 2025

Time Opened: 10:10 a.m.

Time Closed: 10:44 a.m.

Members of the Committee Present: Senators Innis, Ricciardi, Murphy, McGough, Fenton and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill provides temporary exemptions from the land use change tax for qualifying housing projects.

Sponsors:

Sen. Lang

Sen. Gannon

Sen. McGough

Sen. Watters

Sen. Innis

Sen. Pearl

Sen. Murphy

Sen. Sullivan

Rep. Edwards

Rep. Alexander Jr.

Who supports the bill: Senator Tim Lang, Senator Victoria Sullivan, Senator Daniel Innis, Senator Keith Murphy, Senator Bill Gannon, Matt Mayberry (NH Home Builders Association)

Who opposes the bill: 38 individuals were in opposition. Full sign in sheets are available upon request by contacting the Legislative Aide, Aaron Jones (aaron.jones@gc.nh.gov).

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Tim Lang

- This bill was not a silver bullet, but it would work with other changes being made to address the housing crisis.
- This bill would temporarily suspend the penalty tax charged to developers who take land out of current use.
- When land is in current use, a reduced tax rate is paid. When it is taken out, it is taxed at the full rate in addition to the penalty.

- Senator Lang said the temporary waiver of the penalty would help to encourage development. The development must meet certain criteria, such as needing to produce 20 units of housing.
- New Hampshire has 5.7 million acres of land. 3 million acres, or 52 percent, of all land is in current use.
- Senator Lang said this bill would not waive planning and zoning requirements.
- **Senator McGough** asked if this bill would not take away local control if they have chosen to not allow or approve a development under their planning or zoning laws.
 - **Senator Lang** stated that was correct. If there is no active and substantial progress made towards a development within 36 months of approval, then taxes can be clawed back. To help spur growth, this bill would provide a short-term waiver of the penalty tax.
- **Senator McGough** said each district and town could be different, so he asked if this bill would allow them to keep land in current use.
 - **Senator Lang** said a town did not have the right to decide if land could be in current use. If a property owner wanted to sell land to a developer, they could sell it. The developer would be subject to the planning and zoning laws of that community.

Matt Mayberry, CEO, NH Home Builders Association

- 84 percent of New Hampshire land is forested, and 3.5 million acres are in current use.
- Mr. Mayberry said this bill did not mandate land be sold or developed.
- If land is sold, there is a 10 percent tax assessed on the true and real value of the land.
- Currently, there are 1,100 parcels of land for sale. The average size of those parcels is 17 acres, and the average listing price is \$640,000.
- On a 2 acre lot, for example, there would be 8 parcels of raw land. When the tax is removed, it would generate a savings of \$7,500 per parcel.
- For every 100 homes built, Mr. Mayberry said there are 297 full-time jobs created resulting in over \$80 million in long-term economic activity. In addition, \$3.4 million in local tax revenue is generated.
- This bill would help to create housing, and it would expand the tax base in municipalities.
- This bill asked for a suspension of the penalty tax for 4 years; therefore, Mr. Mayberry said it was not long-term.
- In 2023, New Hampshire yielded over \$4 million in the land use change tax. If that were divided by the 234 towns in the state, Mr. Mayberry said the average town yielded \$17,094 in general funds.
- **Senator Murphy** asked how often this would happen in rural communities.
 - **Mr. Mayberry** stated he did not have the data. They wanted it to be narrow in scope, and there would be only a few parcels available.

- **Senator Fenton** agreed that housing was needed, but he was concerned that affordable or low-income housing was not included.
 - **Mr. Mayberry** said the state needed attainable housing for law enforcement, firefighters, and educators. This bill was more holistic, and it took a larger view, rather than deciding what each house lot should look like.
- **Senator Fenton** appreciated that this would work in tandem with other affordable housing bills.
 - **Mr. Mayberry** said the HOPE Act would address this issue.
- **Senator Fenton** said the devil was in the details, and he asked if there were any issues because the Committee had heard concerns over litigation and loss of revenue.
 - **Mr. Mayberry** said the revenue lost would be about \$17,000 per town. If 20 units of housing per parcel are done, it would help to expand the tax base of municipalities.
- **Senator Reardon** said the penalty tax is rarely paid by the homeowner; instead, it is paid by the developer. She asked how this would influence a homeowner who has land in current use if it does not change the dollars in their pocket.
 - **Mr. Mayberry** stated it is passed on to the homebuyer. If you take the average of \$75,000 per parcel, and remove the tax of 10 percent, it is their hope that \$7,500 makes it a little more affordable for a homebuyer to purchase a property.
- **Senator Reardon** said if it were limited to affordable or workforce housing, it could have a huge impact. She asked if he knew the impact it would have on houses that will be built on each parcel coming out of current use.
 - **Mr. Mayberry** replied he did not have that data. They have left it up to sellers, municipalities, and developers on what they would like to do. He emphasized that he wanted to provide an opportunity to cut taxes as well as make land more affordable, then they could get into the details of each individual development.

