



Amendment to SB 352-FN

1 Amend the bill by replacing all after section 6 with the following:

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3 7 Appeals. Amend RSA 482-A:10, XVIII to read as follows:

4 XVIII. If a permit is granted with respect to any activity proposed to be undertaken in or
5 adjacent to a prime wetland as mapped, designated, and filed pursuant to RSA 482-A:15, the
6 conservation commission or local governing body may *request reconsideration by the department*
7 *and, if aggrieved by the decision or reconsideration*, appeal said decision to the ~~[superior]~~
8 *wetlands council and the supreme court* in the manner prescribed in this section. The filing of a
9 request for reconsideration shall automatically stay the effectiveness of the department's decision
10 relating to said prime wetland. Said stay shall remain in force until the department has issued its
11 decision after reconsideration.

12 8 Unaltered State: Definition. RSA 483-B:4, XXIV-a is repealed and reenacted to read as
13 follows:

14 XXIV-a. "Unaltered state" means native vegetation allowed to grow without cutting,
15 limbing, trimming, pruning, mowing, or other similar activities.

16 9 Natural Woodland Buffer. RSA 483-B:9, V(b)(2)(A) is repealed and reenacted to read as
17 follows:

18 (A)(i) For lots with one-half acre or less of land within the natural woodland
19 buffer, the vegetation within at least 25 percent of the area outside the waterfront buffer shall be
20 maintained in an unaltered state. Owners of lots legally developed prior to July 1, 2008 that do not
21 comply with this standard are encouraged to, but shall not be required to, increase the percentage of
22 area maintained in an unaltered state. The percentage of area maintained in an unaltered state on
23 nonconforming lots shall not be decreased.

24 (ii) For lots with greater than one-half acre of land within the natural
25 woodland buffer, the vegetation within at least 50 percent of the area outside the waterfront buffer,
26 exclusive of impervious surfaces, shall be maintained in an unaltered state. Owners of lots legally
27 developed prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall
28 not be required to, increase the percentage of area maintained in an unaltered state. The percentage
29 of area maintained in an unaltered state on nonconforming lots shall not be decreased.

30 10 Addition of Tree Limbs. RSA 483-B:9, V(b)(2)(C) is repealed and reenacted to read as follows:

31 (C) Dead, diseased, or unsafe, trees, limbs, saplings, or shrubs that pose an
32 imminent hazard to structures or have the potential to cause personal injury may be removed

1 regardless of any requirements that pertain to the natural woodland buffer under this chapter. Such
2 exemptions shall not be used to contravene the intent of the law.

3 11 Impervious Surfaces. RSA 483-B:9, V(g)(1)-(4) is repealed and reenacted to read as follows:

4 (1) Subject to subparagraph (2), no more than 30 percent of the area of a lot located
5 within the protected shoreland shall be composed of impervious surfaces.

6 (2) If the impervious surface area will exceed 20 percent, a stormwater management
7 system shall be implemented and maintained which is designed to infiltrate increased stormwater
8 from development occurring after the effective date of this paragraph in accordance with rules
9 established by the department under RSA 485-A:17. In addition, if the natural tree and sapling
10 cover in the waterfront buffer does not meet the 50-point minimum score of RSA 483-B:9, V(a)(2)(D)
11 in any segment, then such segment shall be planted, as determined by rule of the department, with
12 native trees, saplings, or natural ground cover in sufficient quantity, type, and location either to
13 meet the minimum score or to provide at least an equivalent level of protection as provided by the
14 minimum score and shall be maintained in accordance with RSA 483-B:9, V(a).

15 (3) Property owners and developers are encouraged to seek creative solutions that
16 utilize low impact development techniques.

17 12 Pesticides. RSA 483-B:9, V(a)(2)(A) is repealed and reenacted to read as follows:

18 (A) No chemicals shall be applied, including pesticides or herbicides of any kind
19 except as allowed under special permit issued by the division of pesticide control under rules adopted
20 by the pesticide control board under RSA 541-A. or fertilizers of any kind except those specified in
21 RSA 483-B:9, II(d).

22 13 Abutter; Definition. RSA 483-B:4, I is repealed and reenacted to read as follows:

23 I. "Abutter" means any person who owns property that is immediately contiguous to the
24 property on which the proposed work will take place, or who owns flowage rights on such property.
25 The term does not include those properties separated by a public road or more than ¼ mile from the
26 limits of the proposed work. If contiguous properties are owned by the person who is proposing the
27 work, then the term includes the person owning the next contiguous property, subject to the ¼ mile
28 limitation.

