



Comparison of HB 1661-FN-L to SB 400-FN, the “Community Toolbox” bill

In Committee of Conference on HB 1661 the Legislature added many portions of SB 400, which had passed the Senate, but had been tabled by the House. SB 400 was an important initiative that derived from the recommendations of a Housing Task Force established by Governor Sununu in 2019 to help address the state’s growing crisis of housing affordability. The legislation provides incentives to municipalities and imposes requirements on them to help increase housing production.

Attached is a side-by-side comparison of SB 400 and relevant sections of HB 1661 showing whether sections were retained or deleted. Below is a short description of the sections retained in HB 1661.

Section-by-Section Summary of SB 400-FN

§70. Voluntary training for land use boards: augments the existing voluntary training statute, providing for greater training opportunities for local land use board members.

§71. Fees to be published: requires the publication of any fee that an applicant may be required to pay as part of an application to a local land use board; publication may be on the town’s website.

§72. Elderly housing incentives to apply to workforce housing: for any community that provides incentives for the development of elderly housing (such as density bonuses), as of 7/1/2023 it must also provide the same incentives for the development of workforce housing (as defined in the workforce housing statute).

§73. Findings of Fact: requires local land use boards to include written findings of fact when they make a decision. This helps an applicant know why a decision was made and helps a reviewing court understand the board’s decision. Failure of a board to make findings will be reason for a reviewing court to reverse and remand, giving the board a chance to fix its error.

§74. Timing for ZBA Decisions: requires a ZBA to make a decision within 90 days of receiving an appeal. If the applicant refuses to allow a longer time and the ZBA lacks sufficient information, the ZBA may deny the application without prejudice, allowing the applicant to submit a new application at a later date, subject to payment of new application fees.

§75. Timing for Planning Board Decisions: the existing 65-day timeline for the planning board to make a decision on an application is not changed. This modifies how a planning board may take longer by replacing a process that has apparently

never been used in 40 years (involving intervention by the selectmen or city council). Instead, the new language incorporates the practice currently used by many planning boards of asking the applicant for an extension of time beyond 65 days. If the applicant refuses and the planning board lacks sufficient information to make a decision it may deny the application without prejudice, allowing the applicant to reapply at a later date, subject to payment of new application fees.

§76. Additional Time for Planning Board Decisions: Allows for the applicant to waive the planning board's 65-day decision clock.

§77. Court Costs and Bonds: codifies the existing authority of the courts to require a bond to be posted by anyone challenging the decision of a local land use board; also codifies the existing authority of the courts to require payment of attorney's fees and costs to the prevailing party (except not to require such payment by a municipality).

§§78 and 79. TIF Districts and Housing: expressly forbids municipalities from using TIF eminent domain power for housing development. Enables municipalities voluntarily to use tax increment finance districts to support the development of housing (without eminent domain), subject to vote by the local legislative body.

Effective Dates. All sections will take effect 60 days after the Governor's signature, except §75, which will take effect on January 1, 2023.