

Senate Commerce Committee

Aaron Jones 271-2609

SB 174, prohibiting planning boards from considering the number of bedrooms a given unit or development has during the hearing and approval process.

Hearing Date: March 4, 2025

Time Opened: 10:21 a.m.

Time Closed: 10:41 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 prohibits planning boards from differentiating based on the number of bedrooms in a residential development during the hearing and approval process.

Sponsors:

Sen. Murphy

Sen. Pearl

Sen. Innis

Rep. Alexander Jr.

Rep. Osborne

Who supports the bill: Senator Keith Murphy, Jack Ruderman (NH Housing), Nick Taylor (Housing Action NH), Chris Norwood (NH Realtors), Matt Mayberry (NH Home Builders), Hilary Hamer, Krista Chamberlain, Greg Moore (Americans for Prosperity), Bill Alleman

Who opposes the bill: Representative Linda Gould, Representative Timothy Horrigan, Brodie Deshaies (NHMA), Tim Corwin (NH Planners Association), Roy Schweiker, Janice Mathews, Janet Lucas, Sherrill Howard, Daniel Richardson, George Morin, Karen Santoro, Bruce Woodruff, Roger Murray

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Keith Murphy

- Building codes in denser areas have resulted in buildings that are very similar. Often, they are four- or five-story tall apartments with stairways at both ends and elevators. In those buildings, three-bedroom units are rare. Recently, for example, Manchester built a 255-unit apartment building, yet there were only 6 three-bedroom units.

- When discussing or approving projects, Senator Murphy said planning boards have made clear that they do not want three or five-bedroom units because there is a fear that there will be more children in their communities, and new schools will need to be built.
- Two years ago, New Hampshire Housing published a report.
 - Over the past 20 years, it found enrollment had declined by 15.3 percent while population increased by 28.6 percent.
 - Since 1990, the ratio of public school students per housing unit decreased from .39 to .29.
 - The net fiscal benefits to local school districts for housing built between 2014 and 2023 was \$1,711 per unit. It was \$190 per unit for housing built before 2013.
- Senator Murphy said there was little correlation between the number of units built and the impact it has on schools.
- Senator Murphy said planning boards should not consider the number of bedrooms in a development when they are deciding to approve. Developers and builders should be able to meet market demand without being pushed.

Chris Norwood, 2025 Vice Chair of the Public Policy Committee, New Hampshire Association of Realtors

- Mr. Norwood said it was a fallacy that the number of bedrooms equaled the number of kids which equaled higher taxes.
- According to a study conducted by Professor England at the University of New Hampshire, there is an excess capacity in schools due to the declining birth rate.
- Bedrooms should meet the market demand of developers, private property owners, and tenants.
- It should be between a property owner and the Department of Environmental Services to ensure proper septic capacity needs are met. While the number of bedrooms to septic capacity is often arbitrary, it should rest between the Department and developer instead of the planning board.
- **Senator Fenton** asked if they could limit arbitrary rejections based solely on bedrooms, while also taking into account infrastructure and services.
 - **Mr. Norwood** asked if he believed the bill should be changed to say that planning boards shall not mandate the number of bedrooms.
- **Senator Fenton** said others believed more guidance should be provided on fair housing practices without overriding local control. At the same time, arbitrary rejections based on bedrooms should be limited, while also taking into account parking, infrastructure, water, and sewer. He asked if it could be dialed back to make it more palatable.
 - **Mr. Norwood** said there are parking regulations requiring 1.5 spaces for more than 10 units. Water and septic capacity are related to life safety and fire suppression. This bill would not have an impact on life safety; instead, it would prohibit towns from asking questions that lead down a

path of not wanting children in their communities. The number of bedrooms has been used as a placeholder for the number of children. There is a need for more two- and three-bedroom units that are not just for families. For young professionals, he said one-bedroom units are very expensive.

- **Senator Fenton** said he did not think towns were saying they did not want children. He believed there was a way to limit some of these rejections, but it did not have to be as drastic as this bill.
 - **Mr. Norwood** said when he interviews someone to join his firm, he is not allowed to ask their age. There can be placeholders for age, such as when they graduated. Some municipalities are opposed to more children due to concerns over their tax rate.
- **Senator Fenton** asked if it were communities or landlords who ask an applicant if they have children. He was nervous saying communities are denying children from living there.
 - **Mr. Norwood** said he heard a woman in one municipality say that 2 or 3 children were going to be living in a one-bedroom unit. The Town of Brookline has been sued in federal court by a developer for discrimination because the planning board stated they did not want more children to come into their community.

Matt Mayberry, CEO, New Hampshire Home Builders Association

- As builders, Mr. Mayberry said they have heard all the time from individuals who do not want more children in their schools.
- Planning and zoning boards have come up with clever ideas, such as requiring two bedrooms not be on the same floor. Mr. Mayberry said builders are equally as clever because they can build two bedrooms and an office.
- This bill would pull back the curtain to ensure there is an open and honest conversation on how families and the workforce are treated.
- Some municipalities, such as Durham, require that no more than 3 unrelated individuals can live in the same household.

Summary of testimony presented in opposition:

Brodie Deshaies, New Hampshire Municipal Association

- Septic capacity is the primary reason for bedrooms per dwelling unit.
- The total number of bedrooms must be limited for the health, safety and general welfare of residents. It also helps to limit the chances of failure or contamination of other properties from overburdened septic systems.
- This bill had a second definition for planning board despite RSA 673:2 already existing.
- On Lines 5 to 6, this bill states, “a municipal body responsible for reviewing and approving site plans and building permits for residential developments.” These

duties are already defined in RSA 674:1. Under this definition, it does not apply to a planning board because only building inspectors review or approve building permits.

- Under RSA 485-A:38, the issuance of building permits is contingent on an applicant being able to demonstrate adequate water and sewer. Based on existing rules, the septic system gallons used is contingent on the number of bedrooms being served.
- Most planning boards review residential developments during the subdivision review process.
- Under RSA 674:43, site plan review is only for non-residential uses and multi-family dwelling units.
- Mr. Deshaies said they were concerned because they believed the intent was to exempt subdivision reviews, which would place major limitations on reasonable and responsible local development.
- The bill states, “planning boards shall treat all residential developments uniformly, regardless of whether the development includes one or more bedroom units...”. Mr. Deshaies asked if mobile home parks would have to be treated the same as a 5-lot subdivision or a 12-unit apartment building.
- This bill would create a conflict between the definitions of workforce housing in RSA 674:58, IV and the minimum parking requirements in RSA 674:16, VII. Consequently, municipalities that have minimum parking requirements tied to the number of bedrooms in their site plan regulations would be impacted, but it would be unclear if this would affect requirements tied to zoning ordinances.
- **Senator Reardon** asked if the Committee could receive a printed copy of his testimony.
 - **Mr. Deshaies** said it was mostly bullet points, but he would send it to the Committee.

Neutral Information Presented: None

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Date Hearing Report completed: March 6, 2025