

Senate Executive Departments and Administration Committee

Kevin Condict 271-7875

SB 74-FN, relative to real property annual reporting requirements of state departments for permitting programs.

Hearing Date: January 29, 2025

Time Opened: 10:35 a.m.

Time Closed: 10:56 a.m.

Members of the Committee Present: Senators Pearl, McGough, Altschiller and Reardon

Members of the Committee Absent : Senator Gannon

Bill Analysis: This bill requires all state departments administering permitting programs to annually report detailed information on their permitting activities to the senate president, speaker of the house, and relevant committee chairs.

Sponsors:

Sen. Pearl

Who supports the bill: Sen. Howard Pearl (SD 17), Bryan Gould, Natch Greyes (BIA), Jesse Medeiros, and Curtis Howland.

Who opposes the bill: None.

Who is neutral on the bill: Adam Crepeau (NHDES) and Curtis Register.

Summary of testimony presented:

Senator Howard Pearl, Senate District 17

- Sen. Pearl introduced Senate Bill 74-FN.
- Sen. Pearl explained the bill. The bill requires that all state departments administering permitting programs that regulate the use of real property or the construction or operation of stationary structures, infrastructures, or facilities on real property shall report in writing on the previous calendar year's permitting activity. The reports will go to the President of the Senate, the Speaker of the House of Representatives, the Chair of the Senate Executive

Departments and Administration Committee, and the Chair of the House Executive Departments and Administration Committee.

- Sen. Pearl said that the reports will list each permitting program administered by a department and enumerate the categories of permits the department has the authority to issue within each program.
- Sen. Pearl explained that he wants the applicants and the administrators to be able to see the results of the department's progress and success rate of the applicants. He said this bill will be a source of information so that the legislature can see progress in how applications are being effectuated.
- Sen. Pearl said this is a transparency bill for the legislature and for applicants.
- Sen. Pearl stated that he believes this bill will help departments be more efficient in how they handle their applications.
- Sen. Reardon noted that the bill deals primarily with the Department of Environmental Services, the Department of Transportation, and the Department of Administrative Services.
 - o Sen. Pearl said that the Committee may want to narrow the bill's scope. He said he is okay with that.

Adam Crepeau, New Hampshire Department of Environmental Services

- Mr. Crepeau stated that the Department of Environmental Services (DES) does not hold a position on this bill.
- Mr. Crepeau said that the Department's concerns are that the bill is broad. He recommended that the Committee narrow the scope of the bill to DES' land use permitting programs. He said that what is being targeted by the bill is DES' alteration of terrain permitting program and their wetlands permitting program.
- Mr. Crepeau said that DES already does basic reporting to the legislature. One of the reports is annual and the other report is biannual. He recommended adding this to that reporting structure to make sure that additional information could be reported.
- Mr. Crepeau stated that DES is excited about the Governor's directive to get the permitting timelines down to sixty days. He said that DES thinks they can achieve that. He noted that if there is a federal overlay there may be some exceptions.
- Mr. Crepeau said that DES is working with the Governor and legislators to achieve a more streamlined process. He said he is happy to help with the Committee in narrowing the scope of the bill.
- Sen. Reardon asked Mr. Crepeau if he is proposing narrowing the ninety permitting programs down to something more than altering terrain and wetlands, as well as a few others.
 - o Mr. Crepeau said that DES issues around twenty-one thousand permitting actions. He said their job is to ensure preservation of the environment and public health in New Hampshire. He said that around ninety-eight percent of permits are approved.

- Mr. Crepeau suggested that the bill's scope be narrowed. He explained that alteration of terrain permits are for any developments over one hundred-thousand square feet and fifty-thousand square feet if it is in protected shoreland.
- Mr. Crepeau explained that wetland permitting ensures that people are avoiding building in wetlands. If they cannot avoid wetlands then they are minimizing their impacts. If they cannot minimize their impacts, then they must mitigate their impacts.
- Sen. Pearl asked about the number of permits in those two permitting programs.
 - Mr. Crepeau said that for the terrain alteration program it is around two-hundred and twenty to two-hundred and fifty. He said for the wetlands program it is around two thousand. He said that adding subsurface permits would make that number around ten thousand.
- Sen. Reardon asked if subsurface permits include septic systems.
 - Mr. Crepeau said that they do.

Bryan Gould

- Mr. Gould explained that he is a lawyer with thirty-five years of permitting work. He stated his belief that this is a good idea.
- Mr. Gould said that permitting timelines are based on anecdotal information instead of robust data from the state agencies that regulate. He said there is a lot of unevenness in the way the state handles permitting. He said the process does not reflect the balance of regulatory programs with property rights.
- Mr. Gould stated that the focus is almost always on regulation instead of how that regulation would affect a project.
- Mr. Gould said there is some sensitivity within the permitting community regarding how long it takes to get a permit approved by state agencies.
- Mr. Gould explained the basic steps and timelines of the permitting process.
- Mr. Gould stated that companies like his clients have the resources to deal with delayed timelines, but smaller businesses and individuals do not.
- Mr. Gould said that RSA 541-A, Section 29 and 29-A are built to accommodate large projects. He said they are one-size-fits-all statutes. He said the default position is for thirty days to determine completeness and failure to act within sixty days results in the application being deemed approved. He stated that the default position has eroded over the years.
- Mr. Gould said the most obvious concern is DOT driveway permits. He said the DOT has no application timeline, and that he has seen the application process take two years before.
- Mr. Gould said DES permitting is another area of concern. He said that the Air Division of DES agreed to report to the General Court on permitting activity.
- Mr. Gould pointed to RSA 149-M, the solid waste program, which has a timeline of one hundred and eighty days.

- Mr. Gould said that those examples highlight that the State is all over the place regarding timelines.
- Mr. Gould stated that the legislature has never had a good idea of how permitting takes place.
- Mr. Gould said that gathering permitting information is essential to see how it affects smaller businesses and individuals.
- Mr. Gould questioned the fiscal note.
- Mr. Gould stated that there is a need for regulations but there is also a need to know how it affects people.

Natch Greyes, Business and Industry Association of New Hampshire

- Mr. Greyes stated his support for the bill. He said he is happy to work with the sponsor and stakeholders.

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Date Hearing Report completed: January 31, 2025