

HB 1389-FN - AS INTRODUCED

2022 SESSION

22-2662

05/04

HOUSE BILL            ***1389-FN***

AN ACT                establishing a superior court land use review docket.

SPONSORS:           Rep. Lynn, Rock. 7; Rep. Osborne, Rock. 4

COMMITTEE:        Judiciary

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ANALYSIS

This bill establishes the land use review docket in the superior court.

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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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT establishing a superior court land use review docket.

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

1       1 New Section; Superior Court; Land Use Review Docket. Amend RSA 491 by inserting after  
2 section 7-a the following new section:

3       491:7-b Land Use Review Docket.

4       I. Without limiting the jurisdiction vested in any court in the state, and subject to the  
5 appointment of a presiding justice by the governor with the consent of the executive council as  
6 provided in this section, the supreme court may establish by court order not inconsistent with this  
7 section, a land use review docket in the superior court which shall have jurisdiction to hear appeals  
8 from decisions of local land use boards, including but not limited to decisions of municipal planning  
9 boards, zoning boards, historic district commissions, and conservation commissions. The jurisdiction  
10 of this docket shall not include appeals of decisions by state agencies.

11       II. The governor with the consent of the executive council may appoint the first presiding  
12 justice of the land use review docket, who shall be qualified by reason of such person's knowledge  
13 and experience in land use and real property law. The chief justice of the superior court, following  
14 the appointment or designation of the initial presiding justice, may designate such additional  
15 justices to preside over cases assigned to the land use review docket, as necessary, based upon  
16 caseload, disqualification of the presiding justice, or efficient allocation of judicial resources.

17       III. The presiding justice of the land use review docket shall be an associate justice of the  
18 superior court and shall be entitled to the compensation and benefits provided to all such justices  
19 under applicable law, including, but not limited to, RSA 491-A:1 and RSA 100-C.

20       IV. The workload of the presiding justice of the land use review docket shall be the matters  
21 before that docket. The presiding justice may be assigned to any other matter within the jurisdiction  
22 of the superior court or sit by designation on any other court in the same manner as any other  
23 associate justice of the superior court, as determined to be necessary by the chief justices of the  
24 superior and supreme courts.

25       V. Subject to the provisions of this section, all appeals to superior court filed pursuant to  
26 RSA 677 and all proceedings for such appeals, shall be assigned to the land use review docket,  
27 including motion practice, discovery, injunctive relief, alternative dispute resolution, and hearing on  
28 the merits.

29       VI. The court shall hold a structuring conference within 30 days of its receipt of the notice of  
30 appeal. At the structuring conference the court shall set a deadline for the filing with the court of  
31 the certified record and shall schedule a hearing on the merits to be held within 60 days of receipt of

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1 the certified record. The court shall issue a decision on the merits within 60 days of the hearing.  
2 The court may extend any of the deadlines established in this paragraph upon agreement of the  
3 parties or for other good cause shown, but if the extension is based upon good cause, the court shall  
4 articulate in its order granting the extension the specific facts and circumstances that warrant the  
5 extension.

6 2 Effective Date. This act shall take effect January 1, 2023.

**HB 1389-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT establishing a superior court land use review docket.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☐ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$279,000	\$557,000	\$570,000
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other			

**METHODOLOGY:**

This bill establishes the land use review docket in the superior court.

The Judicial Branch assumes, with an effective date on the bill of January 1,2023 the new associate superior court justice would be appointed during FY 2023 and the docket would receive approximately 70-100 new cases per year. Given the complexity of some land use cases, the concentrated docket with accelerated deadlines and a new presiding justice to oversee the docket, the Branch believes a law clerk, court monitor and administrative court assistant would be needed to manage the caseload and provide assistance to the presiding justice. The Branch estimated the additional expenditures would be \$279,000 in FY 2023, \$557,000 in FY 2024 and \$570,000 in FY 2025. The amount in the first year would include one-time costs, including computers, phones and IT licenses for the new positions.

This bill does not include an appropriation.

**AGENCIES CONTACTED:**

Judicial Branch