29 14 New Paragraph: Permit Application; Copies of Receipts. Amend RSA 483-B:5-a by inserting
30 after paragraph IV the following new paragraph:

31 IV-a. At the time of the permit application, the applicant shall provide postal receipts or
32 copies, verifying that the governing body of the municipality or municipalities in which the property
33 is located and all abutters have been notified of the application by certified mail.

34 15 New Paragraph: Purpose Statement. Amend RSA 483-B:1 by inserting after paragraph I-a
35 the following new paragraph:

36 I-b. Scientific evidence has confirmed that even small areas of impervious surface coverage
37 can have deleterious impacts on water quality and the aesthetic beauty of our lakes and rivers if not

1 properly contained or managed within each watershed. These impacts are known to reduce
2 recreational opportunity, reduce property values, and pose human health risks.

3 16 Repeal. RSA 482-A:10, X-XVII relative to appeals, is repealed.

4 17 Unaltered State; Definition. RSA 483-B:4, XXIV-b is repealed and reenacted to read as
5 follows:

6 XXIV-b. "Unaltered state" means native vegetation allowed to grow without cutting,
7 limbing, trimming, pruning, mowing, or other similar activities.

8 18 New Paragraph; Permit Application; Copies of Receipts. Amend RSA 483-B:5-b by inserting
9 after paragraph IV the following new paragraph:

10 IV-a. At the time of the permit application, the applicant shall provide postal receipts or
11 copies, verifying that the governing body of the municipality or municipalities in which the property
12 is located and all abutters have been notified of the application by certified mail.

13 19 Repeal. Section 26 of HB 1601-FN-A of the 2008 legislative session, relative to repeal and
14 readoption of rules, is repealed.

15 20 Repeal and Readoption of Rules.

16 I. Notwithstanding the provisions of RSA 541-A, the commissioner of the department of
17 environmental services shall immediately repeal administrative rules chapter Env-Wq 1400 adopted
18 March 24, 2008 pursuant to RSA 483-B:17.

19 II. Notwithstanding the provisions of RSA 541-A, the commissioner of the department of
20 environmental services shall immediately readopt the administrative rules that were in effect prior
21 to the effective date of the rules repealed under paragraph I. Such rules shall be effective as rules of
22 the department and shall remain in effect until rules are adopted under paragraph IV, or are
23 otherwise repealed or amended or have expired in accordance with RSA 541-A.

24 III. The commissioner of the department of environmental services shall notify in writing
25 the director of legislative services of the dates of repeal and readoption of rules under paragraphs I
26 and II.

27 IV. The commissioner of the department of environmental services may adopt rules to be in
28 effect as of July 1, 2008 that are the same as the rules repealed under paragraph I. except that the
29 commissioner shall modify the date references in the rules to take into account the July 1, 2008
30 effective date. Such rule adoption shall be exempt from the rulemaking provisions of RSA 541-A,
31 provided the commissioner adopts the rules and files them with the office of legislative services prior
32 to July 1, 2008. The rules shall expire on July 1, 2016 unless readopted, amended, or repealed
33 pursuant to RSA 541-A.

34 V. The commissioner of the department of environmental services shall prepare, and the
35 director of the office of legislative services shall publish in the rulemaking register, one or more
36 notices, as necessary, to clearly state which rules will be in effect during affected time periods.

37 21 Effective Date.



1 I. If HB 1601-FN-A of the 2008 legislative session becomes law, sections 1-7, 13, and 15-16 of
2 this act shall take effect July 1, 2008; sections 9-12, and 17-18 of this act shall take effect July 1,
3 2008 at 12:01 a.m.; sections 19-20 of this act shall take effect upon its passage; and sections 8 and 14
4 of this act shall not take effect.

5 II. If HB 1601-FN-A of the 2008 legislative session does not take effect, sections 17-20 of this
6 act shall not take effect and the remainder of this act shall take effect July 1, 2008.

7 22 Effective Date.

8 I. Sections 1-20 of this act shall take effect as provided in section 21 of this act.

9 II. The remainder of this act shall take effect upon its passage.



2008-1607h

AMENDED ANALYSIS

This bill:

- I. Gives the wetlands council jurisdiction over appeals of department of environmental services decisions relating to protected shorelands.
- II. Requires that certain percentages of vegetation within the natural woodland buffer remain unaltered.
- III. Allows the placement of certain herbicides within a waterfront buffer with a special permit.
- IV. Requires that shoreland permit applicants provide notice to abutters.
- V. Extends the reporting dates for the instream flow pilot program.
- VI. Integrates the provisions of HB 1601-FN-A into the provisions of this bill, if HB 1601-FN-A becomes law.