CHAPTER 221-A

LAND CONSERVATION INVESTMENT PROGRAM

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HISTORY

Termination of land conservation investment program. 1987, 340:4, eff. May 25, 1987, provides: "The New Hampshire land conservation investment program established by RSA 221-A shall terminate on June 30, 1993, unless renewed by the legislature, subject to the provisions of this section. If the program under RSA 221-A is not renewed on or before June 30, 1993, the council on resources and development established under RSA 162-C shall assume the power and duties of the board of directors on June 30, 1993."

221-A:1 Statement of Purpose. The general court recognizes that in order to maintain New Hampshire's distinctive quality of life, strong economic growth must be balanced with responsible conservation initiatives and that the history of conservation in New Hampshire has been marked by cooperation among government, business, individuals, and conservation organizations. The general court further recognizes the strong traditions of both public and private land ownership and use, home rule, and the current need to invest in the conservation of natural resource lands in the state for the perpetual use of the people of New Hampshire. The general court hereby establishes the New Hampshire land conservation investment program.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:2 Program Established; Intent. There is established the New Hampshire land conservation investment program. The intent of the program is to preserve the natural beauty, landscape, rural character, natural resources, and high quality of life in New Hampshire by acquiring lands and interests in lands of statewide, regional, and local conservation and recreation importance. These lands may include aquifer recharge areas, forested watersheds, recreation lands, areas of special scenic beauty, plant and wildlife habitats, critical farmlands, undeveloped shorelines, wetlands, flood storage areas, and other important open space and natural resource conservation areas. The program shall acquire, through voluntary negotiations with landowners and utilization of all available federal, state, local,

private, and other matching funds and incentives, lands, easements, development rights, and other interests in lands for the primary purposes of protecting and ensuring benefits from and public access, where appropriate, to natural resource lands of statewide, regional, and local significance. All deeds or other documents evidencing purchase of fee interest or other interest in land under this chapter shall be drawn and held in the name of the state of New Hampshire or of the municipality purchasing the interest in land through the use of matching state funds.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:3 Program Administratively Attached. The New Hampshire land conservation investment program shall be administratively attached to the office of state planning pursuant to RSA 21-G:10.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:4 Board of Directors; Members; Quorum; Limitation on Liability.

I. The New Hampshire land conservation investment program shall be administered by a board of directors composed of 15 members. Voting members shall not appoint designees to act in their places, except that the president of the senate and the speaker of the house may appoint designees for their representatives. The chairman shall be elected from among the public members. Board membership shall be as follows:

(a) Two members of the senate to be appointed by the senate president.

(b) Two members of the house of representatives to be appointed by the speaker of the house.

(c) Two public members with a demonstrated interest in conservation, one of whom shall represent the interests of towns and cities, and one of whom shall represent business interests to be appointed by the governor and council.

(d) Three public members to be nominated by the Trust for New Hampshire Lands, and appointed by the governor and council. The Trust for New Hampshire Lands is a nonprofit corporation dedicated to land conservation.

(e) The director of the office of state planning.

(f) The chairman of the fish and game commission.

(g) The commissioner of the department of resources and economic development.

(h) The commissioner of the department of agriculture.

(i) The commissioner of the department of environmental services.

(j) The state treasurer or his designee.

II. Members appointed under subparagraphs I(e) through (j) shall be advisory, nonvoting members.

III. The terms of the state members and the members of the senate and house of representatives shall be coterminous with their terms in office. Members appointed by the governor and council under subparagraph I(c) shall serve a 3-year term. Members appointed under subparagraph I(d) shall serve a 2-year term. Members appointed by the governor and council may be removed from office for cause, by the governor and council. Cause for removal shall include, but not be limited to, incapacity or failure to perform the duties of a member of the board of directors. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment. Members may serve successive terms, and the legislative members shall be reimbursed for mileage at the legislative rate.

IV. Six voting members shall constitute a quorum. Decisions shall be made by a majority of the members present and voting. Each member appointed under subparagraphs I(a) through (d) shall have one vote on matters coming before the board. No bloc voting by any members shall be permitted on any matter. The board shall meet monthly and at such other times as may be deemed necessary by the chairman.

V. Board members shall not be subject to civil liability for acts performed in accordance with their duties under this chapter.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:5 Powers and Duties of the Board of Directors. The board of directors shall:

I. Adopt rules under RSA 541-A relative to criteria and guidelines for identifying and acquiring lands, easements, development rights, and other interests in lands in accordance with the purposes of this chapter. These criteria and guidelines shall include those listed in RSA 221-A:9.

II. After approval by the governor and council, enter into contracts with private entities for services necessary to carry out the purposes of this chapter.

III. Oversee, direct, and expend funds deposited in the trust fund of the New Hampshire land conservation investment program in accordance with the purposes of this chapter. This includes, but is not limited to, the authority to draw upon funds for acquisition of lands and for the administrative costs of the program, excluding the salary and benefits of the executive director. The board shall report its administrative expenditures to the joint legislative fiscal committee semi-annually. All expenditures for the acquisition of lands, easements, and development rights under this chapter shall be subject to the approval of the governor and council.

