

CHAPTER 182
SB 259 – FINAL VERSION

03/21/12 1267s
03/28/12 1417s
15May2012... 2187h

2012 SESSION

12-2957
05/01

SENATE BILL **259**

AN ACT relative to the appointment of the director of ports and harbors, relative to the transfer of land within the Pease development authority, and relative to dredging the Hampton and Seabrook Harbors.

SPONSORS: Sen. Morse, Dist 22; Sen. Stiles, Dist 24; Rep. E. Smith, Ches 4; Rep. Chandler, Carr 1

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill:

I. Transfers appointment of the director of ports and harbors from the governor to the Pease development authority board of directors.

II. Extends the date by which regulatory authority over certain lands within the Pease development authority is to be transferred to the municipalities.

III. Authorizes the Pease division of ports and harbors to enter into a project partnership agreement with the Department of the Army for the purpose of dredging portions of the Hampton and Seabrook Harbors.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the appointment of the director of ports and harbors, relative to the transfer of land within the Pease development authority, and relative to dredging the Hampton and Seabrook Harbors.

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

1 182:1 Transfer Appointment of Director of Ports and Harbors from Governor to Pease
2 Development Authority Board of Directors. Amend RSA 12-G:43, II to read as follows:

3 II. The ~~[governor and council]~~ **board** shall appoint a director of the division of ports and
4 harbors who shall be qualified by education and experience and who shall hold office for ~~[a term of 5~~
5 ~~years]~~ **an indefinite term at the pleasure of the board.** ~~[Whenever an appointment of the~~
6 ~~director of the division is to be made, the board may make recommendations to the governor and~~
7 ~~submit such recommendations to the governor for the governor's consideration; however, the~~
8 ~~governor shall not be bound by such recommendations. The governor and council shall have~~
9 ~~authority to remove the director of the division as provided in RSA 4:1.]~~ The director of the division
10 shall be the administrative officer of the division and shall have general and active supervision and
11 direction over the day-to-day business and affairs of the division and its employees, subject, however,
12 to the direction and control of the board and the executive director. The division director shall
13 perform all such other duties as from time to time may be assigned by the board or the executive
14 director. The division director shall also be the secretary of the division of ports and harbors
15 advisory council, shall keep a record of the proceedings of the council, and shall be the custodian of
16 all books, documents, and papers filed with the division or the ports and harbors advisory council.
17 The division director shall have the power to cause copies to be made of all minutes and other records
18 and documents of the council and to give certificates under the seal of the authority to the effect that
19 such copies are true copies, and all persons dealing with the division or authority may rely upon such
20 certificates. In addition to the classified employees of the division, the division director, with the
21 concurrence of the executive director, may employ such assistants and clerical and administrative
22 staff as are within the limits of funds available for that purpose. The salary of the division director
23 shall be established by the board.

24 182:2 Transfer of Regulatory Authority from Pease Development Authority to Municipalities.
25 Amend RSA 12-G:13, VIII to read as follows:

26 VIII. In any event, regulatory power over all land use controls at Pease Air Force Base,
27 except for the airport district and all property west of McIntyre Road designated as a wildlife

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1 preserve, shall revert exclusively to the municipalities no later than January 1, [2020] **2050**, or
2 sooner at the election of the authority.

3 182:3 New Paragraph; Pease Division of Ports and Harbors; Authority to Enter Agreement with
4 the Department of the Army in Connection with the Hampton and Seabrook Harbors Dredging
5 Project. Amend RSA 12-G:42 by inserting after paragraph XIV the following new paragraph:

6 XV. Be authorized to enter into a project partnership agreement with the Department of the
7 Army in connection with the Hampton Harbor, Hampton, Seabrook, New Hampshire Navigation
8 Improvement and Maintenance Dredging Project, Section 107 of the River and Harbor Act of 1960
9 (PL 86-645), as amended, for the dredging of Hampton Harbor inlet, and the commercial anchorage
10 areas of Hampton and Seabrook Harbors. Incident to the execution of the agreement and the
11 acceptance of federal aid, the authority is authorized to take all actions required of the authority
12 under the agreement, including, but not limited to:

13 (a) Execute an indemnification agreement in the name of the authority and the state
14 with and for the benefit of the United States for damage arising from the design, construction, or
15 operation and maintenance of the project and any betterments and the local service facilities;

16 (b) Accept, as between the U.S. Army Corps of Engineers and the authority, the
17 obligations imposed on an operator of the project under the federal Comprehensive Environmental
18 Response Compensation and Liability Act (CERCLA) of 1980, 42 U.S.C. section 9601, et seq., as
19 amended;

20 (c) Provide or acquire all lands, easements, rights of way, and suitable borrow and
21 dredged or excavated material disposal areas that the Department determines the authority must
22 provide for the construction, operation, maintenance, repair, replacement, rehabilitation, monitoring
23 and management of the project; and

24 (d) Bear half the costs for services provided in connection with non-binding alternative
25 dispute resolution as may be necessary under the agreement.

26 182:4 Effective Date. This act shall take effect 60 days after its passage.

27 Approved: June 11, 2012

28 Effective Date: August 10, 2012