Summary of testimony presented in opposition:

Shelagh Connelly, Holderness Conservation Commission

- The land use tax is provided to local municipalities, yet this bill would make municipalities lose those funds for the next 5 years. Some municipalities use these funds directly towards their conservation trusts, while other municipalities put it into their general fund to support their commissions.
- Ms. Connelly said they did not want to slow down development, but this bill was not consistent with what conservation commissions were founded to do.

- **Senator Ricciardi** said her constituents were not in favor of this bill, and their biggest complaint was about property taxes. She was concerned there would be a downshift to taxpayers as individuals remove their land from current use. Currently, each town can vote to place some or all of this tax into their conservation fund. In Greenfield, for example, a small portion goes into their conservation fund and the remainder goes into their general fund to offset property taxes. She said the idea is to charge a fee when undeveloped land, which costs nothing in municipal services, is taken out of current use. She acknowledged different modalities were needed, but she was concerned about the downshift.
 - **Ms. Connolly** replied that it was consistent with what they had been seeing. This was broader than an environmental group of people saying no to development. She said some funds have been used to conserve special land.
- **Senator Murphy** asked how much tax was paid last year in Holderness from land that was taken out of current use.
 - **Ms. Connolly** was unsure, but they did receive some from the general fund. Their community placed all of the funding towards a project where they conserved 200 acres of land for public use in Holderness, Plymouth, and Ashland.
- **Senator Murphy** asked if the revenue would exceed the change in current use if someone were exempted from the tax and they built 20 houses that were taxed at a higher rate.
 - **Ms. Connolly** said it was unknown, and it depended on whether the households had children or seniors. When it is a farm field, it does not cost anything.

Charles Levesque, Chair, Statewide Program of Action to Conserve our Environment

- The existing statute was adopted by the Legislature in 1973.
- Current use has been a pact between landowners and communities, and it allows for reduced assessment on open land that is not developed to encourage it to remain as open space.
- Mr. Levesque said the economy of the state was based on tourism, and this land was a key part of it.
- As part of the pact, a lien is placed on the land and it is recorded at the registry. The lien is not removed until the land use changes and the penalty is paid.
- During the time when land is in current use, municipalities by design receive less income because an assessment is based on the current use. Land in current use does not require services, so there are not a lot of costs associated with it. When services do start, however, a penalty of 10 percent of the market value is assessed.

- Mr. Levesque said this was a laudable idea; however, it placed a heavy burden on communities, and it was unknown if there would be affordable housing.

Jasen Stock, Executive Director, New Hampshire Timberland Owners Association

- Mr. Stock said their members own or manage over 1 million acres of timberlands, which are primarily in current use.
- Current use is used to assess land based on its use or productive capability.
- Each year, the Current Use Board meets to determine timber values and growth rates as well as adjust the rate based on what an acre of land could generate for revenue.
- When land is in current use, it is a deal made between a landowner and a town. A town has an expectation that a property is assessed on the growth of their products, such as corn, alfalfa, or sugar maple.
- A land use change tax is paid if the land no longer qualifies, and it is subdivided or developed.
- This is a municipal tax, and Mr. Stock said it would be picking their pocket if the pact is broken.
- While municipalities would have control over zoning and planning rules, they would not have control over whether they received the money.
- Mr. Stock said they were concerned because this bill started to mix planning, zoning, and tax assessment based on whether a property had active or substantial development, which could lead to lawsuits or litigation.

Matt Leahy, Public Policy Director, Forest Society

- Mr. Leahy said current use is a cornerstone program that is used for maintaining open space.
- Chuck Souther, who is Chair of the Current Use Board, submitted a letter which stated, “Current use is a contract between the landowner and the municipality the land is in, in exchange for agreeing to assess open space land at the level that is directly attributed to that land’s ability to produce income from food, fiber, and forest products. The municipality is guaranteed that when a change is made to the land that causes it to no longer qualify, the town or city shall be paid a land use change tax of 10 percent. It is a simple contract that should never be broken.”

Neutral Information Presented: None