

HB 1503-FN - AS INTRODUCED

2024 SESSION

24-2748

08/05

HOUSE BILL            ***1503-FN***

AN ACT                relative to the definition of wetlands.

SPONSORS:           Rep. Layon, Rock. 13; Rep. Aron, Sull. 4

COMMITTEE:         Resources, Recreation and Development

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ANALYSIS

This bill excludes certain areas from the definition of wetlands.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                    relative to the definition of wetlands.

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

1            1 Wetland; Definitions; Exclusions. Amend RSA 482-A:2, X to read as follows:

2            X. "Wetlands" means an area that is inundated or saturated by surface water or  
3 groundwater at a frequency and duration sufficient to support, and that under normal conditions  
4 does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. ***An***  
5 ***area that meets the definition of a wetland but only because of the failure of a state,***  
6 ***federal, or municipal public works project, including failed culverts, shall not be included***  
7 ***in the definition of wetland.***

8            2 Effective Date. This act shall take effect 60 days after its passage.

**HB 1503-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to the definition of wetlands.

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

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
<b>Revenue</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Revenue Fund(s)</i>	Wetland Fees			
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source(s)</i>	Wetland Fees			
<b>Appropriations</b>	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ No
- Does this bill authorize new positions to implement this bill? ☒ No

**METHODOLOGY:**

The Department of Environmental Services states this bill would amend the definition of a wetland in RSA 482-A:2, X. The existing definition is based on physical characteristics that can be observed at any given location: hydrology, wetland vegetation, and saturated soils. The bill would add a test regarding the action that caused the wetland to exist. If an area were to meet the physical characteristics of a wetland by definition, but it was created only because of “the failure of a state, federal, or municipal public works project, including failed culverts”, it would not be considered a wetland. An example would be an undersized culvert that causes a stream to back up and form a wetland. The Department indicates the fiscal impact on state revenue and expenditure is indeterminable as it does not have the following information:

- It is unknown what percentage of wetlands within the state may exist due to a failed state, federal, or municipal public works project.
- It is unknown how many landowners, whose properties may have areas of wetlands due to a failed state, federal, or municipal public works project, may decide to impact said portion of their property in any given year.
- It is unknown how many complaints will be filed against landowners who impact wetlands on their properties without a permit on the grounds that the presence of adjacent infrastructure negates the need for a permit.

The Department states, under this bill, there would be an unknown number of wetlands that would no longer be jurisdictional, for which permitting under RSA 482-A would not be required. This would result in an unknown reduction in applications and associated filing fee revenue. While a reduction in applications may result in a decrease in expenditures related to application review, this reduction will not occur if public or municipal officials file additional complaints concerning wetlands work that must be investigated by the Department. It is not possible to predict the number of such additional complaints or what investigation costs may be incurred. It is also not possible to calculate additional costs associated with new site history and field investigations needed to determine what portion of a wetlands area remains jurisdictional and what portion of the wetlands do not.

It is assumed that any fiscal impact would occur after FY 2024.

**AGENCIES CONTACTED:**

Department of Environmental Services