

Why is SB 183 Necessary?

"... ***Treat everyone fairly and everyone the same...***" Stephen M. Duprey, June 15, 2023

New Hampshire's "*Administrative Procedure Act*" [APA] requires, with some exceptions, state agencies to adopt uniform, fair and just rules of procedure as is done in all fifty states and the federal government. The legislature granted to the Pease Development Authority [PDA] authority in 2001 to manage Pease the Division of Ports and Harbors [DPH] pursuant to RSA 12G, Sections 42 through 54. Pursuant to RSA 541-A:21 (n), the PDA "*acting through the DPH under RSA 12-G:42, X ...shall be subject to the provisions of RSA 541-A:3 through RSA 541-A:15...*". RSA 12-G:42 X compels the PDA to: "*Adopt rules, pursuant to RSA 541-A, relative to ... State-owned commercial piers and associated facilities ...*".

Accordingly, PDA Chairman Duprey's statement is much more than aspirational, it is the law.

The PDA is subject to the the right to know law [RSA 91-A], which requires the PDA Board of Directors [BoD] meetings to be posted in advance of meetings; file minutes within five days; and discuss, deliberate and vote in such public meetings the matters that come before the body.

SB 183 is necessary because the PDA has failed to fully comply with RSA 541-A and RSA 91-A for decades especially regarding DPH so-called "Right of Entry" [RoE] agreements.

What are some examples of non-compliance with state law?

1. PDA has failed for decades to adopt any APA rules governing "*State-owned commercial piers and associated facilities*" in scores of RoE agreements adopted each year.
2. RoE agreements vary widely, thus are inconsistent with the fundamental APA goals of uniformity and fairness.
3. RoE agreements are drafted by the PDA Executive Director without public hearings or negotiation of terms with the applicant.
4. PDA does not allow RoE applicants to speak when the BoD takes up the discussion of the applicant's RoE application.
5. There is little or no discussion when the BoD takes up a vote on RoE agreements.
6. Certain RoE agreements require RoE applicants to pay a second "*meals tax*", thus such conflicts with state law regarding RSA 78-A, "*Tax On Meals And Rooms*".
7. Some RoE applicants have been subject to performance and additional financial requirements not set forth in BoD voted RoE agreements.
8. PDA has a tacit non-content neutral policy which does not allow the public, but allows other parties, to appear on the agenda to speak on matters critical to the fair and just operation of the DPH.
9. Meeting minutes are posted to the PDA web site, but not within five days after the meeting.
10. PDA bypasses the "*Division of Ports and Harbors Advisory Council*" [RSA 12-G:44] in adopting RSA 541-A rules.

September 8, 2025