

New Hampshire Legislative Wrap Up 2011-2012 Session

Overall Summary

The New Hampshire General Court adjourned the 2011-2012 legislative session on June 6, 2012. The adjournment ended an historic two years in New Hampshire political history after the libertarian-leaning freshmen legislators left their mark on the state that may be felt for years to come. For libertarians, or free-staters, New Hampshire has been a mecca. Over the past few years, free-staters have been flocking here to raise their families and make an impact on the political process.

While the rest of the nation felt a shift to the red with more republican members in Congress, State Houses and sitting Governors, for New Hampshire the shift was seismic. Not only were the democrats vastly outnumbered by republicans in both houses, but the nature of the republicans took on a more libertarian look. These new members aimed to make an impact during the 2011/2012 session as they were concerned they either would not be re-elected, or made personal sacrifices to take 2 years away from work and would not run for re-election to save their financial outlook.

Out of the 298 republicans in the House, there were multiple alliances which made it very difficult for the speaker to manage his agenda. For those trying to influence the outcome of individual pieces of legislation, working each alliance became the only possible solution. Energy issues proved to be one of the few issues where the various alliances could come together but for very different reasons.

NU/PSNH fared very well overall during the session. New relationships had to be established with the majority of members being new in 2011 and ending on June 6 in 2012 with those relationships solid and critical to the success of the company during the session.

Issues

- As with the other companies in the NU/NStar system, we dealt with yet another “historic” storm that brought havoc to our system in the autumn of 2011. The NH Legislature, the Executive Council and the Public Utilities Commission (PUC) held hearings on our preparedness and response and yet there were no adverse actions taken against PSNH. In fact, the PUC has remained steadfast in allowing the storm response cost recovery and promoted the buildup of our storm reserve through rate making.
- During the summer and fall of 2011, the legislature worked on language that was eventually passed in the session of 2012 that would not allow transmission utilities the use of eminent domain for large projects. While we would have preferred not to have this bill pass (HB648), the issue was about property rights and the Northern Pass Project

was not far enough along to be able to provide benefits specific to NH. In the future, we will be in a better position to publicize any benefits. In the meantime, the preferred route for the project is being completed without the use of eminent domain.

- We were successful in ensuring that neither the PUC or the legislature took any action to review or have any impact on the merger of NU and NStar.
- In addition to the above issues, the session had other major issues to be managed. The most critical bill was HB 1238, which would have required PSNH to sell off its generation assets by December 2013. Not only was this bill critical to PSNH, but for the economic well-being of the state of New Hampshire and all of PSNH customers, this bill could not pass. While this bill passed out of committee by a vote of 12 – 2, we were able to kill it on the floor of the full House by a whopping 304 – 19.
- SB 218 as passed reformed the state’s renewable portfolio standard. The bill lowers the cost of compliance but also allows co-firing credit for PSNH’s remaining coal boilers and encourages aggregating the solar installations around the state that are not currently large enough to warrant receiving renewable energy credits.
- HB 1490 as passed alters New Hampshire’s rules within the Regional Greenhouse Gas Initiative, or RGGI. The final version caps the cost of compliance to lower rates for customers, but the dollars that currently go into the greenhouse gas fund will now go entirely to the state’s utilities to augment their existing energy efficiency programs.
- SB 258 would have allowed group net metering without geographic boundaries and encouraging large industrial users, small independent power producers and municipalities to wheel energy on the utilities’ distribution system without paying for their use. It was critical to kill this bill as the proponents testified on numerous occasions that this was “just the beginning.” After passing unanimously in the Senate by a vote of 24 – 0, the bill was killed in the House Science, Technology and Energy committee and sustained on the floor of the full House.

No other energy legislation passed that was adverse to NU/NStar/PSNH. However, we had hoped to use this session as an opportunity to move bills benefiting PSNH customers, but we had to change course and work defensively on some key pieces of legislation, in addition to the bills listed above that required lobbying.

With the adjournment of the legislature in June, the work is complete and the focus is on elections. Uniquely, New Hampshire law requires that all elected officials; such as the members of the House, Senate, Governor and Executive Council have a 2-year term and all are up for re-election at the very same time. September 11 is the primary and November 6 is the general election. Our focus during the summer and fall is to analyze each race, concentrate on the seats that are critical to our success in the legislature for the upcoming two years, and

implement a strategy to ensure success which includes items such as grass roots employee outreach, local events for legislators using PSNH facilities, creating a legislative energy caucus using legislators who are interested in ensuring that there is a fair and balanced discussion on energy issues.