IV. Accept gifts and donations of money, including money from appropriate fund raising activities; land; interests in land; federal, local, private, and other matching funds and incentives; and other assets to be deposited in the fund for the purposes of this chapter.

V. Assign, for management purposes, each parcel of land or portion thereof, and each interest in land, to a state agency or, in the case of lands acquired using municipal matching money, to that municipality.

VI. Prepare an annual report to be presented no later than December 1 of each year to the speaker of the house, the president of the senate, and the governor and council. The report shall include a listing of all the lands and land rights acquired, the expenditure for these acquisitions, and a complete financial accounting of the funds in the trust fund.

221-A:5-a

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:6 Executive Director. The board of directors shall nominate one or more persons for appointment by the governor and council to serve as executive director. The executive director shall serve a term of 6 years, with a vacancy to be filled in the same manner as the original appointment. At the request of the board of directors, the governor may remove the executive director for cause. The salary of the executive director shall be as provided under RSA 94:1-a. The executive director shall:

I. Coordinate the activities of state agencies directly involved with the administration of the program in accordance with this chapter.

II. Evaluate land and determine if the parcel meets the criteria of the program, subsequent to instruction by the board of directors, and in consultation with the Trust for New Hampshire Lands.

III. At the direction of the board of directors, administer the affairs of the program and be directly responsible for executing all policies of the board.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:7 Trust Fund Established; Administration.

I. There is established in the office of the state treasurer the trust fund for the New Hampshire land conservation investment program. Moneys in the fund shall be used for the purposes of this chapter and shall not be used for any other purpose.

II. The state treasurer is directed to invest the sums deposited in the fund in a prudent manner consistent with the purposes of this chapter. Interest earned on moneys in the fund shall accrue to the fund to the extent allowed under federal law.

III. No funds of any state agency shall be transferred to the trust fund without specific authorization from the general court, except for federal funds accepted by the governor and council for purposes similar to those of this chapter.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:8 Program Administration; Matching Funds.

I. Acquisitions of development rights to farm land shall be coordinated with the agricultural land development rights program established by RSA 432:18 through 31-a.

II. Moneys from the fund may be used to provide matching funds up to an amount equal to the municipal contributions for the purposes of this chapter. Matching moneys from the fund shall be used only for municipal acquisitions of land and interests in land that meet the criteria established by the program and for which municipal matching sources are available. Municipal matching funds may be obtained from sources including, but not limited to, municipal appropriations, private donations, federal funds, and a conservation fund authorized under RSA 36-A:5. Gifts of land and interests in land may qualify as, and be contributed to, the local matching funds. Municipalities shall manage lands and interests in land acquired under the program in accordance with the purposes of this chapter and in accordance with the criteria established under RSA 221-A:5, I.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:9 Acquisition Criteria and Guidelines. The criteria and guidelines adopted by rule under RSA 221-A:5, I for acquiring lands and interests in lands shall include, but shall not be limited to, the following:

I. The land is contiguous to or enhances land already protected from development.

II. The land protects a unique natural or recreational resource.

III. The land allows for public access, where appropriate.

IV. The land serves and is managed for multiple uses.

V. The land would be acquired through the use of gifts, donations, matching funds and other incentives before state funds should be expended.

VI. The land would help to provide an equitable distribution throughout the state of land protected under this chapter. Nothing in this section shall be construed to require that each acquisition of land or interest in land under this chapter must meet all the criteria listed in this section.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:10 Management.

I. All lands and interests in lands acquired by the program shall be assigned to one of the state agencies or, where the land is acquired with municipal matching funds, to the municipality for management in the public interest in accordance with the purposes of this chapter and shall not be managed by the program. Each assignment of land to a state agency shall be subject to review and reassignment if the board of directors deems it advisable.

II. No lands purchased in fee for permanent state ownership under this chapter shall be posted to prohibit hunting or fishing, unless the board of directors, by a majority vote of the voting members, deems such posting to be necessary to protect the interests of the state and the safety of its citizens, or upon recommendation of the fish and game commission or the division of forests and lands.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:11 Public Trust. The lands and interests in lands acquired through the use of the trust fund for the program shall be held in public trust and used and applied for the purposes of this chapter. Notwithstanding any other provision of law relating to the disposal of publicly-owned real estate, no deviation in the uses of any land or interest in land so acquired to uses or purposes not consistent with the purposes of this chapter shall be permitted. The sale, transfer, conveyance, or release of any such land or interest in land from public trust is prohibited.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:12 Public Access; Liability. No person, or his successor in title, who has granted or sold rights of public access by virtue of an easement, right-of-way, development right, or other means in accordance with the purposes of this chapter shall be liable to a user of that right of access for injuries suffered on that portion of the access way unless those injuries are caused by the willful or wanton misconduct of the grantor or successor in title.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

221-A:13 Notification; Public Hearing. Prior to the acquisition in fee under this chapter of any land by the state for permanent state ownership the board of directors shall notify by certified mail, return receipt requested, the governing body of the municipality in which the land to be acquired is located. Upon receipt of such notice, the governing body of the municipality shall post a public notice of the proposed land acquisition and shall, at the request of 10 or more registered voters, petition the board to conduct a public hearing. The board shall allow at least 3 weeks for a response from the governing body of the municipality prior to making any decision on the proposed acquisition.

