

SB 136 - AS INTRODUCED

2017 SESSION

17-0784
08/03

SENATE BILL **136**

AN ACT eliminating the land use board and requiring approval of federal land acquisitions by the governor and council.

SPONSORS: Sen. Giuda, Dist 2; Sen. Avard, Dist 12; Sen. Ward, Dist 8; Sen. Sanborn, Dist 9; Rep. McConnell, Ches. 12; Rep. Brown, Graf. 16; Rep. Matthews, Rock. 3

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill eliminates the land use board, requires approval of federal land acquisitions by the governor and executive council, and requires the commissioner of the department of resources and economic development to issue a certificate of compliance with the approval process before land may be sold or transferred to the federal government.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT eliminating the land use board and requiring approval of federal land acquisitions by the governor and council.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Notification of Acquisition. RSA 121:2 is repealed and reenacted to read as follows:

2 121:2 Notification of Acquisition. Prior to any lands being acquired by the federal government
3 under this chapter, notice shall be provided in writing by the federal agency acquiring such land to
4 the commissioner of the department of resources and economic development.

5 2 Approval of Acquisition. Amend RSA 121:3 to read as follows:

6 121:3 Approval of Acquisition. No land shall be acquired pursuant to this chapter ***unless such***
7 ***acquisition meets all criteria under this chapter. This information shall be provided to***
8 ***the governor and executive council by the department of resources and economic***
9 ***development, and then approved by the governor and executive council*** [~~until the acquisition~~
10 ~~shall have been recommended by the land use board and approved by the governor and council~~]; but
11 the provisions of this chapter shall not apply to the acquisition by the United States of sites for post
12 offices, custom houses, or other public buildings or effect an amendment or repeal of RSA 123 or
13 RSA 272.

14 3 Land Use Board Removed; Procedures. RSA 121:4 is repealed and reenacted to read as
15 follows:

16 121:4 Procedure. Within 30 days after the department of resources and economic development
17 receives written notice of a proposed acquisition of land in any town, city, or unincorporated place,
18 the department shall, by letter addressed to the governing body, advise it of the proposed
19 acquisition. Within 21 days of notification by the department of resources and economic
20 development, the governing body where the purchase of such land is contemplated shall hold a
21 public hearing in such town, city, or unincorporated place, or at some other convenient place.

22 4 Land Use Board Removed; Procedures. Amend RSA 121:5 to read as follows:

23 121:5 Approval by Governor and ***Executive*** Council. ***Upon notification by the department***
24 ***of resources and economic development that an acquisition meets all criteria under this***
25 ***chapter, and approval by the governor and executive council, the governor and executive***
26 ***council*** [~~upon recommendation of the land use board,~~] are authorized on behalf of the state: (a) To
27 accept leases or enter into other agreements with the United States, or a duly authorized agency
28 thereof, for the administration and maintenance of any such lands, with or without improvements,
29 upon such terms and conditions as they may consider proper[~~. Net income derived from any of such~~
30 ~~lands which may be designated for administration by the state forestry department shall be~~

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1 ~~disposed of by the governor and council in the same manner as other income received from state~~
2 ~~forests and forestry reservations; and all income from other such lands shall be covered into the~~
3 ~~general funds of the state]; (b) To accept deeds from the United States, of any such lands, upon such~~
4 terms and conditions as they may consider proper.

5 5 Limitations on Right to Acquire; Land Use Board Removed. Amend RSA 121:6 to read as
6 follows:

7 121:6 Limitations on Right to Acquire. Lands which may be acquired under this chapter shall
8 be such as by reason of quality, location, or condition are better adapted to public conservation,
9 forestry, recreation, experimental, and demonstration purposes than for continued private
10 ownership and development. Such acquisition shall be limited in total within the state to 2 percent
11 of the total land area of the state. **Such acquisition** ~~[and]~~ shall be further limited in each town,
12 ~~[or]~~ city, **or unincorporated place** to an amount of land, the assessed valuation of which **shall**
13 **not result in total lands held by the federal government to exceed 5 percent of the total**
14 **assessed valuation of all the real estate in such town, city, or unincorporated place at the**
15 **time of acquisition and shall be approved by a vote of the governing body after complying**
16 **with RSA 121:4. The assessed value shall be at the highest and best use at the time of**
17 **acquisition as determined by an assessor certified under RSA 21-J:14-f and possessing**
18 **either the property assessor or property assessor supervisor certification level. A town,**
19 **city, or unincorporated place may allow a land acquisition to exceed the 5 percent**
20 **assessed valuation limit by a vote of the legislative body.** ~~[on April 1 of the preceding year was~~
21 ~~5 percent of the total assessed valuation on such date of all the real estate in such town or city. The~~
22 ~~provisions of this chapter shall not limit the authority of the United States to acquire lands for the~~
23 ~~White Mountain National Forest within the boundaries established by proclamation of the president~~
24 ~~of the United States, dated October 26, 1929; and the limitations as to area and valuation contained~~
25 ~~in this section shall not apply to acquisitions within the boundaries of the existing White Mountain~~
26 ~~National Forest Purchase Unit, or any new national forest purchase units that may be~~
27 ~~recommended by the land use board and approved by the governor and council; nor shall such~~
28 ~~acquisitions be included in computing such limitations.]~~

29 6 New Sections; Federal Land Acquisition; Certificate of Compliance; Recordkeeping. Amend
30 RSA 121 by inserting after section 3 the following new sections:

31 121:3-a Certificate of Compliance. Prior to the sale or transfer of any property or easement to
32 any federal agency, such property or easement owner shall apply to the department of resources
33 and economic development for review and approval in accordance with this chapter. Upon
34 determination that the proposed transaction complies with this chapter, the commissioner of the
35 department of resources and economic development shall issue a certificate of compliance to the
36 applicant for that specific parcel and transaction. The commissioner shall adopt rules under
37 RSA 541-A relative to the form and content of such certificate of compliance.

38 121:3-b Register of Deeds. No deed involving the transfer or sale of any property or easement

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1 to any federal agency shall be recorded without a certificate of compliance issued by the
2 commissioner of the department of resources and economic development under RSA 121:3-a.

3 7 New Subparagraph; Rulemaking Authority; Certificate of Compliance. Amend RSA 12-A:2-c,
4 II by inserting after subparagraph (f) the following new subparagraph:

5 (g) The form and content of a certificate of compliance to be issued prior to the sale or
6 transfer of any property or easement to any federal agency under RSA 121.

7 8 New Section; Sale or Transfer of Property to Federal Agency; Compliance. Amend RSA 477
8 by inserting after section 4-h the following new section:

9 477:4-i Sale or Transfer of Property to Federal Agency; Compliance. Sale or transfer of any
10 property or easement to any federal agency shall require compliance with RSA 121.

11 9 Acquisition Authorized. Amend RSA 121:1 to read as follows:

12 121:1 Acquisition Authorized. Subject to the provisions of this chapter, consent is given to the
13 acquisition of lands in this state by the United States of America for any public purpose duly
14 authorized by the laws of the United States. ***For purposes of this chapter, acquisition shall be***
15 ***defined as fee ownership and easements where the federal government is the primary***
16 ***holder of the easement.***

17 10 New Sections; White Mountain National Forest. Amend RSA 121 by inserting after section
18 6-a the following new sections:

19 121:6-b White Mountain National Forest; Current Holdings Within the Boundaries of the
20 Presidential Proclamation of October 26, 1929. Holdings by the federal government in the White
21 Mountain National Forest within the boundaries established by the proclamation of the President of
22 the United States, dated October 26, 1929, as of the effective date of this section, shall not be
23 counted towards the 2 percent limit of total land area specified in RSA 121:6.

24 121:6-c White Mountain National Forest; Land Outside the Boundaries of the Presidential
25 Proclamation of October 26, 1929, and Acquisitions Within the Boundaries of the Presidential
26 Proclamation of October 26, 1929. Holdings by the federal government in the White Mountain
27 National Forest which are outside the boundaries established by proclamation of the President of
28 the United States, dated October 26, 1929, and all easements procured and acquisitions made
29 within the boundaries established by the proclamation of the President of the United States, dated
30 October 26, 1929, by the federal government, after the effective date of this section, shall contribute
31 to the 2 percent limit of total land area of the state specified in RSA 121:6.

32 11 Applicability. This act shall not apply to any transfer or sale of land to a federal agency in
33 which a purchase and sale agreement has been executed on or before August 1, 2017.

34 12 Effective Date. This act shall take effect 60 days after its passage.