Next Year

There is confidence that the divestiture legislation for PSNH generation assets will come back again as well as more changes to the RPS and RGGI. Additionally, the opponents of Northern Pass have pledged to continue to pursue legislative avenues to try to stop the progress of the project.

Other Bills that Passed

HB 1346 relative to the construction of power line extensions. This bill permits certain utility customers to hire licensed contractors to install power line extensions.

HB 1487 relative to low carbon fuel standards programs. This bill prohibits the state from participating in any low carbon fuel standards program requiring quotas, caps or mandates on fuels used for transportation, industrial purposes, or home heating without prior legislative approval.

SB 265 relative to the definition of stormwater. This bill amends the definition of stormwater in order to not be so strict a standard as previously.

SB256 relative to public utilities commission contracts with consultants. This bill caps the amount of money spent on consultants without legislative approval.

SB 361 establishing a commission to study the feasibility of energy infrastructure corridors within existing transportation rights of way. This bill is a result of Northern Pass and establishes a commission to look at the potential for siting transmission lines and gas pipelines within the state owned rights of way.

SB 252 increasing the maximum term for energy performance contracts. This bill extends the term for paying off the energy upgrades from 10 to 20 years.

HB 1233 establishing a statute of limitations on wetlands filling and dredging. The bill establishes a statute of limitations for persons who acquire property more than 5 years after an activity creating a violation of wetlands fill and dredge requirements has ended.

Other Bills that Failed

Note: the following bills (SB 264, SB 215, HB 1401, HB 1394, HB 1239, HB 1324, and HB 1532) were all intended to make Northern Pass more difficult to get approval through the Site Evaluation Process or to raise the bar on necessary land access. All were killed because the legislature had already addressed eminent domain earlier with the passage of HB 648 and had no interest in targeting this project or predetermining the outcome of the siting process.

SB 264 relative to energy facility site evaluations

SB 215 establishing a study committee on updating and improving the procedures and criteria for review of projects by the site evaluation committee

HB 1401 relative to site evaluations and certificates for energy facilities

HB 1394 relative to appeals of eminent domain decisions

HB 1239 requiring the site evaluation committee to consider economic impact prior to issuing a certificate for an energy facility

HB 1324 establishing a committee to study the public utilities commission

HB 1532 relative to trespass on land which is not posted

HB 1436 establishing a liaison committee to monitor the management of natural resources by the department of resources and economic development This bill would have usurped control of the Executive branch over an executive agency by creating this committee of Senate and House members to meet and review all pending legislation, decisions, spending and programs of the department.

HB 1435 establishing a liaison committee to monitor the department of environmental services This bill would have usurped control of the Executive branch over an executive agency by creating this committee of Senate and House members to meet and review all pending legislation, decisions, spending and programs of the department.

HB 1428 relative to public utilities commission orders concerning renewable portfolio standards This bill would have suspended NH's renewable portfolio standard (RPS) until a full legislative review could determine whether to repeal or reform the RPS.

HB 1222 relative to protected shoreland permitting fees This bill would have decreased the required fees for permitting however, there would be a loss to the general fund which caused the lack of support.

HB 1258 relative to late fees charged by utilities

This bill would have changed the dates by which utilities charge late fees to after 30 days from the billing date. It also imposed a penalty on a utility that charged late fees prior to 30 days.

Bills Sent to Interim Study – aka death with dignity (*during the session prior to an election only*)

Note: HB 1210, HB 1288, HB 1210 and HB 1298 were all intended to make Northern Pass more difficult to get approval through the Site Evaluation Process. Again, the legislature determined that there was overkill on the issue and the eminent domain legislation is sufficient.

HB 1288 relative to protection of private property from the use of eminent domain

HB 1298 relative to the definition of “public use” under the eminent domain procedure act

HB 1210 applying the procedures of the eminent domain procedures act to cases of eminent domain concerning public utilities

HB 1700 repealing licensing requirements for money transmitters

HB 1234 establishing a department of environmental services oversight and grievance committee

HB 1391 relative to transmission and distribution utility line extension construction and relative to pole attachments