HISTORY

Source. 1987, 340:1, eff. May 25, 1987.

HISTORY

Source. 1941, 223:1. RL 234:32. RSA 219:34. 1973, 544:8. 1989, 50:13, eff. June 18, 1989.

Amendments—1989. Substituted "the dates when the sums become available, but not later than 30 days after the amount is known" for "or before December 1 of each year" following "town on".

SUPPLEMENT

CHAPTER 219-A

RETENTION OF CERTAIN STATE-OWNED LANDS

219-A:2 Land to be Retained.

[No changes in paragraphs I-XIII.]

XIV. Kona wildlife management area, consisting of approximately 320 acres in the town of Moultonborough. [Added 1991, 18:1, eff. June 18, 1991.]

HISTORY

Source. 1987, 316:1. 1991, 18:1, eff. June 18, 1991.

Amendments—1991. Paragraph XIV: Added.

CHAPTER 221-A

LAND CONSERVATION INVESTMENT PROGRAM

[*New Sections*]

221-A:5-a Monitoring Endowment.

221-A:5 Powers and Duties of the Board of Directors. The board of directors shall:

I. Adopt rules under RSA 541-A relative to criteria and guidelines for identifying and acquiring lands, easements, development rights, and other interests in lands in accordance with the purposes of this chapter. These criteria and guidelines shall include those listed in RSA 221-A:9. Further, the board shall adopt rules under RSA 541-a relative to the establishment and operation of a perpetual monitoring endowment, the purpose of which is to provide a permanent source of revenue to protect the interests of the state secured by the expenditure of all funds authorized by RSA 221-A.

[No change in paragraph II.]

III. Oversee, direct, and expend funds deposited in the trust fund of the New Hampshire land conservation investment program in accordance with the purposes of this chapter. This includes, but is not limited to, the authority to draw upon funds for acquisition of lands and for the administrative costs of the program, excluding the salary and benefits of the executive director. Further, funds from interest earned on the land conservation investment program trust fund may be allocated by the board to the establishment of a perpetual endowment to provide interest earnings annually for the purpose of providing a source of revenue to annually monitor the lands and interests in lands protected by RSA 221-A. The board shall report its administrative expenditures to the joint legislative fiscal committee semi-annually.

All expenditures for the acquisition of lands, easements, and development rights under this chapter shall be subject to the approval of the governor and council. The endowment principal shall be held and managed by the state treasurer, and the expenditure of all interest earnings from the endowment fund shall be overseen and directed by the board until June 30, 1993. After June 30, 1993, the council on resources and development shall oversee, direct and expend interest funds earned annually by the endowment.

[No changes in paragraphs IV–VI.]

HISTORY

Source. 1987, 340:1. 1992, 289:33; 34, eff. June 17, 1992.

Amendments—1992. Paragraph I: Added the third sentence.
Paragraph III: Added the third, sixth and seventh sentences.

221-A:5-a Monitoring Endowment.

I. Any monitoring endowment established by the board pursuant to RSA 221-A:5, III shall, be maintained in perpetuity and shall be utilized only for the purposes of monitoring and enforcing the property rights protected by RSA 221-A.

II. The principal of the endowment shall be managed by the state treasurer for the sole purpose of providing interest earnings for the purposes set forth in this chapter, and expenditures from the endowment for those purposes shall be limited to the interest earned thereon.

III. Any interest earned on the endowment principal which is not used for the purposes set forth in this chapter within the fiscal year in which it is earned shall be added to the principal amount. The state treasurer is authorized to accept gifts, donations, and grants, including federal gifts, donations, and grants, for the purposes set forth in this chapter, and such gifts, donations and grants shall be added to the principal amount.

IV. Notwithstanding RSA 541-A:2, IV, any rule adopted pursuant to RSA 221-A:5, I concerning the establishment and operation of a perpetual monitoring endowment shall remain effective unless and until amended pursuant to RSA 541-A by the board or, pursuant to 1987, 340:4, the council on resources and development.

V. The board shall, upon establishment of a monitoring endowment pursuant to RSA 221-A:5, III, prepare an annual report to be presented no later than December 1 of each year to the speaker of the house, the president of the senate, and the governor and council. The report shall include a listing of all lands and interests in lands subject to the monitoring provisions of RSA 221-A and a complete financial accounting of the funds in the monitoring endowment including expenditures for the most recent full fiscal year. The report shall also summarize monitoring activities and findings for each property, as conducted in the most recent full fiscal year.

HISTORY

Source. 1992, 289:35, eff. June 17, 1992.